

Annual Report 2019

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Making complaints drive improvements



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Ombudsman

Annual Report 2019

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Report to the Oireachtas

I hereby submit the Annual Report of the Office of the Ombudsman to the Dáil and Seanad pursuant to the provisions of Section 6(7) of the Ombudsman Act 1980 (as amended). This is the 36th Annual Report submitted in relation to the work of the Office of the Ombudsman since it was established in 1984.

A handwritten signature in black ink, which appears to read "Peter Tyndall". The signature is stylized and cursive.

Peter Tyndall
Ombudsman



Elaine Cassidy
Director General

Chapter 1



Chapter 1: Introduction from the Ombudsman

Introduction

The role of my Office is to consider complaints from people who use public services. If they have suffered an injustice, our role is to seek to have it remedied. Sometimes complaints can be quickly resolved while others need more thorough consideration. Often the circumstances of a complaint are individual, and there is little likelihood of the issue being repeated.

However, on some occasions, it will be evident from the consideration of a complaint that the circumstances that led to the injustice are likely to affect others. Equally, there are occasions where a group of complaints, on the same issue to my Office indicate a common underlying problem. In these circumstances, we will look to ensure that the cause of the problem is addressed. We will also seek to put things right for the original complainants. This theme is seen throughout this report. We have highlighted instances where we have improved public services for all users by ensuring that service providers learn from failings identified in individual complaints we have received.

The underlying causes can be due to: a lack of training; a lack of, or poor procedures; the failure to exercise discretion; inconsistency or misinterpretation. Sometimes, correctly following the law and procedures can bring about an unfair or unjust outcome. In this report there are examples where processes have been rewritten, where schemes have been changed and where staff have been re-trained. If the law itself is causing the unfair outcomes, we will ask for it to be changed.

2019 has been another very busy year for my Office with a rise in complaint numbers as well as a rise in case closures. The increased level of closures is a tribute to the staff, who have achieved it despite the considerable disturbance caused by our move to our new offices on Earlsfort Terrace and the introduction of new IT systems. My thanks go to them for all of their excellent work. A special mention is due to Elaine Cassidy who has led the Office through this, her first year as Director General.

As well as the work in managing complaints, we have continued our extensive outreach programme, particularly to Direct Provision accommodation for asylum seekers and to Citizens Information Centres. We have also been working on a major, own-initiative, investigation into the situation of people under 65 who are living in nursing homes for older people.

Finally, I was delighted when the President appointed me for a further term following a resolution of both Houses of the Oireachtas. Being Ombudsman is a great privilege, and I intend using my new term of Office to ensure that public services are continually improved through learning from the lessons of complaints, and that individuals who have been treated unfairly, or whose rights have not been respected, have access to justice.

A handwritten signature in black ink, appearing to read 'Peter Tyndall', written in a cursive style.

Peter Tyndall
Ombudsman

Chapter 2



Chapter 2: Complaints

2.1 Role of the Ombudsman

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

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

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

When we receive complaints we consider if the action complained about (for example a decision or failure to act) was made:

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

Any failure to respect the human rights of the individual is regarded as not being consistent with fair or sound administration.

In practice, many complaints are resolved informally after my Office has brought the complaint to the attention of the public service provider concerned. If I uphold a complaint I will recommend appropriate redress. I may also make recommendations which aim to reduce the likelihood of others being similarly affected in the future.

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

I am appointed by the President and report to the Oireachtas only.

2.2 Complaints received in 2019: Analysis

In 2019, the total number of complaints received by my Office about service providers within my jurisdiction was 3,664 compared to 3,364 in 2018. This is an increase of 9% and followed an increase of 11% on the previous year. During this time the number of complaint examinations completed by my Office increased by 10%.



My Office continually strives to improve our services and procedures. In particular, as has been the case in the past number of years, caseworkers are encouraged to communicate where possible by email and telephone in order to allow for quicker processing. In addition, we have staff who act as sectoral experts for the service areas we deal with most regularly, and an early intervention team in order to either resolve cases, or allocate them more quickly. As a result, in 2019, 74% of cases were closed within 3 months, 90% within 6 months while 98.5% of cases were closed within 12 months, which compares well to previous years.

Of the 1,818 cases within my jurisdiction that were substantively examined, 30% of cases were fully or partially upheld and 50% were not upheld. In 20% of cases assistance was provided. This is where a case was not upheld but we have been able to provide a better explanation or reassurance.

Before complainants bring their complaints to my Office they must first take reasonable steps to resolve their complaint with the public service provider concerned. In a number of cases (850 in 2019) my Office provided advice and assistance to those who made their complaint prematurely to us and usually redirected them back to the local service, inviting them to come back to us if the case was not resolved at that level.

An additional 895 complaints were either discontinued, withdrawn or were outside remit. In cases outside remit, we generally try to provide contact details for the appropriate body who can consider their complaint.

In 2019 government departments and Offices, which includes the Department of Employment Affairs and Social Protection, were the source of the largest number of complaints to my Office (at 32.4%), followed by Local Authorities (27%) and the Health and Social Care sector (19.3%). This is broadly in line with the 2018 figures and is broadly consistent with the volume of interactions that these bodies have with service users.

Of the 1,186 complaints made about government departments and Offices, 806 were about the Department of Employment Affairs and Social Protection, 106 concerned the Revenue Commissioners, 84 the Department of Agriculture, Food and the Marine and 52 about the Department of Justice and Equality.

125 of the 990 local authority complaints received were about Dublin City Council, 69 Cork City Council, 62 Limerick City and County Council, 50 Wicklow County Council and 47 about Kildare County Council. 546 of the complaints about local authorities concerned housing, 226 of which related to housing allocations and transfers, and 121 complaints related to housing repairs.

261 of the 708 complaints about the Health and Social Care sector concerned hospitals, while 79 involved medical and GP cards. 71 complaints related to Primary and Community Care, while 73 complaints were received concerning Tusla.

A total of 219 complaints were received in relation to the Education sector which includes Publicly-funded third level education bodies. 51 were about Student Universal Support Ireland (SUSI) and 49 were about the HEAR/DARE Scheme (none of which was upheld in 2019).

I received 160 complaints about regulatory bodies which included 38 complaints concerning the Road Safety Authority, 35 complaints about the Law Society and 29 complaints about the National Transport Authority.

219 complaints were received about a range of other public service providers. 73 of these complaints concerned the Disabled Drivers Medical Board of Appeal.



2.3 Direct Provision complaints

In 2019 my Office received 168 complaints from or on behalf of people living in Direct Provision accommodation which is an increase of 10.5% over the 152 complaints we received in 2018. I am not surprised at this increase as the number of people living in Direct Provision increased by 16.3% over the same period.

Most (112) of these complaints were about the bodies providing direct provision services, including the accommodation centres overseen by agencies within the Department of Justice and Equality. Of these, 36 were about refusals of requests from residents to transfer from one accommodation centre to another, compared to 32 such complaints in 2018. This increase reflects the increase in the number of people in the system which has made it more difficult for the Department to facilitate transfer requests. Six complaints were about food at the centres compared to the nine we received in 2018. This reflects the trend my staff noticed at Outreach visits where the rollout of self-cooking facilities has led to a significant reduction in expression of dissatisfaction by residents about food issues.

The Outreach team also received 25 complaints about the Department of Employment Affairs and Social Protection, 15 about the Health Sector, and 16 concerning other bodies. Of the combined 40 complaints about the DEASP and the Health Sector, 23 were from people in emergency accommodation centres who were having difficulty in accessing GP or other health services, or were facing delays in being issued with medical cards or Personal Public Service Numbers. My Outreach team engaged on these issues with both the HSE and the Department of Employment Affairs and Social Protection, following which I am pleased to report that arrangements are now in place to minimise any delays or difficulty in accessing the relevant services.

2.4 Nursing home complaints

In 2019 I received 65 complaints in relation to private nursing homes, a slight increase on the 2018 figure. Of the cases closed during the year, nine complaints were fully upheld and two were partially upheld.

While the Competition and Consumer Protection Commission published guidelines for contracts of care in nursing homes in 2019 there are a number of areas of concern which continue to arise in complaints to my Office.

Additional charges is one such issue. In one case, a provider was double-charging for services, despite the Nursing Home Support Scheme clearly setting out the services included in the scheme. Following my examination, the provider refunded the resident the sum of €3,500. (Details in Chapter 4)

Security of tenure is another area of concern. I have examined a number of cases where providers have threatened to terminate a resident's contract due to the actions or behaviours of family members. The residents own behaviour was not a problem. I accept that a nursing home has the right to terminate a contract for specific reasons. However, I am of the view that the resident should not be adversely affected by the actions of their relatives.

During the course of a number of my examinations this year, I have noted inconsistencies in the recording of data on some files. This is an area which I believe will benefit from the continued good working relationship between my own Office and HIQA.



“First off, thank you so much for the time and energy you have spent on this case. I am over the moon that common sense has finally prevailed.”

2.5 Extension of the Ombudsman's jurisdiction: Prisons

During the year, my Office continued its engagement with the Irish Prison Service (IPS) and the Department of Justice and Equality with a view to the introduction of a more robust complaint handling process within the prison system. As part of the preparations, officials from my Office accompanied staff from the IPS on visits to the Northern Ireland Prison Service and the Office of the Prisoner Ombudsman for Northern Ireland. The Department of Justice and Equality has commenced work on drafting a Statutory Instrument (SI) which will underpin the changes in the new complaint system within the IPS. Once the new local system is bedded down it will be a matter for the Department of Public Expenditure and Reform to authorise the extension of my Office's remit over prisons by means of a separate SI.

2.6 Complaints under the Disability Act

The Disability Act 2005 imposes significant obligations on government departments and other public service providers to work proactively towards the improvement of the quality of life of people with disabilities. A complaint can be made to my Office regarding a public service provider's failure to comply with Part 3 of the Disability Act. Specifically, my Office can investigate complaints about access by people with disabilities to public buildings, services and information.

As I have reported in previous years, the low number of complaints under Part 3 of the Disability Act is very disappointing. Only five complaints were received in 2019. It is vitally important that people with disabilities are informed about their rights on access to services and information and that they are aware of their right of recourse to me as Ombudsman to examine their unresolved complaints. It is also crucial that both professional and non-professional people involved in the disability sector are knowledgeable about the Disability Act 2005.



“I have received your conclusions and findings re: the above case. Thank you for your diligent efforts in reviewing this incident.”

Chapter 3



Chapter 3: Systemic Issues and Reports

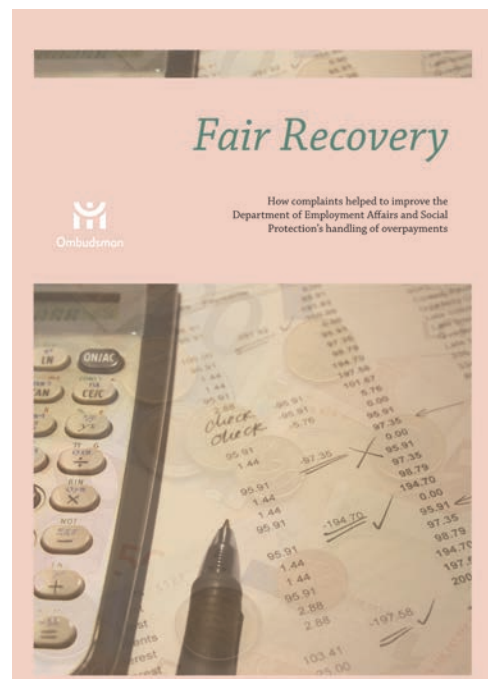
3.1 Fair Recovery: Department of Employment Affairs and Social Protection overpayments

In July 2019, I published a report titled *Fair Recovery* which set out how the Department of Employment Affairs and Social Protection had addressed my concerns about the recovery of overpayments made to social welfare recipients. Those concerns had arisen due to the nature and volume of such cases which came to my Office in the period 2015 to 2018.

I had seen cases where, through no fault of the recipient, an overpayment had been made, and where:

- the Department had little or no documentary evidence of the overpayment;
- there were inconsistencies across the country as to how overpayments were being dealt with;
- overpayments were deducted from inappropriate sources;
- there was no evidence that the Department 'poverty-proofed' the recipient's circumstances before starting deductions; and
- there was no communication from the Department with some recipients for years after an overpayment had been discovered.

However, in the report I commended the Department for its positive engagement with my Office and for putting measures in place to tackle the issues highlighted.



Measures implemented by the Department following engagement with my Office included:

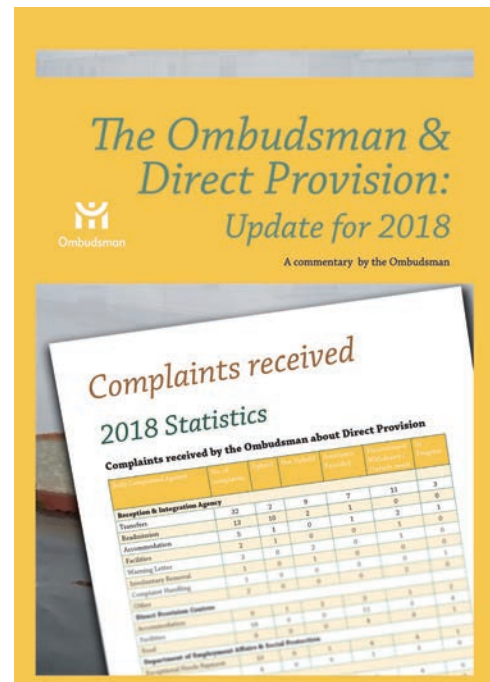
- updating guidance and training for staff dealing with overpayments;
- a review of local complaint handling;
- the establishment of a new call centre to deal with claimants in debt; and
- the introduction of a system for issuing debt reminders.

This is a good example of how service providers can work in a collaborative fashion with my Office to resolve individual complaints and, more importantly, improve processes and procedures so as to reduce the likelihood of others experiencing similar difficulties in future.

3.2 Direct Provision commentary

In March 2019 I published my second annual Commentary on the work of my Office in the Direct Provision sector in which I comment on the main themes which my Outreach team dealt with arising from our 2018 programme of visits to centres. A key theme is the much greater use of emergency accommodation brought about by the increase in the number of people seeking international protection and, consequently, entering Direct Provision. I explore how this led to delays in residents accessing appropriate services, particularly health and welfare services, and how my Office successfully engaged with the relevant service providers to minimise those delays. Another theme is the commencement of the Department rolling out its National Standards for the sector effectively committing it to delivering a specific quality of service to the people it accommodates under the direct provision system.

I also comment on my Office's engagement with the Oireachtas Joint Committee on Justice and Equality, which I found to be both richly informative and fruitful. Arising from that engagement, the Outreach team has expanded its programme of visits to centres to incorporate some unannounced visits. This has proven to be a most useful approach to take on cases which, due to conflicting information on similar issues, can be challenging to resolve through a typical desktop examination.



3.3 Adoption Authority: Update

In 2019, the Department of Children and Youth Affairs established an ex-gratia scheme to provide payment to former clients of Arc Adoption Ltd who did not receive repayment of a refundable registration fee when the Agency, which was accredited by the Adoption Authority of Ireland, went into liquidation in 2015. The ex-gratia scheme came about following extensive discussions between my Office and the Department in relation to a single complaint to my office from a couple who lost out on their deposit. I am glad to report that the ex-gratia scheme has been successfully concluded and that 69 former clients of Arc Adoption received a refund under the Scheme, at a total cost of €189,750. While my Office only received one complaint about the non-repayment of the refundable deposit, I am glad to report that all former clients of Arc who were similarly affected benefitted from the ex-gratia Scheme.

3.4 Agriculture sector

In 2019 my Office reached a favourable conclusion to two important but unrelated Department of Agriculture, Food and Marine complaints. While I received only a single complaint, the favourable outcome will benefit all applicants similarly affected.

The Department agreed to pay a farmer €12,500 as a result of a complaint to my Office. The complaint concerned the termination of a 20 year aid scheme, which commenced in 1998. My Office maintained that, when the farmer signed up for the 20 year long-term Riparian Zone aid scheme in 1998, under REPS 1 - which is a five year Rural Protection Programme - there was no clause in the aid scheme that stated that he would have to renew it every five years. We argued that it was a definite stand-alone 20 year scheme. Following lengthy engagement with the Department, the Department agreed to pay the farmer €12,500 and, at our request, identified 109 other similar cases involving an estimated liability of €855,000.

In another unrelated case, the Department agreed to review its decision not to allow a farmer to apply to the Young Farmers Capital Investment Scheme (YFCIS) under the Targeted Agricultural Modernisation Scheme (TAMS11). The Department advised the farmer that she was too old to be eligible for this scheme on the basis that she was over 40.

My Office wrote to the European Ombudsman, who contacted the European Commission, about the correct interpretation of 'young farmer'. The European Commission confirmed that a 'young farmer' is someone who is not more than 40 years of age at the moment of submitting an application and that the application has to be submitted, at the latest, on the day before the 41st birthday. The Department said that the clarification applied to Measure 6 only and that payments are not made under Measure 6 in Ireland. I pointed out that the same definition applied to **all** Measures and that the farmer was adversely affected by the decision to exclude her from applying. The Department reviewed its decision and confirmed that the farmer was eligible. It also agreed to apply the decision to all eligible farmers from the date the European Commission issued clarification to all Member States on 25 May 2016.

3.5 Disabled Drivers and Disabled Passengers Scheme

My Office receives many complaints annually in connection with 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:

2016	64
2017	70
2018	67
2019	73

Many of the complaints I receive about the scheme are submitted by public representatives from across the political divide.

The legislative backdrop is Section 92(2) of the Finance Act 1989, as amended by Section 17 of the Finance (No 2) Act 1992 which provides for the establishment of a scheme for the repayment or remission of various taxes to disabled persons who are severely and permanently disabled and who are drivers or passengers in certain vehicles. The legislation provides for the making of various Regulations by the Minister for Finance, after consultation with the Minister for Health and the Minister for the Environment, including regulations for the medical criteria to be set down in respect of disabled persons seeking to benefit under the scheme. Article 3 of Statutory Instrument No 353 of 1994, sets out the relevant medical criteria for eligibility. I cannot make a finding of maladministration in relation to decisions made strictly in accordance with the SI.

However, I have considerable concern about the nature of the current eligibility criteria. They are extremely narrowly focused and prescriptive. They only allow for the assessment of applications on six specific medical grounds and do not allow for the exercise of any wider discretion by decision makers to consider cases which do not fall strictly within the narrow confines of the criteria. This means that very many severely and permanently disabled applicants have no prospect of qualifying under the scheme as currently framed.

A report titled “Disabled Drivers and Disabled Passengers (Tax Concessions) Scheme - Interdepartmental Review Group” was presented to the Minister for Finance as far back as September 2002. The Group included officials from the Department of Finance, the Revenue Commissioners and three other Departments. The Group noted that a number of submissions it received (including from professionals involved in administering the scheme at the time) made the point that in view of the way the criteria are framed it results in persons being denied admission to the scheme who are equally (but differently) disabled from a mobility point of view to those who have gained admittance to it. One of the many recommendations contained in the Review Group Report was that the medical eligibility grounds should address mobility difficulties rather than disability per se.

It appears that none of the various recommendations of the Review Group has been implemented.

In my time as Ombudsman, I have raised the foregoing with the relevant Departments and Ministers, and I have also highlighted the matter with Oireachtas Committees. I also took the unprecedented step of writing to Cabinet about the issue in January 2020 when it held a special meeting with a focus on persons with disabilities. I find it very disappointing that no action has been taken to date to deal with this clear inequity.

UPDATE ON RECENT INVESTIGATIONS

3.6 Opportunity Lost: Magdalen Restorative Justice scheme

My investigation report into the Magdalen Restorative Justice Scheme contained three recommendations directed at the Department of Justice and Equality:

1. Eligibility for admission to the Scheme

Where there is evidence that a woman worked in one of the listed laundries but was officially recorded as having been “admitted to” a training centre or industrial school located in the same building, attached to or located on the grounds of one of the laundries, the Department should fully reconsider their application with a view to admitting them to the Scheme;

2. Application Process

The Department should review any cases where there has been a dispute over the length of stay. All available sources of evidence and information should be pursued and considered in this regard;

3. Capacity

The Department should work closely with the Courts Service to ensure that wardship applications in respect of the women who are deemed to lack capacity are processed in a timely manner and proactively provide practical support to the appropriate persons to ensure that these applications are made.

The recommendations were accepted. Arising from recommendation 1 above, the Government decided that the Department should re-advertise the scheme with an addendum to the original scheme. In addition, Ms Mary O’Toole SC was engaged by the Department to assist in the implementation of recommendations 2 and 3.

In view of the complexity of some of the issues I am satisfied with progress to date in implementing the recommendations.

The Department had initially indicated that 17 successful applicants had been unable to receive the redress they were entitled to as they did not have the necessary capacity to sign legal documents. Ms O'Toole has resolved all those cases and they have received their awards. In most of the cases, it did not prove necessary to use the mechanism of a wardship application. I wish to acknowledge Ms O'Toole's very valuable assistance in resolving these cases.

In relation to recommendation 2, Ms O'Toole identified 215 cases which fell into this category. By early 2020 a total of 80 of these applicants had been given additional payments. In 35 cases it was decided that the original decision was correct. A further 22 withdrew their applications for additional payments. In 75 cases enquiries are on-going and the remaining 3 cases were awaiting attention.

In relation to recommendation 1, 52 of the original applicants who had originally been refused access to the Scheme were deemed to be possibly qualified under the terms of the addendum and were to be re-examined. By early 2020 an additional 63 applications had been received following the re-advertisement of the Scheme. Of the total of 115 cases, 82 had received their ex gratia award and a further three had received offers of payment, one was the subject of enquiries, 24 were deemed ineligible and one applicant was deceased. One of the applications was withdrawn and three others were suspended due to a lack of response to queries.

In overall terms a total of €31.484m has been paid to date to 791 applicants.

I also made a fourth recommendation, as follows, which was not directed at the Department of Justice and Equality.

4. Developing future schemes

In order to ensure that any future restorative justice or redress schemes benefit from the learning from the operation of this and other schemes, guidance should be produced in respect of the development and operation of such schemes generally. Such guidance should be developed centrally but should be applicable across all government departments and public bodies.

I am aware that the Department of Public Expenditure and Reform is engaging in a consultation process on a draft policy document titled Guidance on Redress Schemes for Government Departments and Offices. My Office has submitted observations to the Department on the draft. The Department will be submitting the document to the Government for approval in due course.

3.7 A Good Death: End of life care

In my 2018 Annual Report (pages 20 and 21) I gave an overview of the many positive initiatives in end-of-life care in our hospitals which were set out in my 2018 report *A Good Death: Progress Report on End of Life Care in Irish Hospitals*.

I am glad to report that work is on-going in this area. Much of this is being driven by a Joint Health Service Executive/Irish Hospice Foundation Oversight Group. An Investigator from my Office is a member of the Oversight Group, which is chaired by Professor Cillian Twomey (retired Consultant Geriatrician, HSE South).

More recent developments in 2019 include the following:

- **Final Journeys**, which was originally developed in 2010 as part of the HFH Programme, is a one day workshop for all staff in acute hospitals. The workshop aims to improve the delivery of end of life care by promoting a culture of awareness and personal empowerment. In 2019, the Final Journeys training programme was reviewed and updated – 73 new facilitators were trained in 2019 to deliver this education workshop in their hospitals. Training continues into 2020;
- **Design & Dignity** is a partnership programme between the IHF and the HSE which aims to transform the way hospitals are designed and to protect the dignity of patients and their families at end of life, three new Design & Dignity rooms were opened in 2019 with 19 other projects underway;
- Improving the provision of information to patients and their families on all aspects of end-of-life, over 8,000 copies the HSE/Hospice Friendly Hospitals public information booklet: **'When someone you care about is dying in hospital – What to expect'** have been distributed throughout the acute hospital system and has been well received by staff and families alike;
- In December 2018 the HSE Acute Hospital Division announced funding for six new End-of-Life Coordinator posts. The six new posts combined with the existing seven end-of-life coordinators means that every hospital group and all large teaching hospitals in Ireland will have a member of staff dedicated to the continuous improvement in end-of-life care.

Apart from the work overseen by the Joint Working Group separate commendable initiatives have been undertaken, including:

- The IHF has published a suite of booklets to support people living with long term illnesses to plan for the future (including heart failure, COPD, dementia and neurological illnesses);
- The IHF continued to support Advanced Care Planning by participating in preparation of the codes of practice for the Assisted Decision Making Capacity Act with the HSE;

- The IHF's CEOL (Compassionate End of Life) Programme for nursing homes and residential care centres is active in over 50 nursing homes (both private and public). The CEOL Programme enables staff to continuously review, reflect on and improve the end-of-life care they provide for residents, their families and the staff themselves. The programme embeds a continuous quality improvement approach and is built around the needs of the individual, with the resident always at the heart of every decision;
- CEOL Regional Networks support continual professional and personal development in end-of-life care and related areas of practice for all Health & Social Care Professionals working in and with nursing homes.

3.8 Learning to Get Better: Hospital complaints investigation

In my 2018 Annual Report (page 19) I gave an overview of my Progress Report into the implementation of the 36 recommendations which I made in my 2015 systemic investigation report 'Learning to Get Better' (LTGB).

In 2019 Learning to Get Better action plans were rolled out by the HSE and modified to encompass all areas of the HSE (Hospitals and CHOs). The HSE provided self-assessment audits tools to assist the areas to monitor their compliance with these action plans and recommendations. The action plans for each of the areas were collated centrally by the National Complaints Governance and Learning Team (NCGLT). Once these returns are received by my Office, I intend to publish a special casebook in 2020 which will include HSE complaints and a progress report on the actions taken under each of the recommendations of my report.

Some of the more notable actions taken by the HSE arising from LTGB is the introduction of the actions plans for each area; the increase of reporting and recording of complaints received on the Complaints Management System; the training provided to all relevant staff; the self-assessment toolkit; the publishing of quarterly casebooks and the sharing of outcomes and learning. The NCGLT will be conducting an audit during 2020 to validate the self-assessment returns.

3.9 Mobility Allowance and Motorised Transport Grant schemes

In my 2018 Annual Report (page 25) I again highlighted the extremely long delay in legislating for a new unified statutory scheme to replace the Mobility Allowance and Motorised Transport Grant Schemes which had been closed to new applicants in 2013 by the Department of Health.

Despite numerous promises to introduce new legislation there has been no evidence of any progress on the matter. I wrote to the heads of all the political parties in advance of the 2020 general election about a number of matters. In doing so, I called for urgent action to remedy this particular injustice.

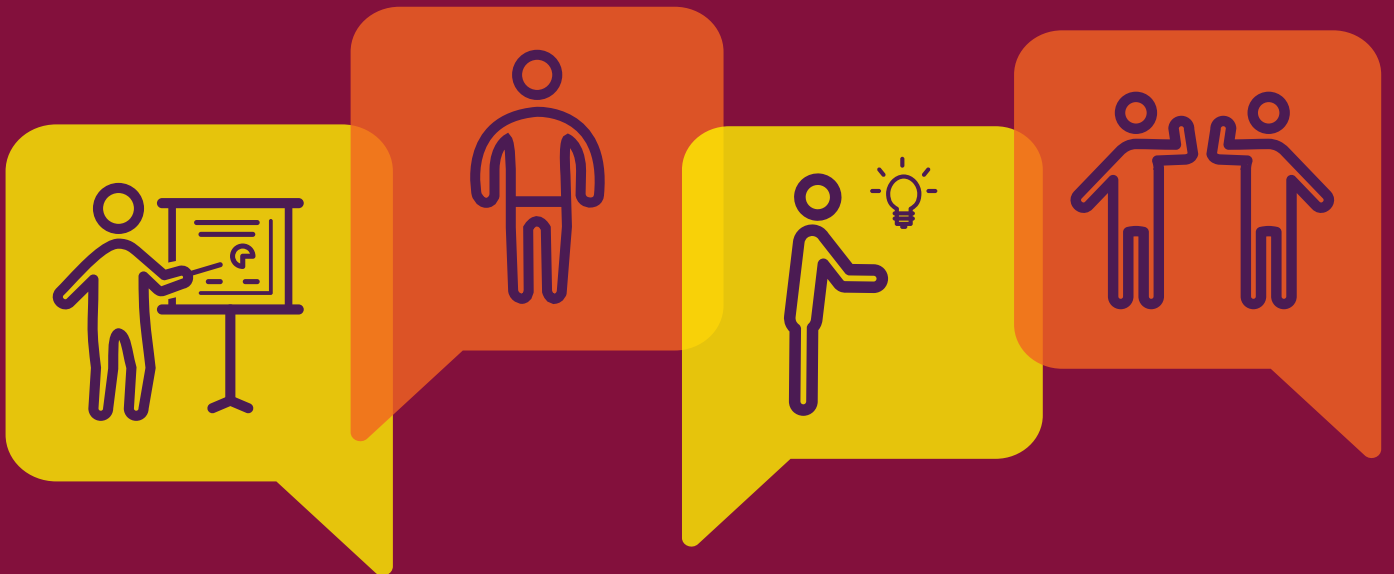


“I would like to take this opportunity to thank you and the office for all of your help in securing this review Without the Ombudsman’s office this review would never have seen the light of day.”



“Thanks a million for all your help. It wouldn’t have happened without you. Best wishes.”

Chapter 4



Chapter 4: Case Studies

In Chapter 2 I commented on complaints my Office received in 2019. In 30% of cases I either upheld or partially upheld the complaint against the service provider. In this Chapter I present summaries of some of the complaints that I upheld.

4.1 Department pays farmer €12,500 after dispute over 20 year environmental scheme

Background

Sean, a farmer from Sligo, complained to the Ombudsman when the Department of Agriculture, Food and the Marine stopped his payments under the Rural Environment Protection Scheme (REPS). Sean had been accepted onto the scheme in 1998. As part of the scheme, he had to set aside a strip of land beside a river (a Riparian Zone) for 20 years. The land was used to encourage wildlife habitats. Sean had invested considerable resources in tree planting along the river and believed he would receive payments for the full 20 years. However the Department ended his payments after 13 years in 2011.

Examination

There was a series of REPS operating between 1998 and 2013. Each REPS had different criteria and entitlements, and participants were free to move from one five-year scheme to another. In this case Sean participated in three different REPS over the period (REPS 1, 2 and 3).

When his participation in REPS 3 ended (in 2012) he could not move to the REPS 4 scheme as the deadline for applications was in July 2009. Sean entered a different scheme (Agri-Environment Options Scheme) in 2013 which did not provide for payments for Riparian Zones. The Department ended his Riparian Zone payments as it said he could not receive payment unless he was participating in a REPS.

Sean said there was no clause in the scheme that required him to renew the REPS contract every five years. He had planted birch, larch, alder and ash trees along the 'Riparian Zones' at a significant cost and the trees took considerable time to mature.

The relevant condition in the REPS provides that:

"the €724.50 per hectare payment shall be for 20 years ...".

The Ombudsman accepted that Sean had agreed to set aside his land for 20 years on the understanding that he would receive annual payments for the 20 year period. Sean had also complied with all the conditions of the scheme.

Outcome

The Department revisited its decision and agreed to pay Sean €12,500 in settlement of the case. The Department also identified 109 other similar cases involving a possible liability of €855,000.

4.2 Records management improved after confusion over woman's medical file

Background

Deirdre complained to the Ombudsman after a doctor at Letterkenny University Hospital discussed her medical history with her but she realised it was not hers. She then discovered a letter on her file belonging to a different patient but with the same name as hers.

Deirdre had attended the hospital for a surgical procedure but she cancelled the procedure after the mistakes. Deirdre complained to the hospital but was unhappy with how it responded to her complaint.

Examination

The doctor had quoted the wrong medical history as he had read it from another patient's record, which was misfiled on Deirdre's medical chart.

A 'General Incident/Near Miss form' which should have been completed immediately after the incident was not completed until after Deirdre had complained to the hospital. In addition the details on the form were not entirely accurate.

There was also some confusion around the 'pre-assessment' prior to Deirdre's attendance at the Day Services department for her surgical procedure. The HSE said that the 'pre assessment' form was not signed by Deirdre as the pre-assessment was conducted over the phone, which is normal practice.

Outcome

The General Manager of the hospital apologised to Deirdre for the distress she had suffered.

In order to avoid a similar incident occurring the hospital:

- delivered refresher training to hospital staff on the correct filing of documents in medical record charts
- reviewed its policies in relation to medical records management and
- will be delivering training on the policies to staff.

The Ombudsman will be following up with the hospital in mid-2020.

4.3 Registration system could not record correct location of woman's home birth

Background

Maire, who had a planned home birth complained to the Ombudsman when her home was not recorded as her daughter's 'place of birth' by the Civil Registration Service.

Maire had given birth at home in the presence of her family. However, no midwife or other medical professional was present at the birth. The Civil Registration Service recorded the place of birth as 'birth before arrival' to the hospital.

Examination

The day after Maire gave birth she brought her daughter to her local hospital. The midwife completed a Birth Notification Form. HSE guidelines provide for three options for the 'place of birth':

1. a birth in a hospital
2. a 'birth before arrival' in hospital which is not a planned home birth
3. a birth which took place at home; a planned home-birth attended by a midwife.

As no midwife was in attendance at the child's birth, the hospital recorded the place of birth as 'birth before arrival'. Consequently, the Civil Registration Service (CRS) recorded the child's place of birth as 'birth before arrival', rather than 'birth at home'.

Maire was unhappy as she wanted the official record to show the correct location of her daughter's birth.

The CRS refused to amend its records. It said that the Birth Notification Form is automatically populated onto the online birth registration screen. The child's birth certificate information is then drawn from this screen. The HSE's instruction manual does not have a category that captures the situation where a woman has a planned, unassisted birth at home.

Outcome

When the Ombudsman brought the case to the attention of the CRS it immediately apologised to Maire. It changed the child's place of birth on her birth certificate to 'birth at home'.

It also undertook to amend its procedures to capture cases such as this and reimbursed the expenses incurred by Maire in pursuing the case with the CRS (€500).

4.4 Elderly man's housing grant incorrectly reduced by Council

Background

Noel complained to the Ombudsman when Mayo County Council granted him only €3,725 under the Housing Aid for the Elderly Scheme (HAES) despite the Council saying he was eligible for the full grant of €8,000.

The scheme is designed to improve the condition of an older person's home. In general, it is aimed at people over 66 years of age who are living in poor housing conditions. In this case Noel needed the grant to carry out essential repairs to his home and insulate his attic. He had applied for the grant in 2017. However, the Council decided to grant Noel only €3,725 as he had received a HAES grant of €4,275 three years earlier.

Examination

The decision to reduce the amount of a grant, if an applicant has received a previous grant under the scheme, had been taken at a Council meeting in April 2015 (a year after Noel received the initial grant). However, the legislation and guidelines governing the scheme do not permit a Council to restrict the rate of payment in cases where there was a previous amount granted. In addition, the Council's application form did not indicate that payment would be reduced if the applicant had received a grant previously.

Outcome

The Ombudsman highlighted the case to the Council and also the Department of Housing, Planning and Local Government. The Council reversed its decision and approved the grant in full. The Council also changed the way it handled multiple applications.

4.5 Woman charged late penalties of €3,900 despite trying to pay Non-Principal Private Residence charge on time

Background

Tom complained to the Ombudsman when his elderly mother was charged €3,900 for late payment of the Non-Principal Private Residence (NPPR) charge for her property for the years 2009 and 2010. Tom's mother had paid the charges for the property for 2011, 2012 and 2013 on time, and she had tried to pay the 2009 and 2010 charges at the time but Donegal County Council did not accept her payment.

The outstanding NPPR bill was only discovered by Tom when he contacted the Council in 2018 to sell some of the land the properties were on. He believed that his mother's NPPR charges had been paid in full and on time. It was unclear why she would not have paid the charges as she had paid every other year on time and her other properties had been fully paid every year.

Examination

Tom's mother contacted the Council in 2009 as there was confusion in relation to whether a duplicate payment had been made for the same property. She had also written to the Council in 2010 and again in 2011 seeking clarification on what was owed so payment could be made. In 2010 she sent the Council a cheque for €600 which was returned saying the properties could not be found.

Generally, late payment penalties are levied in respect of a person who is actively trying to evade payment of a tax. In this case it was clear that Tom's mother was liable for the NPPR charges for 2009 and 2010. However, the application of a late payment fee was unfair as there were documented attempts to pay the charges and advice from the Council not to register the property.

Outcome

Under section 76 of the Local Government Reform Act 2014, local authorities have discretion to reduce late payment liabilities. The Ombudsman asked Donegal County Council to apply its discretion in this case. It agreed to accept the NPPR payment for 2009 and 2010 (€400) and disregard the late penalties of €3,500.

4.6 Council refused to pay €28,000 interest on builder's 15 year development bonds

Background

A builder complained that Wexford County Council refused to pay interest on two cash bonds he had lodged with the Council for housing developments, one in 2000 and the other in 2001. The two bonds together totalled over €175,000. The purpose of a cash bond is to act as security for the completion of a housing development. Cash bonds are lodged to the Council's bank account where they can earn interest.

Examination

Historically, the Council refunded cash bonds, plus the accumulated interest, to builders once it took the housing estate in charge. However, from April 2015 the Council decided to stop paying interest on bonds. However, it did not tell any builders of the change in policy.

The Council took the housing estates in charge in 2016. It returned the initial cash bonds to the builder without the interest which had accumulated over a fifteen-year period.

The Ombudsman believed that the builder had a legitimate expectation that he would receive the bonds plus interest once:

- he complied with the conditions of the grant of planning permission,
- he completed the housing estate to the Council's satisfaction and
- the estate was taken in charge by the Council.

Outcome

The Council agreed to pay the builder the accrued interest in respect of the two bonds – nearly €28,000. The Ombudsman asked the Council to identify any other cases where similar situations had arisen. The Council identified another 24 cases involving interest of €68,000.

Given the possible systemic issue involved, the Ombudsman also contacted the Department of Housing, Planning and Local Government which then wrote to all local authorities advising them that any change in policy, past or future, should not have retroactive impact on those bonds which were lodged prior to the date of the change in policy.

4.7 Pre-school funding restored after grant reduced without notice

Background

Patricia, who owned a pre-school business complained to the Ombudsman when Pobal reduced funding to her without notice. Pobal administers Government and EU funding to help address disadvantage and support social inclusion. Patricia had been granted funding of €14,820 to help support children with additional needs. Patricia had hired three additional staff on the understanding she would be receiving the full amount. It was not until several months later that she discovered the amount had been reduced by Pobal.

Pobal said the amount had to be reduced as Patricia was receiving funding from another source. However Patricia had told Pobal about the other source of funding at the time of her application. She believed she would be receiving the higher amount, and was at a significant financial loss as she had to honour the employment contracts of the additional staff.

Examination

Pobal had issued confirmation of the grant and the full amount of €14,820 in an email to Patricia. However she was not aware that the amount was being reviewed. As Patricia had mentioned the additional funding at the time of her application she understood that the amount she was granted took account of the separate funding.

The Ombudsman examined the information supplied to applicants for the scheme (Access and Inclusion Model). He had concerns about the information being supplied. There was a lack of clarity around the review procedure, and an applicant receiving confirmation of their grant was not told, at that point, if the amount was under review.

The Ombudsman also believed that, as Patricia had supplied all relevant information, including details of the additional funding, she had a legitimate expectation that the amount awarded was the final amount.

Outcome

Pobal reviewed Patricia's case and agreed to reinstate the full amount of funding. Following discussions with the Ombudsman Pobal also reviewed its procedures. It is implementing new procedures to ensure better clarity in communications relating to reviews of funding applications.

4.8 Late application for education grant refused despite difficult personal circumstances

Background

Adam, a student from Waterford, contacted the Ombudsman when Student Universal Support Ireland (SUSI) refused to accept his late application for a 2018/19 Higher Education Grant.

Adam was living with his stepfather at the time and applied as a 'dependant' of his stepfather through SUSI's online application process. He had technical difficulties completing his application, which SUSI quickly resolved.

However, Adam believed he needed the details of his stepfather's income and information relating to his mother's death, who had died two years previously, to complete the application. His mother's death had been particularly traumatic for him. He had become estranged from his stepfather and could not get the details he thought he needed. Adam moved from his stepfather's home to live with a relative. He then moved to rented accommodation. In addition Adam had dyspraxia and depression, and was recovering from operations relating to a tumour on his spinal cord.

Adam was two months late with his application. He asked SUSI to accept his late application and pointed to the difficult circumstances he had found himself in as the reason for the delay. Adam said he was desperate to complete his studies and could not continue without the grant.

Examination

SUSI's 'late application criteria' provide that SUSI can use its discretion to grant a late application if the applicant "...experienced extenuating circumstances that adversely affected you and your ability to make an application prior to the Online Closing date...".

It was clear that Adam had to deal with some tragic circumstances and had little family support during this time. The Ombudsman considered that SUSI should use its discretionary powers to grant the late application.

Outcome

SUSI referred the matter to its Grant Operations section and it was happy to accept a late application from Adam for the academic year 2018/19.

4.9 Council removes allegations about tenant after Tweet about neighbouring property owner

Background

Conor complained to the Ombudsman when Cork County Council said he had breached his tenancy agreement with the Council. The Council said Conor had used abusive and insulting language in a Tweet he had sent about a court case involving the owner of a neighbouring property, and that he had published a photo of the owner, without her consent, on his blog.

Conor said that the Tweet was factual, and that he did not publish the photo. Conor wanted the allegations removed from his tenancy record.

Examination

The Council said there were a number of issues between Conor and the property owner, including a court case that Conor had lost. Following the outcome of the court case, Conor included a link to details of a different case involving the owner in his Tweet. The Council also said it received a complaint about Conor publishing the woman's picture in his blog alongside details of the court case.

The Ombudsman discovered that the allegations concerning the Tweet and the blog had not been put to Conor in order to allow him to respond before the Council decided he had breached his tenancy agreement. The Tweet itself contained information already in the public domain. In addition, the Council did not have a Social Media Policy for its tenants, so the reference to the Tweet in the tenancy notification letter was unfair.

The Ombudsman found that the blog was not run by Conor, and it was unreasonable for the Council to assume that Conor was responsible for the publication of the photograph.

Outcome

The Council reviewed its decision and removed the allegations from Conor's tenancy record. It also said it would consider the introduction of a Social Media Policy for tenants.

4.10 €3,500 laundry charges wrongly charged to man in a nursing home

Background

Liam complained to the Ombudsman about a €50 monthly laundry charge he had paid for his late brother when he was in a nursing home. Liam's brother had been charged €50 per month for nearly seven years for the service in addition to the nursing home fees. Liam believed that his brother should not have had to pay the charge. However, the nursing home refused to issue a refund.

Examination

The Ombudsman examined the 'contract for care' between the nursing home and Liam's brother. He discovered that the laundry services were included in the annual nursing home fees that Liam's brother had paid. The nursing home said that while it charged a laundry fee of €50 per month it did not charge for organised activities. It offered Liam €2,000, which was a refund of laundry charges less an amount for activities.

However, the activity charge was not included in the 'contract for care'. The Ombudsman believed it was unfair to retrospectively charge for something that had not been agreed between the nursing home and Liam's brother.

Outcome

The Ombudsman asked that the nursing home provide a full refund of laundry charges to Liam. The nursing home agreed and refunded Liam €3,500.

4.11 Student farmer denied education grant after income was double counted

Background

Karen from Clare contacted the Ombudsman after Student Universal Support Ireland (SUSI) refused her application for an education grant at the 'special rate'. The 'special rate' is a higher grant aimed at people on low incomes. Karen had discovered that SUSI had double-counted some of her income which brought her above the threshold for the 'special rate' grant.

Examination

Karen had applied to SUSI for a grant for the academic year 2018/19 and was awarded a grant. However, she was not awarded the higher 'special rate'. Her household income had been miscalculated as farm grants were added to the income. These grants had already been included in the farming accounts and should not have been added to the income.

Karen appealed the decision to SUSI and she was awarded the 'special rate' for the academic year 2018/19. She discovered that this error had occurred in two other years. Karen appealed these earlier decisions. However, her appeal was turned down as she was outside the time limit for making an appeal.

The time limit for making an appeal to SUSI is 30 days. However, the error came to light only during Karen's 2018/19 application and therefore she had no reason to appeal the decision at the time.

Outcome

Following discussions with the Ombudsman SUSI reviewed the award of Karen's previous grants. Karen was awarded the 'special rate' of grant for 2016/17 receiving an additional payment of €2,890.

4.12 Woman receives arrears of almost €20,000 after delay in awarding Carer's allowance

Background

Valerie complained to the Ombudsman when the Department of Employment Affairs and Social Protection refused her application for a Back to Education Allowance (BTEA). The Department said her application was outside the time limit for applying.

Examination

In order for an applicant to receive the BTEA they need to be receiving one of a number of qualifying payments. Valerie had applied for a Carer's Allowance, which is a qualifying payment, in December 2016. The Department did not approve her application until February 2019, over two years later. Valerie then applied for retrospective payment of the BTEA. However, this was refused.

The Department acknowledged that there were delays in granting Valerie's Carer's Allowance application, but did not take this into account when assessing her BTEA application.

The Ombudsman pointed out to the Department that the reason Valerie could not apply for the BTEA was that there was a delay of over two years in granting her Carer's Allowance. He asked the Department to review its decision.

Outcome

The Department agreed to review the application and revised its earlier decision. Valerie was awarded the Back to Education Allowance and received arrears of €19,770.

Chapter 5



Chapter 5: Stakeholder Engagement

5.1 The Ombudsman's Casebook

Providers of public services can learn from both the complaints they receive and from complaints examined by my Office. I have been working to make the learning from cases considered by my Office much more widely available.

One of the ways of doing this has been through 'The Ombudsman's Casebook', a quarterly publication. The quarterly Casebook provides summaries of cases we have dealt with over the previous months in the Office. It describes complaints across all the areas the Office deals with, such as Health, Social Welfare, Education, Local Government, Agriculture, Taxation and Nursing Homes. It is circulated in electronic format to over 1,800 officials in public service providers, members of the Oireachtas and other public representatives, and other interested groups. It is also available on my website, www.ombudsman.ie.

I am pleased to say that the Casebook continues to receive a very positive response and the the number of people subscribing has continued to increase.

During 2019 I also published a special 'Clare edition' of the Casebook, summarising complaints I received from that county, to coincide with our Clare Outreach event in September 2019.

5.2 Bringing the Ombudsman service to the regions

While complaints can be made to my Office by letter, email, online and in person at our Dublin Office, I am aware that many people want to meet in person outside Dublin and may need assistance with their complaint. I also wish to engage with public representatives and the many providers of public services located around the country.

Clare Outreach Event 2019

On 19 and 20 September 2019 my Office organised a major outreach event in Ennis, County Clare. The event consisted of a number of initiatives over the two days:

- **Seminar: ‘Learning from Clare’s complaints : How complaints can improve Clare’s public services’**

Key officials from public service providers in Clare such as the HSE, hospitals and local authorities attended this half-day seminar. Forty local representatives, officials in local public bodies and other interested groups also attended the seminar. We outlined the type of complaints we received from the people of Clare. We explained the purpose of the quarterly Ombudsman’s Casebook and how we can work together to improve the delivery of public services.

The conference concluded with a very positive Q and A session, which should benefit all in the future.

- **Meetings with local public service providers**

While in Clare I met with senior management of Clare County Council and the Revenue Commissioners. I also met with senior management in Ennis Regional Hospital where we discussed the recommendations in my investigation report – Learning to Get Better. I visited a local ‘Direct Provision’ centre and met with residents, centre management and representatives of local voluntary bodies.

- **Training session for staff of Citizens Information Centres in Clare**

Citizens Information Centres provide an excellent service to people around the country, providing advice and assistance to the public in their dealings with the public service providers under my jurisdiction. In Clare we made a presentation to local CIC staff on the type of complaints we can deal with, and how local staff can take complaints from the public on our behalf. Again this event was extremely useful and we look forward to working closely with the CICs in the future to benefit the public.

- **Complaint-taking service for the public**

Staff from my Office held a full day clinic in Ennis, to take complaints from the public and provide advice and assistance to callers. We took 52 complaints on the day from members of the public. Visitors commented on the benefits of being able to meet our staff and avail of our services. I am pleased to say that we received extremely positive feedback from those we met and we plan to arrange a similar event in another part of the country in 2020.



Pictured at our Clare Outreach event are Ombudsman Peter Tyndall with Kevin Heffernan, Alison Moore, Kathy Claire and Fiona O'Carroll.

Complaint clinics at Citizens Information Centres (CICs)

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

During 2019, Ombudsman staff were available on 35 occasions to provide advice and assistance and to take complaints from the public.

Limerick CIC in 2019	54 Complaints were received
Galway CIC in 2019	36 Complaints were received
Cork CIC in 2019	64 Complaints were received

Our visits to the CICs also gave us the opportunity to provide assistance to nearly 126 other people whose complaints were not within remit, or where they had not taken up the matter with the public service provider in the first instance.

Direct Provision visits during 2019

My Office also operates an Outreach programme of visits by my staff to the Direct Provision accommodation centres, which house applicants for international protection while their applications are processed. These visits are to help raise awareness among the residents of the services provided by my Office and give residents the opportunity to raise any issues they may have about how they are treated at their centres or by other public service providers. My staff visited 26 of the centres during 2019.

Participation at Exhibitions

50PlusExpo shows in Dublin, Cork and Galway

The 50PlusExpo shows are popular events attracting approximately 23,000 people over the three shows. Staff members were present at shows in Dublin, Galway and Cork to answer questions about the role of the Office, and provide advice and assistance to members of the public on the complaints process.

5.3 International Ombudsman Institute

The International Ombudsman Institute (IOI) World Conference

The IOI is the global organisation for the cooperation of more than 190 independent public services Ombudsman institutions from more than 100 countries worldwide. As IOI President, I am delighted that my Office will host the next IOI world conference in Dublin. The conference was due to take place in May 2020 but has been postponed to a later date due to the Covid - 19 pandemic. I expect that more than 250 delegates from around 120 countries will attend the conference.

The theme of the conference will be “Giving Voice to the Voiceless”. The conference is designed to improve the way Ombudsman Offices work with hard-to-reach groups. These include, people with disabilities, refugees and asylum seekers, older people, people from minority ethnic communities and prisoners. Ombudsman Offices who are the leading practitioners in their fields will share their experience of reaching out to and working with these groups.

The Venice Principles

As IOI President I was very pleased to address the meeting of the Venice Commission on 15 March 2019 at which the “Principles on the Protection and Promotion of the Ombudsman Institution”, (“The Venice Principles”) were adopted.

The 25 Venice Principles represent the first, independent, international set of standards for the Ombudsman institution. They provide comprehensive and internationally accepted standards for the proper functioning and independence of Ombudsman institutions around the world.

The Venice Principles are a key document for the future of Ombudsman offices. It will play a key role in protecting existing Ombudsman offices who are facing threats; will provide guidelines for the improvement of current Ombudsman offices; and will set a template for new offices where none is present.

5.4 Ombudsman in Ireland guide

In May a new guide to finding the correct Ombudsman to deal with your complaint was launched by Ceann Comhairle, Seán Ó Fearghaíl and Rónán Ó Domhnaill, Chair of the Irish Ombudsman Network. The guide features the seven main 'Ombudsman' offices and also lists other complaint handlers in Ireland. The guide was compiled and edited by the Financial Services and Pensions Ombudsman and is available on the websites of all the Ombudsman offices. Hard copies can also be requested by contacting an Ombudsman office.

The guide has proven to be very popular with members of the public and is particularly useful as part of our outreach events.



At the launch of 'Ombudsman Offices in Ireland' booklet. Left to right Ger Deering, Louise O'Meara, Rónán Ó Domhnaill, Seán Ó Fearghaíl, Bernie Grogan, Peter Tyndall, Nuala Ward and Michael O'Flaherty.

5.5 Memorandums of Understanding: HIQA, Northern Ireland Public Services Ombudsman and the Planning Regulator

In April 2019 I signed a Memorandum of Understanding (MOU) with the then Northern Ireland Public Services Ombudsman, Ms Marie Anderson. It is aimed at providing on-going co-operation on complaints about North-South Implementation Bodies and ensures that they are examined by the appropriate Ombudsman.

In July 2019 I signed an updated MOU with the Health Information and Quality Authority aimed at forging enhanced co-operation between the two Offices in the interests of delivering better and safer health care for all.

In October 2019 I agreed a MOU with the Office of the Planning Regulator. Its primary aim is to ensure that relevant information which becomes available to one Office and which may assist the other Office in the performance of its functions, is shared between the two Offices.

My Office has previously put in place a MOU with the Medical Council and a separate MOU has been agreed with the Office of the Ombudsman for Children. The full text of each MOU is available on my Office's website.



Marie Anderson, Northern Ireland Public Services Ombudsman with Ombudsman Peter Tyndall

Chapter 6



Chapter 6: Improving Our Service

6.1 Strategic Plan and Values 2019-2021

In 2019, my Office developed a new strategic plan, which set out the following objectives:

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.

As reflected by its objectives, the plan is customer-centred and focused on improving public services. My Office ensures that the complainant remains at the heart of everything we do as supported by our values of fairness, independence, innovation, customer focus and empathy.

My Office continues to innovate and evolve in the face of changing challenges and opportunities. Work on the development and delivery of enhanced management information systems is now at an advanced stage. The improved knowledge management functionality will support reporting and decision-making. This in turn will further increase the effectiveness and efficiency of our processes. As the remit of my Office continues to increase, so too do the required resources. At the end of 2019, with the support of the Office of Public Works, we relocated to a suitably central location in order to remain accessible to all of our stakeholders.

This plan builds upon my Office's many achievements and supports our vision to promote fairness, transparency, accountability and excellent public services.

6.2 The Ombudsman website

My Office received a commendation from the National Adult Literacy Agency (NALA) for our website in February 2019. The award was in relation to the category 'Plain English in the digital world', for the website's straightforward language for users.

The Office was nominated for two categories in total. The other one being 'Best use of Plain English' for the Ombudsman Casebook, and its easy to understand language.

In August 2019 my Office's website received a nomination for an eGovernment Universal Design Award. The Universal Design category is dedicated to those who enable the design of environments that can be accessed, understood and used regardless of a person's age, size, ability or disability.

Ireland's eGovernment Awards recognise the innovators and forward thinkers who are pioneering changes and helping deliver better online services on the island of Ireland today.

6.3 Quality

As part of our strategic plan 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 QA Team examines 15% of cases closed in the previous month and assesses cases against our quality standards. It also identifies and suggests solutions to any process issues arising from monthly quality audits and provides feedback to caseworkers on individual cases.

During 2017 my Office helped develop a Service Standards Framework for use by all members of the Ombudsman Association. The Ombudsman Association (OA) is a network of Irish and British Ombudsman offices. Following public consultation the framework was published in May 2017 and is available at www.ombudsmanassociation.org. In 2019 my Office participated in discussions on how to progress the adoption and self-assessment of the framework by all members of the OA. The quality standards we have developed are consistent with the Service Standards Framework.

6.4 Human Rights – Public Sector Duty

The Irish Human Rights and Equality Commission Act 2014 introduced a positive duty on public bodies to have due regard to human rights and equality issues. My Office is committed to providing a service to all clients that respects their human rights and their right to equal treatment and has adopted a proactive approach to implementing this duty. Our approach is underlined by our core organisational values of independence, customer focus and fairness, which are evident in both the culture of the office and our internal policies and procedures. In assessing complaints, we will ensure that any failure to respect human rights is considered.

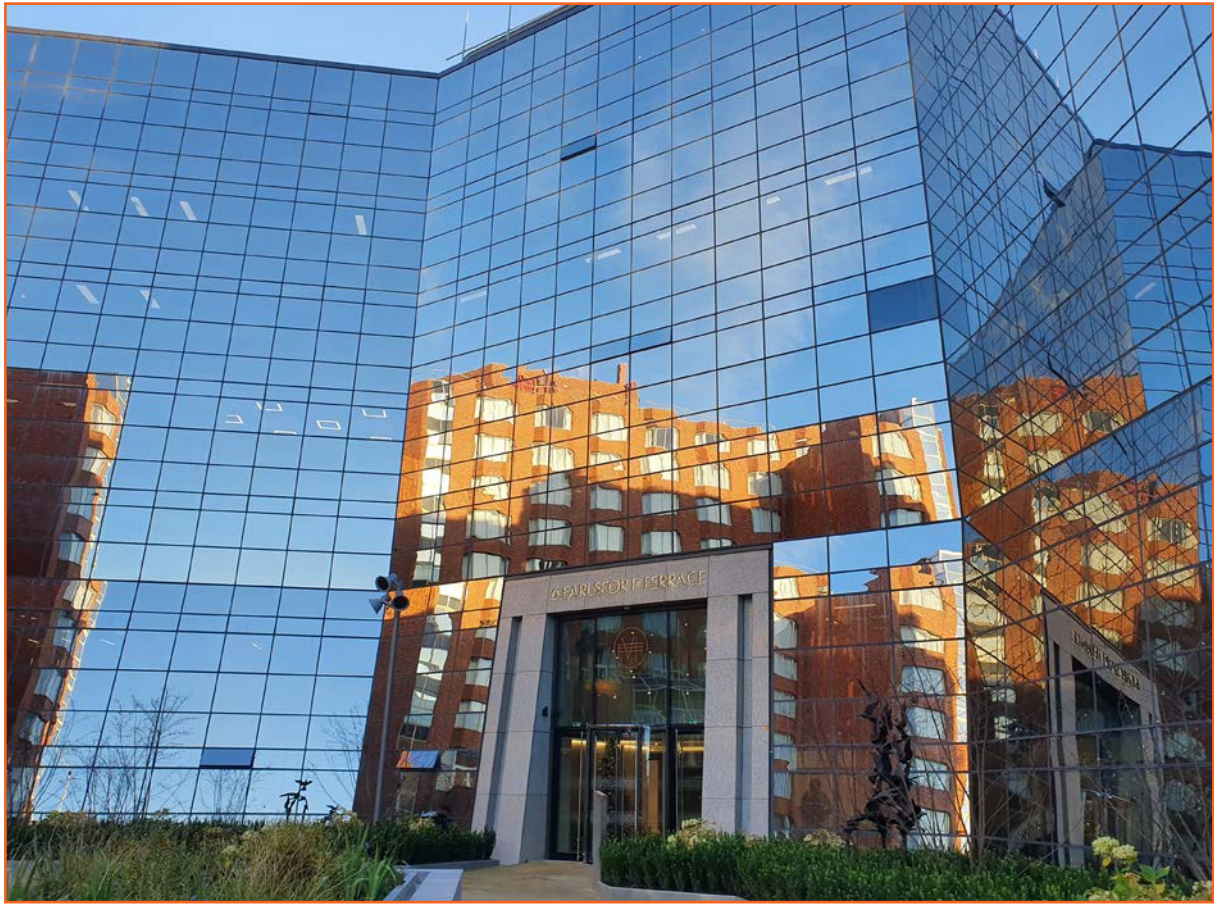
In 2018 we established a working group on our public sector duty. The group assessed the human rights and equality issues relevant to our functions and identified the policies, plans and actions needed to address these. On foot of this a Public Sector Duty Committee was established. During 2019 a considerable amount of progress was made by the Committee on delivery on the actions it set out.

This included ensuring that all communications used by the Office were accessible and clearly understood by all users. As mentioned earlier our website received a commendation from the National Adult Literacy Agency (NALA) for 'Plain English in the digital world,' and it was nominated for an e-government universal design award.

In support of the Office's move, a considerable amount of work was carried out into ensuring the accessibility of our office for both staff and visitors to the office. This included the development of a revised internal communications strategy which focused on ensuring staff members were aware of the availability of needs assessments and the assistive technologies that might be required. In addition to this, an e-learning module was introduced for all new staff members on human rights and equality.

6.5 New building

In December 2019 we moved to new premises on 6 Earlsfort Terrace. As a public office we wished to remain accessible to the public. We have retained a convenient city centre location (opposite the National Concert Hall) and the building is accessible for visitors with physical disabilities. Despite a considerable amount of work involved in developing a new open plan environment and significant ICT changes, the move was completed with the minimum amount of disruption to our services.



Our new offices at 6 Earlsfort Terrace, Dublin 2



“I would like to thank you for all your help and for the time you have taken to talk things through with me. I'm very grateful.”

Appendix:

2019 Statistics



TABLE 1 - Complaints Received and Completed in 2019

Complaints Received in 2019 (service providers within jurisdiction)	3664
Complaints Completed in 2019	3563
Enquiries 2019	2170
Complaints against bodies outside jurisdiction (for example banks, private companies) received in 2019	883

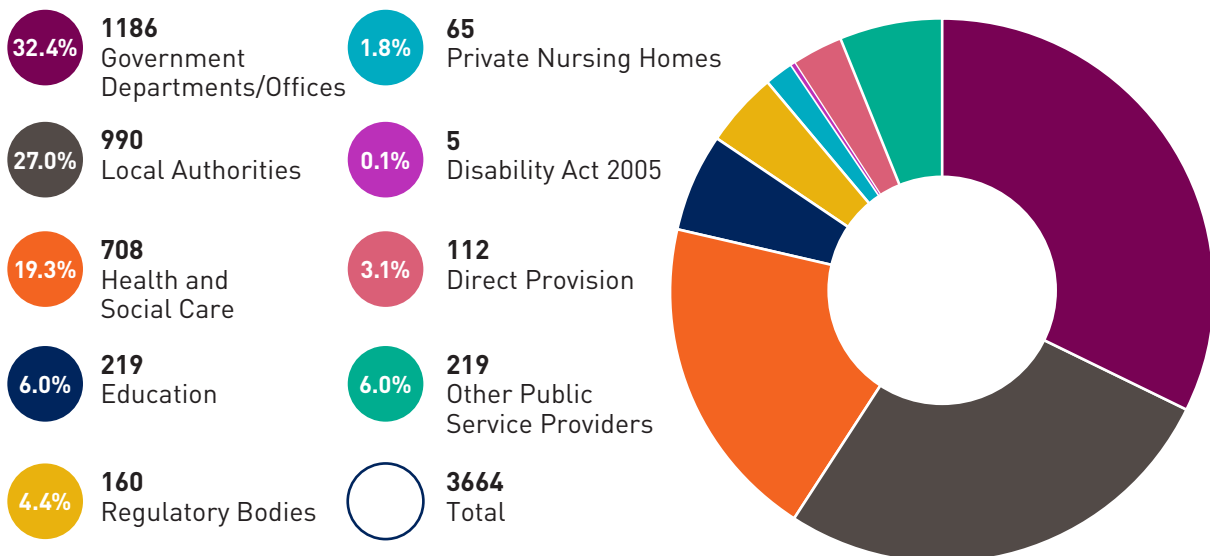
TABLE 2 - Complaints received by sector

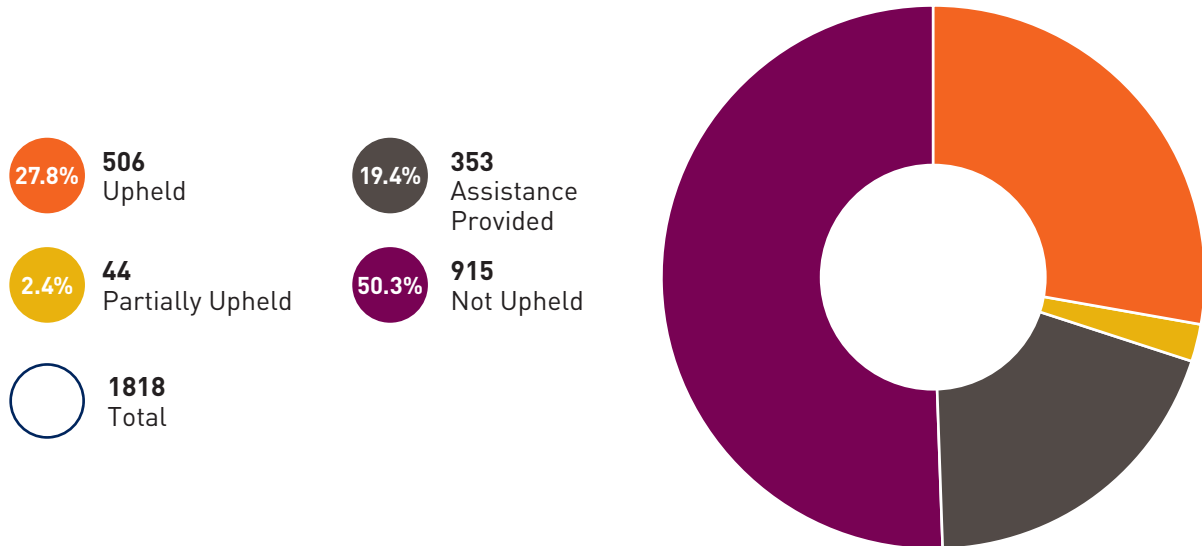
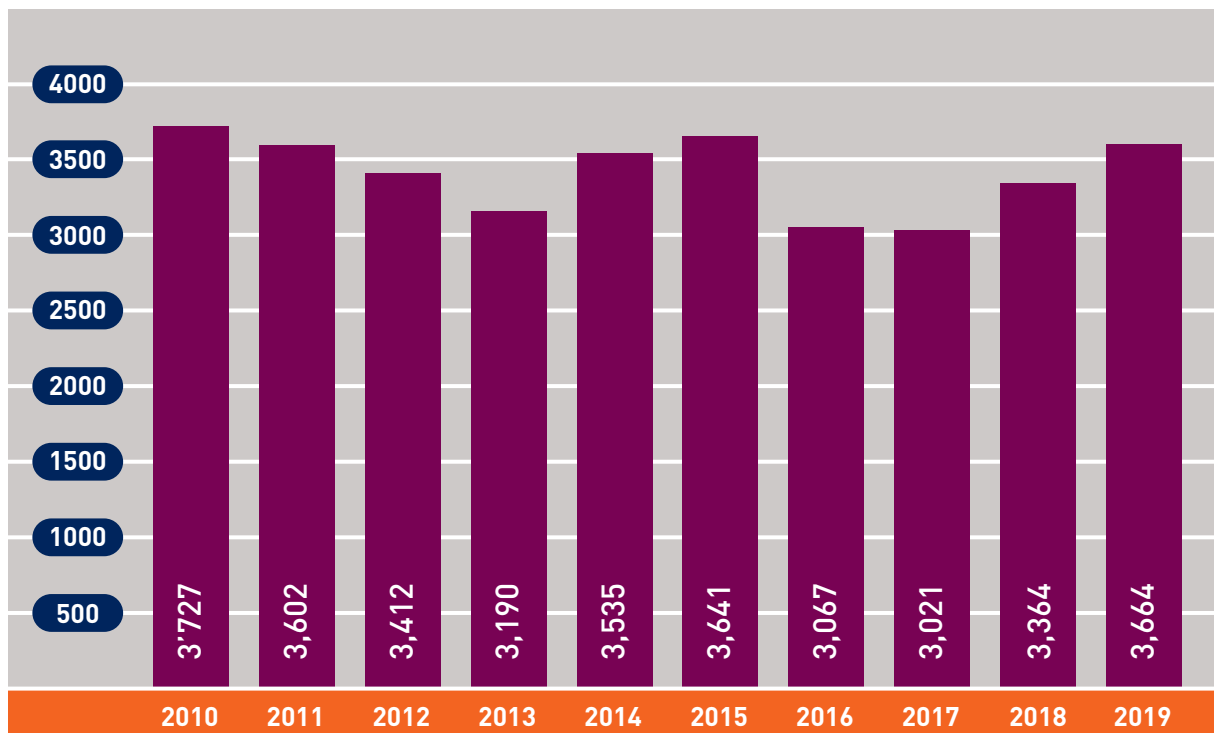
TABLE 3 - Complaints completed by outcome**TABLE 4 - 10 Year Trend of Complaints Received**

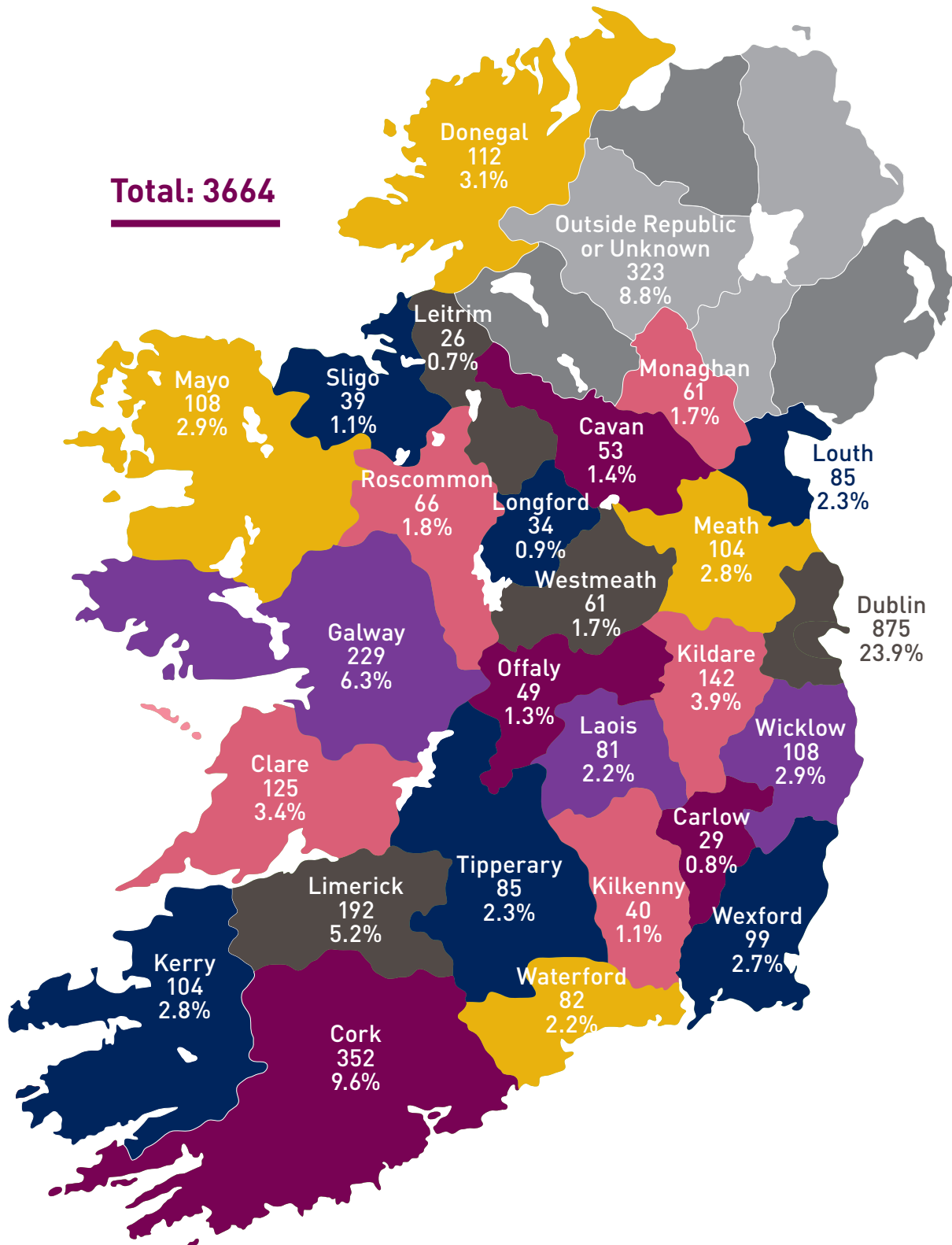
TABLE 5 - Complaints Received by County

TABLE 6 - Government Departments and Offices

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Employment Affairs and Social Protection	806	121	4	88	110	259	168	22	772
Revenue Commissioners	106	17		7	13	35	34	3	109
Agriculture, Food and the Marine	84	10		4	6	12	42	6	80
Justice and Equality	52	3		4	2	2	6	37	54
Education and Skills	33	1	1		4	1	1	24	32
Foreign Affairs and Trade	21	5		2	5	3	4	3	22
Companies Registration Office	12			1		3	3		7
Property Registration Authority	10	1		1	3	1	3	1	10
Office of the Registrar General	10	2		1	5		1	2	11
Housing, Planning, and Local Government	8	2				2	3	3	10
Office of Public Works	7	3			1	1			5
Health	7	2			1			3	6
Transport, Tourism and Sport	6	1		1	2		4	1	9
Department of Culture, Heritage and the Gaeltacht	5	1				1	1	3	6
Other	19	4		1	1	4	1	12	23
Total	1186	173	5	110	153	324	272	120	1156

TABLE 6(a) - Department of Employment Affairs and Social Protection

Complaints Received in 2019	
Disability, Invalidity and Maternity Payments	205
Unemployment Payments	117
Old Age & Retirement Pensions	96
Supplementary Welfare Allowance	68
Carer's Payments	67
PRSI	29
Back to Work / Education Schemes	28
Widows and One Parent Family Payment	26
Fuel Allowance and Free Schemes	26
Working Family Payment	22
Occupational Injury Benefit	21
Child Benefit	18
Training/Employment Schemes	3
Redundancy Payments	2
Other (Non Payment)	77
Other (Payments)	1
Total	806

TABLE 6(b) - Office of the Revenue Commissioners

Complaints Received in 2019	
Income Tax	44
Vehicle Registration Tax (VRT)	13
Local Property Tax	8
Value Added Tax (VAT)	7
Vehicle/Property Seizure	4
Capital Gains Tax	3
Customs & Excise	3
Capital Acquisitions Tax	1
Corporation Tax	1
Disabled Drivers and Disabled Passengers (Tax Concessions)	1
Other	21
Total	106

TABLE 6(c) - Department of Agriculture, Food and the Marine

Complaints Received in 2019	
Basic Payment Scheme	15
Green, Low-Carbon Agri-Environment Scheme (GLAS)	15
Agri-Environment Options Scheme (AEOS)	8
Forestry Grants and Premiums Scheme	6
National Reserve	4
Organic scheme	4
Beef Environmental Efficiency Pilot (BEEP)	2
Sheep Welfare Scheme	2
Targeted Agricultural Modernisation Schemes (TAMS)	2
Areas of Natural Constraint (ANC) and Areas of Specific Constraint (ASC)	1
Beef Data and Genomics Programme	1
Weather Related Crop Loss Scheme	1
Young Farmers Installation Scheme	1
Disease Eradication Scheme	1
Sea Fishing/Aquaculture Licensing	1
Other	20
Total	84

TABLE 7 - Local Authority

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Carlow County Council	7	2		1	2		1	1	7
Cavan County Council	10	1	1	1	1	4			8
Clare County Council	29	6		5	3	5	6	4	29
Cork City Council	69	24	1	6	3	14	17	2	67
Cork County Council	43	10	1	6	2	5	11	3	38
Donegal County Council	42	6		1	3	9	15	1	35
Dublin City Council	125	21	1	8	20	38	29	6	123
Dún Laoghaire-Rathdown County Council	37	3	1	5	3	12	8	3	35
Fingal County Council	40	10		5	3	6	10	2	36
Galway City Council	42	9		6	3	11	10	2	41
Galway County Council	43	10	2	6	4	12	10	2	46
Kerry County Council	25	5		3	2	7	11		28
Kildare County Council	47	5		2	4	8	22	1	42
Kilkenny County Council	10		1	1	3	5	3	1	14
Laois County Council	24	3		2	4	4	5	1	19
Leitrim County Council	4			1	2		1		4
Limerick City & County	62	13	1	1	8	14	17	3	57
Longford County Council	11	2		3	4	2	2	1	14
Louth County Council	26	7		2	2	3	8	1	23
Mayo County Council	34	5	1	2	3	7	11	2	31
Meath County Council	33	6	1	2	4	5	10	3	31
Monaghan County Council	7	1		1	1		3	2	8
Offaly County Council	9	1		1	4	2	2	1	11
Roscommon County Council	16	2			3	2	4	1	12
Sligo County Council	7						3	1	4
South Dublin County Council	37	10	1	5	4	5	10		35
Tipperary County Council	27	6		2	1	5	10	1	25
Waterford City & County	30	6		1	4	7	4	2	24
Westmeath County Council	15	2			4	3	5	1	15
Wexford County Council	29	10		1	1	7	4		23
Wicklow County Council	50	16	1	2	7	11	8	1	46
Total	990	202	13	82	112	213	260	49	931

TABLE 7(a)- Local Authority

Complaints Received in 2019		
Housing		546
<i>Allocations and Transfers</i>	226	
<i>Repairs</i>	121	
<i>Housing General</i>	60	
<i>Housing Assistance Payment (HAP)</i>	40	
<i>Loans and Grants</i>	37	
<i>Anti-Social Behaviour</i>	29	
<i>Rents</i>	14	
<i>Sales</i>	10	
<i>Rent Assistance Scheme (RAS)</i>	5	
<i>Housing Assessment</i>	4	
Planning		157
<i>Enforcement</i>	105	
<i>Administration</i>	52	
Roads/Traffic		56
Non Principal Private Residence		37
Environmental Health Services		18
Parks/Open Spaces		15
Traffic/Parking Fines		15
Pollution		12
Motor Tax & Driver Licence		11
Sewerage & Drainage		9
Burial Grounds		8
Waste Disposal		7
Estate Management		6
Acquisition of land/rights		5
Housing Aid for the Elderly		5
Water Supply		3
Derelict Sites		2
Rates		1
Other		77
Total		990

TABLE 8 - Health and Social Care Sector

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Health Service Executive									
Medical & GP Card	79	10		15	16	23	22	2	88
Nursing Home Support Scheme	35	3		3	7	1	18	2	34
Ambulance Service	4	1						3	4
Long Term Illness Card	3			2					2
Drugs Payment Scheme	3	2					1	1	4
Other	38	2	1	5	3	4	4	25	44
Health & Social Care									
Hospitals - General	261	23	14	22	29	64	38	83	273
Primary & Community Care	71	8		11	6	18	15	13	71
Hospitals - Psychiatric	34	1	1	1	4	7	4	10	28
Disability Services	34	5	2	6	2	6	4	7	32
Cross Border Directive	33	3			3	3	16	1	26
Social Work Services	7			3	1				4
Dental Services	6			1		2	2	1	6
Treatment Abroad Scheme	5				1	2	1	1	5
Public Nursing Homes	4					2	1	1	4
Other	18		1	1	1	6	2	7	18
TUSLA - Child & Family Agency									
	73	10	1	7	12	26	2	16	74
Total	708	68	20	77	85	164	130	173	717

TABLE 9 - Education Sector

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
City of Dublin Education and Training Board	3					1	2		3
Dublin City University	6	2			1		1		4
Dundalk Institute of Technology	3				2			1	3
HEAR/DARE (Higher Education Access Route/Disability Access Route to Education)	49			1	4	1	39	2	47
Institute of Technology Blanchardstown	3	1	1						2
Institute of Technology Carlow	5				1	1		1	3
Institute of Technology Sligo	3			1		3	1		5
Limerick Institute of Technology	4			1	1	1	1	1	5
National College of Ireland	4	2				1	1		4
National University of Ireland Galway	3	1			2	1	2		6
National University of Ireland Maynooth	3				1		1		2
State Examinations Commission	18	1		1		4	7		13
Student Universal Support Ireland (SUSI)	51	5	1	2	3	16	16		43
Technology University Dublin	4	1		1		2	1		5
Trinity College Dublin	9	1		2	1	2	7	1	14
University College Cork	6				1	1	3		5
University College Dublin	18		1		6	2	6		15
University of Limerick	9	1			3	3	1	1	9
Other Bodies	18		1	2	4	5	7	1	20
Total	219	15	4	11	30	44	96	8	208

TABLE 10 - Regulatory Bodies

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Charities Regulatory Authority	5	1				2	2	2	7
Competition and Consumer Protection Commission	2					1			1
CORU - Health and Social Care Professionals Council	5	1				1	1	2	5
Health and Safety Authority (*CF)	4				1		1	1	3
Inland Fisheries Ireland	3	1			1		3		5
Law Society of Ireland	35	2		1	4	5	4	10	26
Legal Services Regulatory Authority	2								0
Medical Council (*CF)	17				2			15	17
National Transport Authority	29	6		1	2	8	13	3	33
Nursing and Midwifery Board of Ireland	8				1	1	2	4	8
Road Safety Authority	38	4		3	7	12	9	2	37
Teaching Council	3						1		1
Other Bodies	9	1				1	1	5	8
Total	160	16	0	5	18	31	37	44	151

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

TABLE 11 - Other Public Service Providers

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Allied Irish Bank	4			2				2	4
Caranua	7	1			3	1	2		7
Citizens Information Board	8				1	1	2	4	8
Courts Service (*CF)	15					1	2	12	15
Disabled Drivers Medical Board of Appeal	73	1			2	2	69	3	77
Legal Aid Board	22	1		2	2	11	3	1	20
Pobal	8	1				2	1	1	5
Residential Tenancies Board (*CF)	25				2	3		17	22
Solas	5				2	2		1	5
Sustainable Energy Authority Ireland	19	3		3		5	4	1	16
Tax Appeals Commissioners	11	5		6	1	1		1	14
Transport Infrastructure Ireland	9	2				4	1		7
Waterways Ireland	4				1	1	2		4
Other Bodies	9				2		1	3	6
Total	219	14	0	13	16	34	87	46	210

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

TABLE 12 - Private Nursing Homes

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Care and Treatment	28			1	6	13	3		23
Complaint Handling	9	1	1	1	1	2	3	1	10
Nursing Home Charges	8	2		1	1	1	1		6
Non Reply to Correspondence	6	4		2		1			7
Admission/Discharge	2					2			2
Other	12	2	1	1	2	3	4	5	18
Total	65	9	2	6	10	22	11	6	66

TABLE 13 - Disability Act

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Access to Services (S.26)	4			2	1				3
Access to Information (S.28)	1	1		0					1
Total	5	1	0	2	1	0	0	0	4

TABLE 14 - Direct Provision Service Providers*

Complaints Received and Completed in 2019									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued/ Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
International Protection Accommodation Service	82	6		31	16	14	16	1	84
Irish Refugee Protection Programme	2			1		1	1		3
Direct Provision Centres	25	1		13	5	3	5	2	29
Emergency Reception & Orientation Centres	3	1		2			1		4
Total	112	8	0	47	21	18	23	3	120

*Excludes complaints made by people in direct provision against other public bodies such as Dept. Employment Affairs and Social Protection, HSE.

