Office of the Ombudsman
Oifig an Ombudsman

2002 annual report

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Foreword

I hereby submit my ninth Annual Report to the Dáil and Seanad pursuant to the provisions of Section 6(7) of the Ombudsman Act, 1980. This is the 19th Annual Report submitted in relation to the work of the Office of the Ombudsman since it was established in 1984.

Kevin Murphy
Ombudsman

April 2003

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Chapter One

Introduction

Chapter 1
Introduction

This is my ninth Annual Report. It is also my last as I will retire from office on 1 June 2003 after over eight years in office. I was very honoured to have been appointed Ombudsman and I hope that I have carried out my duties properly, fairly, openly and impartially in accordance with the high standards I have set for bodies within jurisdiction. The independence which the Office enjoys and its special reporting relationship with the two Houses of the Oireachtas are the two crucial elements which ensure that the Office can provide adequate and appropriate redress for citizens when they are adversely affected by the improper, unfair or unsound activities of public bodies. An effective Ombudsman's Office supports the Houses of the Oireachtas in holding the Executive accountable for fair or sound administration. Equally the Office can call on the Houses of the Oireachtas for support when public bodies do not accept formal recommendations.

The nature of the job requires the office holder to have a fairly high public profile enabling the general public to relate to a person rather than to a depersonalised office. But supporting the Ombudsman is a staff of competent, committed and hardworking individuals whose contribution I wish to acknowledge. In particular I want to thank Pat Whelan, the Director General, who has responsibility for the day to day management of the Office and who also provides me with valuable advice on particularly complex or sensitive complaints. Pat, and the four Senior Investigators, Maureen Behan, Michael Brophy, Tom Morgan and David Waddell have helped to put in place an Office which is internationally acknowledged as being in the vanguard of Ombudsman Offices worldwide.

I have in the past remarked upon the pace of change in Irish society and throughout the public service as it strives to keep pace with more complex and demanding challenges in serving the public. Objective evidence suggests that the Irish public service is rising to these challenges.

In March 2002 PA Consulting Group presented a comprehensive evaluation of the Strategic Management Initiative (SMI) to the Department of the Taoiseach following a survey of 23 Departments and Offices. The survey included interviews with Ministers and a wide range of officials and the distribution of 30,000 questionnaires to civil servants. The aim of the exercise was to assess the impact of the SMI process and in particular its impact on customer service. The report covers a wide range of areas but the overall conclusion was that the Irish civil service in 2002 was more effective than it was a decade ago. There is now a greater appreciation and acceptance among civil servants of the need to be accountable, to take a strategic approach to human resource management, to achieve value for money and to improve the quality of regulation so as to reduce the administrative burden on the public.

A further independent survey, commissioned by the Department of the Taoiseach, was carried out by Lansdowne Market Research in November 2002. The survey sought to measure the levels of satisfaction among the general public and the business community in relation to their dealings with civil servants. The results were very positive. For instance, 84% of the general public surveyed were either very satisfied or fairly satisfied with the cross-the-counter service they received. The same percentage said they were proud of the Irish civil service. The business community gave average ratings of four out of five to civil servants in terms of their courtesy, helpfulness, quality of service and levels of knowledge.

However, the continuing need to review and improve standards remains, particularly in the area of Quality Customer Service (QCS). Significant progress has been made in this area

under the auspices of SMI and through initiatives undertaken by my Office. One such initiative which I undertook was the publication in 1997 of The Ombudsman's Guide to Standards of Best Practice for Public Servants. I devote Chapter 2 to an update of the Guide. The Guide was part of my efforts over the years to ensure that my Office makes a positive contribution towards raising public administration standards in Ireland. This contribution was recognised in the PA Consulting Group report which highlighted my Office as being *"an important catalyst driving QCS and supporting initiatives at central level"*. I saw a need to publish this update in the light of experience gained from dealing with cases since 1997 as well as more recent developments in the public service in relation to ethical standards and the implementation of the Freedom of Information Act, 1997. The Guide has also been produced in leaflet form, in English and Irish, and I will be arranging to have it distributed widely to public servants.

While I commented in some detail on the issue of redress in my 2001 Annual Report, I attach such importance to it that I return to it in Chapter 3. I give details of some cases of interest which were resolved by means of various forms of redress. I also make some comments on the principle of proportionality which was a feature of a number of those cases.

Chapter 4 outlines other cases of interest which I completed during the year across a range of public bodies and in Chapter 5 I look back at some of the highlights of the year for my Office. This includes a detailed overview of the business planning process which is now firmly embedded in the Office with consequent improvements in the service we provide to our clients. Chapter 6 provides a statistical breakdown of cases dealt with during the year.

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Chapter Two

Updated Guide to Standards of Best Practice for Public Servants

Chapter 2
Updated Guide to Standards of Best Practice for Public Servants

In my 1996 Annual Report I published a guide to standards of best practice for public servants. The guide consisted of a checklist of rules of behaviour for public servants and was based on my experience of dealing with individual complaints over the years. It emphasised that, in delivering services to their clients, public servants should do so in a proper, fair and impartial manner. The guide was also published in leaflet form and was distributed widely among public bodies.

I have decided to publish an updated version which takes account of developments in the interim such as the enactment of freedom of information, ethics and equal status legislation. Also relevant is the publication of the Principles of Quality Customer Service (QCS) by the SMI Cross-Departmental QCS Working Group. And following on from the central theme of my 2001 Annual Report, I have put an added emphasis on the issue of appropriate redress by public bodies in instances where people have been adversely affected as a result of maladministration.

The checklist has grown in length and in breadth - it now includes guidance on how to deal with people in a proper, fair, *open* and impartial manner. Nevertheless, I have tried to keep it as practical as possible.

I have said many times that the relationship between public bodies and the citizen is an essential element in the quality of our society and democracy and I see this guide as helping to reinforce that relationship. At one level the guide can be viewed as a series of steps towards avoiding maladministration, i.e. administrative actions of the kind specified in the Ombudsman Act, 1980 as being contrary to fair or sound administration. But, I hope public servants will also view it as a useful support in their efforts to reach the highest standards of administration in their dealings with their clients.

The updated version of the guide is again being published in leaflet form for distribution to public bodies and the general public.

Public Bodies and the Citizen - The Ombudsman's Guide to Standards of Best Practice for Public Servants

Public bodies should strive for the highest standards of administration in their dealings with people. And public servants should ensure that people are dealt with properly, fairly, openly and impartially. The following checklist, although not exhaustive, is a guide to standards of best practice for public servants. I hope that public bodies will find it useful in their efforts to provide a better service to their clients.

Dealing "properly" with people means dealing with them -

- promptly, without undue delay and in accordance with published time limits;
- correctly, in accordance with the law or other rules governing their entitlements and published quality standards;
- sensitively and by giving reasonable assistance, having regard to their age, to their capacity to understand often complex rules, to any disability they may have and to their feelings, privacy and convenience;
- helpfully, by simplifying procedures, forms and information on entitlements and services, maintaining proper records, and providing clear and precise details on time limits or conditions which might result in disqualification;

- carefully, where more than one public body is concerned, by ensuring proper communications between the bodies to prevent a person's needs being overlooked;
- courteously, including communicating in Irish (both written and oral) where it is clear a person wishes to do so;
- responsibly, by not adopting an adversarial approach as a matter of course where there may be a fear of litigation and by being prepared to explain why an adverse decision has been given.

Dealing "fairly" with people means -

- treating people in similar circumstances in like manner;
- accepting that rules and regulations, while important in ensuring fairness, should not be applied so rigidly or inflexibly as to create inequity;
- avoiding penalties which are out of proportion to what is necessary to ensure compliance with the rules;
- being prepared to review rules and procedures and change them if necessary;
- giving adequate notice before changing rules in a way which adversely affects a person's entitlements;
- having an internal review system so that adverse decisions can be looked at again and reviewed by someone not involved in the first decision;
- informing people of how they can appeal, co-operating fully in any such appeal and being open to proposals for redress including apologies, explanations and payment of appropriate compensation;
- making appropriate redress which puts the person back into the position he/she would have been in if the public body had acted properly in the first place;
- adopting a policy for dealing with the small number of people who act in a vexatious manner or in bad faith, which strikes a balance between the interests of the public body, its staff and the person concerned.

Dealing "openly" with people means -

- putting people in contact with the officials of the public body with responsibility for dealing with them and, if appropriate, referring them to alternative sources of assistance;
- making available and keeping up to date, comprehensive information on the rules and practices which govern public schemes and programmes;
- giving people full information on the reasons for a decision which adversely affects them including details of any findings of fact made in the course of the decision;
- ensuring people know what information is available, where to get it and know of their right to access it in accordance with Freedom of Information legislation and otherwise;

- assisting people, where necessary, to prepare their requests for access to information;
- providing accessible public offices and using information and communications technologies to ensure maximum access and choice in service delivery.

Finally, dealing "impartially" with people means -

- making decisions based on what is relevant in the rules and law and ignoring what is irrelevant;
- avoiding bias because of a person's gender, marital status, family status, sexual orientation, religious belief, age, disability, race, membership of the Travelling Community, language, attitude or reputation or because of who they are or who they know;
- ensuring, where a service is based on a scheme of priorities, that the scheme is open and transparent;
- being careful that one's prejudices are not factors in a decision;
- declining any involvement with a decision where one has a conflict of interests, a potential conflict of interests, or where there may be a perceived conflict of interests.

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Chapter Three

Proportionality and Redress

Chapter 3
Proportionality and Redress

The Principle of Proportionality

In any interaction between a public body and a member of the public the principle of proportionality requires that there must be a reasonable relationship between the objective which a public body seeks to achieve and the means used by the public body to attain that objective. It is an issue which arises most frequently when a public body decides to apply some form of penalty for a breach of rules or procedures. The penalty can take the form of a refusal to pay a grant or a benefit or a decision to impose penalties or other forms of sanction.

In individual cases I will consider issues such as the extent of the breach, if any, on the part of a complainant; whether there are any mitigating circumstances which should have been taken into account before deciding on the penalty; whether the penalty itself was in proportion to the breach and, more fundamentally, whether the public body was entitled under law to impose the penalty in the first place. I will also have regard to whether the penalty imposed has implications or adverse effects for other innocent parties. In essence, I assess whether the public body has acted in a disproportionate manner and if I find that it has then I will ask the public body to review the reasonableness of its decision. I would measure the reasonableness of any decision by reference to the terms of the rules, regulations or legislation under which the decision was made, the nature of the breach in the individual case and the consequences of the decision for the complainant.

In my 1995 Annual Report I set out a list of Principles of Good Administration for the guidance of public bodies in their dealings with the general public. Commenting on the principle of proportionality I said:

"public bodies must ensure that an appropriate balance is achieved particularly in relation to any penalties or adverse effect.....this may be of particular interest where a body must decide between the needs of the common good and the rights of a particular individual;"

The Provision of Redress

Where I am satisfied that the principle of proportionality has not been adhered to, I bring this to bear in my assessment of the level and form of redress which I consider appropriate in the case. In some cases this has led me to recommend not only the restoration of the benefit or entitlement which was denied in the first place but also additional financial compensation. The provision of an appropriate remedy for a person adversely affected by maladministration on the part of a public body is central to the process of complaint resolution. In this regard it is worth noting that the Ombudsman Act, 1980 allows me to recommend *"... that measures or specified measures be taken to remedy, mitigate or alter the adverse affect of the* (public body's) *action..."*. There are in fact no financial or other limits on what I may recommend in an individual case.

In this Chapter I provide details of complaints which I have dealt with in the past year where I concluded that there had been breaches of the principle of proportionality and I outline the redress I obtained for the complainant in each case. I also give details of other cases in which complainants received appropriate levels of redress to remedy adverse effect where public bodies were at fault.

The Revenue Commissioners

Formal apology as a form of redress

In my Annual Report 2001, I stressed the importance of an apology as a remedy and noted that it is often overlooked when attempting to resolve complaints. As I said then, *"a detailed explanation and/or a genuine apology by the public body should form part of the redress proposals and these measures in themselves have a significant role to play in alleviating the sense of grievance felt by the complainant"*. The following case was resolved to the satisfaction of the complainant by the public body issuing an apology for its actions.

The complainant had entered into an agreement with the Revenue Commissioners to repay an amount of money by way of instalments. Although the agreement was that the repayment would be made by post-dated cheques, he paid the amounts by bank draft. He subsequently received a solicitor's letter indicating that he was in breach of the agreement and demanding payment of the full amount outstanding within seven days. Although he continued to make instalment payments by bank draft, he was distressed and annoyed at the treatment he had received from Revenue. He was also concerned that this matter would affect his application for a tax clearance certificate (he was in the process of setting up in business).

Following contact from my Office, Revenue carried out a review. It accepted that the decision to refer the outstanding liability to its solicitors was disproportionate in the circumstances and that such a referral should not have taken place without first notifying the complainant of the intention to take such action. Revenue acknowledged that an error of judgement occurred in the handling of the case. It extended a formal apology to the complainant who was fully satisfied with the outcome of my examination and the apology from Revenue.

Northern Area Health Board

Compensation for time and trouble

The Chairman of a Residents Association complained to me that he had been treated discourteously by the Northern Area Health Board. He had been approached by the Board to see if it could use the Association's premises as a day centre for psychiatric patients. He subsequently went to considerable trouble to assist the Board by way of holding meetings of the Association, photocopying deeds, supplying copies of documents and telephoning the Board's officials. Although the Association voted in favour of the proposal, the Board decided the premises was not suitable for its purposes but did not notify the Association of its decision.

It was only after a number of telephone calls that the complainant learned of the Board's decision not to use the premises. He was passed from one person to another with promises of meetings, which subsequently never materialised, to explain the decision. No apology was forthcoming from the Board and it was not until almost a year after the decision was made, and following contact from my Office, that the Board eventually met with the complainant and apologised to him.

It is a basic principle of good administration that members of the public be treated courteously. I was concerned that the complainant had not only been treated discourteously by the Board but was also out of pocket as a result of his dealings with it. I put it to the Board that the question of financial compensation should be considered in recognition of the manner in which it had dealt with the complainant. The Board subsequently made an *ex gratia* payment of €1,000 to the Residents Association which was a very satisfactory outcome to the complaint.

The Department of Foreign Affairs

The principle of proportionality applied to penalties

A sanction or penalty applied by a public body should not only be proportionate to the fault or omission on the part of the complainant, it should also be outlined in the relevant legislation or rules. An action taken without proper authority may be, in effect, an abuse of power.

A case of this type which came to my attention during the year involved the Department of Foreign Affairs. I received a complaint from a man whose passport had been withheld by the Department when he disputed a debt which the Department claimed was owed to it. He had fallen ill while resident abroad. The Irish Embassy assisted him in arranging for his return, paying for his flight home under medical supervision. The Department sought to recover the expenditure of approximately €1,270 from the complainant and withheld his passport while awaiting reimbursement.

At the time of my examination of the complaint, the passport had been withheld for eight years. I was particularly concerned that the Department had no specific statutory authority for its action in withholding the passport in circumstances such as this. I noted that the complainant and the Department were in disagreement in relation to the issue of the debt and I suggested to the Department that it might be more appropriate to pursue the recovery of the debt through normal legal procedures. I also asked that the decision to withhold the passport be reviewed.

The Department agreed that the complainant could reapply for passport facilities. I was pleased that the Department also reviewed its hitherto standard practice of withholding passports until debts incurred during repatriation were repaid.

The Department notified all Irish Missions abroad that the practice was to cease and that while they should seek commitments from members of the public to repay debts owing to the Department, passports should no longer be retained.

Department of Agriculture and Food - two cases

Inappropriate and disproportionate penalties

(1) A farmer complained that the Department of Agriculture and Food terminated his participation in the Rural Environment Protection Scheme (REPS) and required full reimbursement of monies paid to him prior to an incident in May 2000 which was in breach of the scheme. He had increased the capacity of a slurry tank as part of the work required under his REPS plan. The tank subsequently collapsed and the slurry discharge resulted in a fish kill for which the farmer was prosecuted and found guilty under the Fisheries (Consolidation) Act, 1959. My examination of the case confirmed that the farmer's actions did constitute a breach of the scheme which warranted the application of a penalty. However, I did not accept that the appropriate penalty had been applied.

I noted that the terms and conditions of the 1999 scheme, which was the relevant scheme in this case, did not make any reference to convictions under the Fisheries (Consolidation) Act, 1959. The penalty schedule of the scheme set out a penalty in respect of waste discharging into watercourses whereby 100% of the grant due in the year of the breach of the scheme would be withheld. However, a much more severe penalty had been applied in that the

Department sought full reimbursement of all monies already paid and in addition, the Department decided to end the farmer's participation in REPS. This more severe penalty had been provided for in the conditions of an earlier scheme which applied at the time the farmer submitted his REPS plan in 1998, but he had submitted a revised plan in August 1999, which was approved by the Department. The scheme provides that an individual's REPS plan is governed by the conditions in force at the time the plan is approved by the Department. In other similar cases, the Department had applied the penalty provided for in the scheme in force at the time of the inspection during which the breach was discovered.

I was concerned that there was a departure from the penalty provisions of the 1999 scheme and I asked the Department to review the matter. In its response the Department said that the Minister for Agriculture and Food reserved the right to recoup all monies from participants if they failed to abide by the conditions of the scheme. The Department was of the opinion that the nature of the breach of the scheme in this case was serious enough to warrant recoupment of all funds granted and to terminate participation in REPS.

Water pollution and fish kills are, of course, in total contravention of the spirit of the scheme which is designed to establish good farming practices and protect wildlife habitats. However, in deference to my views on the appropriate penalty in the case, the Department revised its decision and agreed to apply a 100% penalty which entailed withholding the grant for the third year of the agreement only rather than seeking recoupment of all monies paid. It was also agreed that the farmer could continue to participate in the scheme, subject to an inspection by the Department to confirm his compliance with the terms of the agreement.

(2) Another case involving the Rural Environment Protection Scheme (REPS) and an inordinately severe penalty was brought to my attention during the year. The complainant was an organic farmer receiving payments under REPS. Following an inspection of his farm he was found to be in breach of the rules and his organic farming licence was withdrawn with effect from August 1999, by the Irish Organic Farmers and Growers Association. The Department of Agriculture and Food withheld payments for organic farming which had been due to be paid at the time for 1998/99 (his fifth year in the scheme) and requested the farmer to refund payments already made to him for all previous years along with interest on those payments.

The complainant felt that the Department's stance was unfair, as he had been properly licensed and approved for organic farming for the five years prior to the withdrawal of the licence. He appealed the Department's decision and, when no favourable response was forthcoming, he complained to me about the matter. I found that the terms and conditions of the 1994 scheme which applied in this case did not provide for the recoupment of monies paid out in previous years for periods where a valid organic licence was held. I asked the Department to explain the basis for the decision to recoup the payments for the years prior to 1999.

The Department reviewed the case and decided to overturn its decision to seek full recoupment of all monies paid to the complainant. The only payment to be withheld was that which was due from the date of

withdrawal of the licence in August 1999. The farmer was subsequently paid his fifth year organic payment and two months of the sixth year (up to the date of the withdrawal of the licence). He was also refunded monies which he had claimed under other schemes and which the Department had withheld to offset the REPS overpayment they had raised against him. In addition, the Department reviewed all similar cases to ensure consistency of approach where overpayments had occurred. This had limited application as the 1994 REPS scheme was the only one which did not contain a provision allowing the Department to recoup all monies paid under the scheme where an organic farming licence had been withdrawn. Subsequent schemes did contain such a provision.

Fingal County Council

Acting fairly by applying the correct penalty

I received a complaint on behalf of a woman from Iraq who had lived in Ireland for eight years and who had been struck off the housing list by Fingal County Council after she had refused three offers of accommodation. She claimed that on each occasion when she went to view the accommodation she was subjected to racial abuse and intimidation which led her to refuse the three offers. I examined the accommodation file and Fingal County Council's Scheme of Letting Priorities which is the scheme governing the allocation of public housing in the Fingal area. It was clear from the files, and indeed accepted by the complainant, that she did refuse accommodation three times. It was also clear from the files that she had been offered accommodation in the locations which she had specified in her housing application to the Council. But there was no evidence on the Council's files that she told the Council on each occasion of the reasons why she had refused the accommodation offers.

When I examined the file I noticed that at the time she refused the third offer of accommodation, Fingal's Scheme of Letting Priorities did not state that a person would be dropped from the housing list after three refusals. According to the Scheme as it existed at the time, after three refusals, an applicant's date of application would change to the date of the third refusal - in other words, the applicant would go to the bottom of the list. The Scheme was changed two months after the complainant's third refusal. Only from that point did the Scheme state that after a third refusal a person would be dropped from the housing list for two years.

I wrote to the Council pointing out that the complainant had not been informed that she would be removed from the housing list after a third refusal. She had, in fact, been informed that the date of receipt of her application would be changed to the date of refusal. I considered it would be unfair to her if the rules were changed after her third refusal, and then applied to her retrospectively. I asked the Council to review its decision.

Fingal County Council agreed to reinstate the complainant on the housing list at her old position and make her one more offer of accommodation. If she refused this offer of accommodation, she would be dropped from the housing list for two years in accordance with the new Scheme of Letting Priorities. I considered that this was a reasonable response from the Council.

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Chapter Four

Selected Cases

Chapter 4
Selected Cases

Department of Education and Science

Tax Relief for Superannuation Payments

A pensioner complained that he had lost out on tax relief to which he was entitled. He felt his complaint lay with the Department of Education and Science rather than the Revenue Commissioners. He was a retired teacher who, in October 1997, applied to the Department to purchase service retrospectively for superannuation purposes. But it was not until January 2001 that the Department advised him of the details of the amount of service he could purchase and the costs involved. In November 2001 the Department sent him a statement of the superannuation contributions which he had paid for this service and he forwarded it to the Revenue with a claim for tax relief. The Revenue, however, told him that no claim for repayment of tax can be allowed unless it is made within ten years after the end of the year of assessment. Relief could not be given for the full period for which he had claimed, but had to be restricted to the years 1991/92 to 1996/97 (1991 being ten years prior to the date of his claim).

The complainant felt that this was unfair as the four year delay in issuing the statement of superannuation contributions paid was the fault of the Department. For its part, the Department explained to my Office that over 10,000 applications for the retrospective purchase of service by retired teachers were received following the introduction of the scheme in May 1997. The work of processing these applications was time-consuming and complex.

The Department contacted the Revenue on behalf of the complainant to supply more information about its role in the delay in processing his claim and to request that a more lenient view of the matter be taken. While it did not initially concede the case, the Revenue did come round to the view that tax relief for the full period could be granted. This was done on the basis that the complainant could be regarded as having made a claim to the Revenue in 1997 at the time of his application to the Department. The Revenue, while indicating that its decision was on a concessional basis within income tax legislation and should not be taken as a precedent for any future claims, also said that the decision would apply to all other pensioners who found themselves in a position similar to the complainant in this case. He was granted an additional refund of taxes of over €4,000.

I was pleased that, having been notified of the complaint by my Office, the Department of Education and Science assumed an active role in contacting the Revenue Commissioners in this case and that the Department's willingness to acknowledge its part in the loss of tax relief to the complainant paved the way for his obtaining full redress. I would also like to acknowledge the flexible approach adopted by the Revenue Commissioners in granting a concession not only to the complainant but to others who found themselves faced with a similar situation.

Office of the Revenue Commissioners

Failure of communication between Revenue Commissioners and Motor Tax Office

I received a complaint from a used car dealer that he had suffered financial loss and damage to his business as a result of the Revenue Commissioners' failure to notify the motor tax authorities of a registration discrepancy relating to a particular car.

When I examined the case I found that it involved a car which the used car dealer bought in 1988. He was not aware at the time that the vehicle had been seized by the Revenue on two

occasions in the past nor that the date of manufacture of the vehicle was incorrectly recorded in the registration book for the car. The car had been illegally imported into the Republic in 1982. It was then re-registered using a forged importation document. There were several errors associated with the re-registration by the motor tax office of Louth County Council, the main one being the date of manufacture of the vehicle. The registration book issued by the motor tax office listed the year of manufacture as 1981, whereas the actual year of manufacture was 1977.

In 1982, a Customs & Excise Investigation Branch Surveyor issued a list of vehicles imported into the Republic on the basis of forged documentation together with an instruction that they were to be seized if seen. The vehicle at the centre of the complaint was on the list and was seized in May 1983 and released in June 1985 on payment by the then registered owner of a sum to cover import charges. In spite of the fact that the importation of the vehicle had now been regularised, the Revenue did not notify the relevant motor tax authorities of the discrepancy in the registration details. Neither did it take steps to remove it from the list of vehicles to be seized, although there was no reason for the vehicle to remain on this list after its seizure in 1983. It was seized and released again in 1986 but still remained on the vehicle seizure list after its release.

In 1988, my complainant, the used car dealer, bought the vehicle and then sold it on. In November 1988, the Revenue seized the vehicle for a third time. When the vehicle was released, the new owner initiated court proceedings against the complainant on the grounds that, because the information contained in the registration documents was incorrect, the age of the vehicle had been misrepresented in the sale of the vehicle. The case was settled out of court and resulted in the complainant paying compensation of €1,905 to the new owner together with legal fees amounting to €635. In addition, the complainant claimed that the incident had adversely affected his reputation in the motor sales business.

The problems which occurred in relation to the vehicle sold by the complainant were the result of two separate factors - the incorrect entry for the year of manufacture of the vehicle when it was first registered and the retention of the vehicle on the seizure list of vehicles after its importation had been regularised. I accepted that the Revenue was not responsible for the error in the vehicle's registration book regarding the date of manufacture - this clearly was the fault of the local authority concerned, Louth County Council, and the Council acknowledged this fact. However, the actions of the Council predated the commencement of the Ombudsman's Act and could not therefore, be examined by me. For the same reason, I did not have the authority to recommend redress for any fault on the Council's part.

The Revenue argued that it did not have a statutory obligation to pass information about the registration of the vehicle on to the motor tax office. I accepted that there was no statutory requirement on the Customs and Excise to advise the motor tax office of the discrepancy in the registration details. However, it is my view that in a situation like this a public body should take corrective action in accordance with the principles of good administration. I have criticised public bodies in other cases which have come before me where complainants have been adversely affected by the failure of two public bodies to communicate or co-operate with each other. I believe it is reasonable to expect public bodies to engage in such communication. It can only enhance the overall quality of customer service which Revenue and the public service generally are committed to delivering.

The outcome of my investigation of this case was to recommend a payment of €3,000 to the complainant. The recommendation was accepted by the Revenue.

Independent Review system

Sometimes my examination of a complaint does not reveal evidence to support the complainant's case but does reveal a flaw in the body's administrative system. In one such case, a man complained about the Revenue Commissioners' handling of his tax affairs.

When I examined the case I concluded that there were insufficient grounds on which to pursue most of the issues arising from the complaint. However, I noted that at one point the complainant had asked for an independent review. Revenue had passed his case to its law agent, a firm of solicitors, to pursue the collection of outstanding taxes. The law agent subsequently issued a civil summons in relation to the sums due. However, the complainant's request for an independent review was not dealt with promptly or appropriately by the law agent. I considered that this was a serious flaw in the system and I asked Revenue to consider putting a mechanism in place for ensuring that where tax demands are passed on to a law agent for collection, such agents are made aware of the taxpayer's right to appeal or review.

In response Revenue agreed to take immediate steps to ensure that all its agents are aware of the proper procedure to follow where a taxpayer indicates a desire to avail of internal or external review procedures.

Department of Social and Family Affairs

Social Welfare Appeals Office

A number of cases which I examined during the year highlighted the need for public bodies to ensure that their administrative practices are consistent. One such case involved a man who had Disability Allowance and Unemployment Assistance claims turned down by the Department of Social and Family Affairs. On appeal, he submitted the same evidence about his finances for both claims to the Social Welfare Appeals Office. This evidence was considered by three Appeals Officers at various stages in the decision making process. In relation to the claim for Unemployment Assistance one Appeals Officer was not satisfied that the complainant had made a full disclosure of his circumstances and this position was also maintained by a second Appeals Officer. The claim for Unemployment Assistance was therefore refused on the grounds that the complainant's means were not properly disclosed. In relation to the claim for Disability Allowance the third Appeals Officer was satisfied that a reasonable picture had been given of the complainant's financial position, thus allowing him to assess the means for the purposes of the application. The complainant was awarded Disability Allowance. The critical issue was the fact that the same evidence had been considered by the Appeals Officers on each occasion.

I brought the inconsistency to the attention of the Chief Appeals Officer. I expressed the opinion that it was critical that the material relied upon by the decision makers was capable of supporting their decision, and that in exercising decision making powers they must act in a reasonable manner, taking all relevant factors into consideration and ignoring irrelevant facts. I asked him to compare and contrast the three decisions made by the Appeals Officers, with specific reference as to whether all relevant factors were

taken into consideration in the first two decisions. I was subsequently advised that the decision to disallow the complaint's entitlement to Unemployment Assistance had been revised on the basis of an assessment of weekly means and the allowance granted, with arrears of almost €11,000 paid.

Child Benefit Refused

A man complained that the Department of Social and Family Affairs had refused his claim for Child Benefit. He felt that this was unfair as he had been in contact with the Department over a number of years and had never been advised of his entitlement.

The complainant had separated from his wife in the United Kingdom and returned to Ireland in early 1991 from which time he was paid Unemployment Assistance. His daughter came to live with him in September 1991. He applied for a Child Dependent Allowance which was granted following his provision of a long birth certificate and other details in relation to his daughter. He continued to receive Unemployment Assistance or Unemployment Benefit payments, which included a Child Dependent Allowance, until 1996. In August 1995, the complainant applied for a One Parent Family Payment, which was eventually awarded with effect from May 1996. It was not until June 2001 that the complainant applied for Child Benefit for his daughter at which point his claim was refused as his daughter ceased full-time education in 2001.

It was clear to me that the complainant, as he claimed, had been in contact with the Department over a number of years and the fact that he had not claimed the Child Benefit to which he was entitled went unnoticed. I asked the Department to review the decision to refuse the benefit on the grounds that it should have availed of a number of opportunities to advise the complainant of his entitlement to Child Benefit in the course of its dealings with his other applications for payments. The Department revised its decision and awarded the complainant Child Benefit with effect from the same date in 1991 from which he had been paid Child Dependent Allowance with his Unemployment Assistance. He received payment of arrears for the 10 years, which amounted to €3,958.

Department of Agriculture and Food

Control of Farm Pollution Scheme

A farmer complained that she had submitted two applications to the Department of Agriculture and Food for grant aid under the Scheme of Investment Aid for the Control of Farm Pollution (the CFP Scheme) and was unhappy that both applications had been refused.

The first application was made on 15 July 1999, a week after the applicant had applied to have the herd number for her cattle changed from her husband's to her own name. She told the Department that the reason for the request for the change of name was that her husband had employment with a private company and she was operating the farm. The herd number was registered in her name on 19 July 1999. However, the complainant's application for grant aid was refused on the basis that she was not the farm operator at the time of her application (as the herd number was in her husband's name on that date and the previous year's area aid and premia payments had also been made in his name).

The complainant was subsequently told by the Department that she could make a fresh application for grant aid under the scheme. She did so in June 2000 but this time the application was refused on the grounds that her investment

works were almost complete. The Inspector reported that he had visited the farm in November 1999 in relation to the first application and found on that occasion that a slatted effluent tank had been constructed.

It is a condition of the CFP Scheme that aid is not given for works commenced before written approval has been given to the applicant. It was clear to me when I examined the case, that the first application should have been refused on these grounds. However, this factor was not mentioned in the original decision made by the Department. In addition, when I raised questions about the handling of the applications, the Department acknowledged that it was not a condition of the scheme that the area aid application for the year concerned had to be made by the CFP Scheme applicant (although this had been cited as a relevant factor in the decision to refuse the application in this case).

At my request, the Department reviewed the case. It decided that, as the applicant had not been informed of the pertinent reason for refusal of the first application that it would be equitable to return her to the position that would have obtained had it been dealt with correctly, that is, the application for grant aid for the slatted effluent tank would have been refused as the work on it was commenced prior to approval from the Department. However, had the applicant been informed that she should not have commenced the work prior to obtaining approval she might have gone about her second application by attending to the rules of the scheme. The Department accepted that additional construction work commenced after the refusal of the first application was a separate unit of work and reconsidered the grant aid application for this work. The applicant was found to meet the eligibility requirements and the Department indicated that it would provide the grant aid following the satisfactory completion of the additional construction work.

I considered that the Department's resolution of this case demonstrated a willingness both to acknowledge mistakes made and to find an equitable form of redress.

Health Boards

Northern Area Health Board

Charges for long-stay care

I received a complaint from a woman about the level of contribution which she was expected to make toward her husband's nursing home costs. The complainant's husband suffered from Alzheimer's Disease. He had been in care in a private nursing home since 1993, in a bed contracted by the Northern Area Health Board (NAHB). Both she and her husband had medical cards. Her husband was in receipt of an Old Age Pension, which included a Dependants Allowance in respect of herself. She complained that although the NAHB was meeting the bulk of her husband's maintenance costs in the nursing home, it was also enforcing a contribution from her, which she found a considerable financial burden.

There are two sets of regulations governing the levelling of charges on patients in long-stay care. The Institutional Assistance Regulations, 1954, which the NAHB was applying in this case, allow health boards to assess a maintenance charge towards the cost of a patient's care. But these regulations are only applicable in cases where a person is being admitted to a county home or similar institution for long term care, respite care or where the lack of support at home, rather than medical need, is the reason for the admission. The other regulations, the Health (Charges for In-Patient Services) Regulations, 1976 apply to patients who are receiving the full range of medical and nursing care either in a hospital or nursing home designated by the health board.

When I examined the details of the complainant's case, I found that the NAHB had applied the incorrect set of regulations in determining her husband's obligation to make a contribution. I pointed out that the assessment should have been made under the Health (Charges for In-Patient Services) Regulations 1976 since her husband was receiving the full range of medical and nursing care. These regulations provide that a patient is liable for charges only if he or she has not full eligibility, has no dependants, and has been an in-patient for thirty days or for periods aggregating thirty days in the last twelve months. As the complainant's husband was a medical card holder (therefore with full eligibility) and she was his dependant, he was not liable for charges under these regulations.

The Board reviewed the case and accepted that the complainant's husband was not liable for charges. The Board refunded almost €25,400 to the complainant, being the amount of contributions made by her since her husband's admission to the nursing home in 1993.

At my request, all of the health boards undertook to review the basis for the charges made on patients in nursing homes, in similar circumstances, within each board area. This was to ensure that the appropriate legislative charges were being applied correctly having regard to the circumstances of each case.

East Coast Area Health Board

Charges for in-patient hospital services

Another case involving charges for in-patient hospital services raised questions about the interpretation of the relevant legislation.

A man complained about the maintenance charges raised by the East Coast Area Health Board in respect of his late father who was a long stay patient in a public hospital.

The charges were raised under the Health (Charges for In-patient Services) Regulations 1976 and 1987 and were levied on the basis of his father's income and level of savings. The regulations provide that where a patient holds a medical card, in-patient services are free of charge. They also provide that where a patient does not have a medical card, but does have a dependant, no charges may be raised. The complainant's father was not the holder of a medical card but claimed that his wife was his dependant. At the time the charges were raised, the Board did not consider the question of whether his wife was his dependant.

When I asked the Board to review the case on this basis it identified the absence of a definition of "dependant " in the regulations as a difficulty in determining the matter. I drew the attention of the Board to advice given by the Department of Health and Children, in the course of the examination of another complaint some years previously, which was as follows:

"These regulations do not permit the levying of charges on patients with dependants and this Department has consistently advised health boards that to do so is in breach of them.....Legal advice obtained by this Department was that any attempt to levy a charge on a patient with a dependant was in breach of the regulations, and that a dependant

did not cease to be such if a portion of income was assigned to him/her."

After consideration the Board concluded that, as there was no evidence to suggest that the complainant's mother was anything other than a dependant of his late father, charges should not have been raised under the regulations. The Board subsequently arranged for the refund of the charges raised.

Given that a similar problem could arise in any of the other health boards I intend to pursue this issue further with them and the Department of Health and Children so as to ensure consistency of treatment in similar cases.

South Western Area Health Board

Blind Welfare Allowance

A man complained to me that he was being underpaid Blind Welfare Allowance (BWA) by the South Western Area Health Board (SWAHB). The purpose of BWA is to provide supplementary financial support to unemployed blind persons receiving Disability Allowance, a Blind Pension or an Old Age Pension. It is payable provided the person is unemployed, medically certified as to visual impairment and is not being maintained in an institution. Applicants must undergo a means test to decide eligibility. The calculation of this allowance is governed by the Department of Health and Children Circular 4/79, the relevant part of which states that -

" any supplementary blind allowance payable is reduced by the excess of a blind person's total income over the sum of the appropriate maximum blind pension ***plus supplementary blind allowance*** *"* (my emphasis).

My examination of the case revealed that there was a problem with the interpretation of this circular. The SWAHB and a majority of the other health boards interpreted it to mean that any BWA payable is reduced by the excess of a blind person's total income over the appropriate blind pension. The last four words of the sentence quoted above "**plus supplementary blind allowance**", were ignored in making the calculation. This, in my view, was incorrect and resulted in the complainant, and many other applicants, receiving a lower rate of the allowance than if the calculation was made in accordance with the stated terms of the circular.

Following extensive discussions, the SWAHB agreed to reassess the complainant's application for the allowance in accordance with the stated terms of the circular. As a result of this reassessment he received an increased allowance with appropriate arrears. In addition, as the SWAHB operates a shared service appellate function in respect of the other boards in the eastern region, all other individuals in receipt of the allowance in the region were reassessed on the same basis with effect from 1 January 2002. I subsequently contacted all of the other boards and asked them to undertake a similar review in their areas, so as to ensure consistency in the correct interpretation of the circular across all of the health boards. In total almost 700 blind persons benefited as a result of my examination of this single complaint.

Midland Health Board

Domicilary Care Allowance

I received a complaint from a representative of a support group for parents with autistic children in relation to Domicilary Care Allowance (DCA) entitlement. When I examined the complaint I

found that there were different practices operating within the same health board in relation to the payment of DCA.

The complaint was that members of the support group who had applied to Community Services in Laois/Offaly for DCA in respect of their autistic children were awarded the allowance from the date of application. However, members of the group living in the Longford/Westmeath area were awarded the allowance from their child's date of eligibility. The complainant considered that the parents living in the Laois/Offaly area were being treated in a discriminatory manner and that arrears should be paid to them from the time that their children became eligible for the allowance. The complainant also contended that, in all of the cases she represented, the children had involvement with the Board and its staff in relation to their condition prior to being awarded DCA. However, the parents had not been advised of their possible entitlement to the allowance. This was the reason why they had not submitted their claims at an earlier date.

I contacted the Board about the complaint and pointed out that there was an onus on health board staff to inform their clients of the existence of various welfare entitlements. I considered it reasonable to expect in cases of this nature, where there had been contact between the Board's staff and the children, that the staff would have brought the possible entitlement to DCA to the parents' attention. In fact, in 1996, I had sent a memorandum to the Chief Executive Officers of all health boards in relation to claims for retrospective payment of DCA, which dealt with the general issue of the provision of information in the light of prior professional involvement by health board staff generally. The principle had been accepted at the time.

The Board reviewed the applications involved and agreed to pay arrears in each of the 17 cases. The arrears were backdated in each case to the child's second birthday, which was in accordance with the conditions of the scheme for applicants who applied prior to April 2001. The arrears amounted to €76,445 in total.

Local Authorities

Offaly County Council

Suspension of Planning Application Process

In November 1999 I received a complaint against Offaly County Council alleging that a local developer was quarrying in an area for which he did not have planning permission.

The Council had the quarry inspected following a complaint to it. It found that the quarry was being extended beyond the approved site and asked the developer to stop encroaching on the area in question and to apply for planning permission. He was also asked to submit an Environmental Impact Statement (EIS) as the area of the overall site to be developed was in excess of 5 hectares. The Council said that the developer complied with the request to cease work at the unapproved site and submitted a planning application in April 1999 for permission to extend the existing quarry. He did not submit the required EIS.

In May 1999, the Council sought further information, including a copy of the EIS, in relation to the planning application. This is provided for under Article 33(3) of the Local Government (Planning and Development) Regulations, 1994 (S.I. 86 of 1994) which states as follows:

"(1) Where a planning authority receive a planning application they may, by notice in writing, require the applicant -

(a) to submit any further information (including any plans, maps or drawings, or any information as to any estate or interest in or right over land) which they consider necessary to enable them to deal with the application,

[(2) not relevant here]

(3) Where there is a failure or refusal to comply with a requirement under any of the foregoing sub-articles within one month of such requirement, the planning authority may, if they think fit, determine the application in the absence of the information or evidence specified in the requirement." (my emphasis).

Following an exchange of correspondence between my Office and the Council, it became clear that the Council took the view that the planning application process was suspended indefinitely in the absence of the information which had been requested by it. The Council did not, however, press the developer to submit the required information until July 2001 and it was not until September 2002, following numerous contacts from my Office, that a decision was made to refuse planning permission in the absence of sufficient information to determine the impact of the development.

I am of the view that the handling of this planning application was seriously deficient. The Council had an incomplete planning application on hands since April 1999 yet, for no good reason, a decision was not made on it until September 2002 when, in the absence of the information requested over three years previously, it was refused. In the meantime, the developer had recommenced work on the site and the Council itself sourced material from it via the developer. It is important to note that the Council's dilatory approach in this case was at odds with the relevant legislation which allows it the discretion to determine a planning application, in the absence of required information, within one month of requesting the information.

In my opinion, where a local authority without just cause allows a developer an unduly generous amount of time to furnish information required for a planning application it not only carries the risk of encouraging unauthorised development, it is also contrary to the spirit of the planning legislation.

Westport Town Council

Disabled Persons Grant

An elderly woman who lived alone in a Council house and had a mobility impairment complained about a decision of Westport Town Council to refuse her application for a Disabled Persons Grant which she wanted in order to install a central heating system.

There was already a solid fuel heating system in place in the complainant's two-bedroomed home but it did not heat the radiators. In addition, the complainant was finding the system difficult to maintain as she was unable to do the physical work involved in lighting her range, carrying fuel etc. The Council stated that it was not its policy to install central heating systems in such dwellings and that the solid fuel system in question had been inspected and was in working order.

I was not satisfied with this response and I asked the Council to have an Occupational Therapist assess the difficulties caused to the complainant by her mobility impairment. I also asked it to consider an alternative, less labour-intensive

heating system and I put it to the Council that the complainant had told me that her family might be prepared to contribute towards the cost of such a system. The Council arranged for an Occupational Therapist to visit and her report stated that the pensioner's physical difficulties were such that an alternative heating system was warranted. The Council decided that it would install a storage heating system which would be economically viable as the complainant was in receipt of a Free Electricity Allowance. At this point however, there were long delays, not all of which were the fault of the Council. The complainant was hospitalised and there were difficulties in obtaining entry to her house. Then, the complainant's family decided to install an oil-fired central heating system which they paid for themselves as they did not wish the complainant to return home from hospital to an inadequately heated home. The Council indicated that it would not pay a grant for this work as it had been undertaken without its approval.

I contacted the Council and pointed out that two years had passed since the complainant's initial request for help from the Council. I suggested that in the circumstances of the case the decision to refuse a grant at this stage could be considered contrary to fair or sound administration. The Council responded that while it would not normally recoup the costs of improvements undertaken by tenants, without its prior approval, it acknowledged that in this case it had intended carrying out the work itself and in the circumstances agreed to refund 50% of the cost of the heating installation. I accepted this as an equitable solution to the case and I felt that the Council had adopted a reasonable approach. In addition, the Council said that it had reviewed its policy in relation to such cases and it was going to undertake a maintenance programme which would include the provision of central heating in its own housing stock occupied by the elderly.

Galway County Council

Domestic Water Supply Grant Refused

I received a complaint against Galway County Council about the refusal of an application for a Domestic Water Supply Grant.

The complainant said that his application was refused on the basis that a Group Water Supply Scheme (GWSS) had been proposed to serve his area. He felt that this was not a fair basis for refusal of the grant to him as there were doubts about the economic feasibility of the GWSS and the length of time it would take to become operable.

In its initial report to me the Council indicated that it was not in a position to decide on the grant application until such time as the proposed GWSS had been decided upon. At the same time, the Council was not in a position, because of cost factors, to say when the GWSS would be constructed. Accordingly, it took the view that it would not approve the grant application as there was a proposal to undertake a GWSS in the vicinity of the complainant's home.

In examining the case I took the view that, if the GWSS was not due for completion within the foreseeable future or indeed if it was not economically feasible to undertake it, then it was unreasonable of the Council to postpone the complainant's grant application indefinitely, particularly as he did not have access to a potable water supply.

I took note of condition 2.1(b) of the Council's explanatory memorandum on the grant scheme which stated that:

"a person is eligible for a grant if he or she is ...

(b) carrying out improvements to a seriously deficient existing piped supply of water to a house where the supply of water concerned is a supply other than a public or group scheme supply".

In addition, condition 2.2(c) stated that:

"A person is not eligible for a grant if, in the opinion of the local authority....

(c) the area in which the house is located is or is about to be served by a public water supply or a group scheme water supply"

It was clear that the complainant's application qualified under condition 2.1(b). In relation to condition 2.2(c), I asked the Council for an estimate of the expected timescale for completion of the proposed GWSS.

My own view was that, if the proposed project was at preliminary design stage or earlier, and no capital allocation had been committed to the construction of the project, then it would be unreasonable for the Council to decline the complainant's grant application under condition 2.2(c) of its memorandum. If the project was at such an early stage of development then it was unlikely that it would come to fruition within three years. I asked the Council to review the grant application with these considerations in mind.

The Council acknowledged that it was unlikely that the GWSS would come to fruition within three years and agreed to process the complainant's grant application for his domestic water supply. The Council subsequently confirmed that it had approved payment of the grant, subject to confirmation that the water quality was of the standard required under the Drinking Water Directive.

Wicklow County Council

Ineffective Planning Enforcement Procedures

In 1996 Wicklow County Council granted planning permission for a bungalow and septic tank but, following an appeal, the decision was overturned by An Bord Pleanála. Two years later the landowner (developer) opened an entrance to the site. At least three letters of complaint about the entrance were made to the Council. Twenty months later it issued a letter to the developer requesting him to cease work and restore the land to its original condition, within a month. This was not done and, in fact, a further report was made to the Council that there was recent evidence on the site of intention to install electricity. A short time later a mobile home was moved on to the site.

In August 2000 an Enforcement Notice was issued to the developer and, in September, he submitted an application to the planning authority to retain a mobile home and septic tank on the site. Objections were lodged to the application and four months later the application was withdrawn. In April 2001 a further letter issued to the developer from the Council requesting removal of the mobile home and, two months later, another application for retention was lodged. An objection was again made to the application and, nine days later, the developer asked the planning authority for an extension of a year which was granted in August 2001 without question or justification. (The planning laws give a planning authority discretion to extend the decision period which in this case meant the Council did not have to decide on the application until August 2002). At this point (November 2001) a complaint was made to me by an objector some three years after he first complained to the Council.

In his complaint to me the objector pointed out that by allowing an extension of a year in which to make a decision on the application for retention, his right to object and have his objections considered were effectively "frozen" by the Council for a year. He had also pointed out to the Council that the relevant legislation provided for the exercise of such discretion only in a situation where the planning authority requested the extension of time, not the other way round. In examining the papers I noted that while the Council's Environmental Health Officer had no objections to the development, Dublin City Council (formerly Dublin Corporation) had opposed the development because "of proximity of the septic tank to a feeder stream which flows into the Poulaphouca Reservoir from which Dublin abstracts water for drinking purposes... and...the purity of the water source is vital to the Corporation."

In responding to the complaint the Council advised my Office that it had revised its policy in relation to extensions of time and had decided that an extension of time would no longer be allowed in the case of an application for retention; meanwhile my Office continued to pursue the Council in relation to the unauthorised development. An Enforcement Notice issued in February 2002 and the developer's response was to carry out further works by removing the original fence and erecting "suburban-style fencing". In May 2002, following a further site inspection a decision was taken by way of a Manager's Order to authorise the Council's Law Agent to initiate legal action against the developer for opening an illegal entrance, placing a mobile home on site, as well as a septic tank and associated works. As I understand it, the current position is that the developer has applied for and been granted permission for a bungalow and septic tank, but the decision has been appealed to An Bord Pleanála and, pending the outcome, the Council has not proceeded with the legal action.

The complainant was pleased with the Council's decision to take legal action and with the improvement in procedures regarding applications for retention. However, the case illustrates how, in the absence of effective action by the planning authority, the planning laws could be circumvented and flouted. Where the public brings an alleged breach of the planning code to its attention and where a breach is confirmed, a planning authority should be seen to take effective action in a timely way. In this case the complainant argued that if the Council had been more effective at the outset the issue of the mobile home might not have arisen. Under the enforcement section of the Planning and Development Act, 2000 which came into effect in March 2002, a planning authority is obliged in law to take action and make a decision in relation to unauthorised development within a given timeframe. This case was not dealt with under the new legislation but I wish to put all planning authorities on notice that I intend to monitor closely their effectiveness in the application of the new legislation with regard to complaints to my Office about planning enforcement.

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Chapter Five

The Year in Review

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The Year in Review

Review of Health Services and Extension of Ombudsman's Remit

I understand that a review of health service agencies and structures, including the health boards, is currently being concluded by the Department of Health and Children. It is expected that elements of the review will deal with the provision of services through the public hospital system. The national health strategy **Quality and Fairness - A Health System For You** has confirmed the Government's belief that the Ombudsman is the appropriate mechanism for dealing with complaints relating to the public health services, and also confirms the Government's intention to extend the Ombudsman's remit to the public voluntary hospitals and other voluntary agencies in the health area.

I regret to report that, once again, no progress was made in giving practical effect to this issue in 2002. The health strategy also provides for the development of a statutory framework so as to achieve greater clarity and uniformity of approach in dealing with complaints, structured local resolution processes as well as an opportunity for independent review.

The Eastern Regional Health Authority (ERHA) is pressing ahead with the development of a complaint handling process for all of the health agencies in the eastern region, along the lines envisaged by the Department. A vital element of the proposed process is that all complainants would have access to my Office in relation to matters which are not resolved locally or by way of independent review. But until my remit is extended to the wider health area the present unsatisfactory situation will remain in spite of the ERHA's initiative and possible similar initiatives in other areas.

Public Access and Awareness

My Office strives to make its services as accessible as possible to the general public. During the year my staff visited Citizens Information Centres (CICs) at a range of locations on a monthly basis as well as paying periodic visits to towns and cities throughout the country.

During 2002 my staff paid monthly visits to CICs in Cork, Limerick, Galway and Coolock in Dublin. A total of 363 new complaints were received during these visits of which 235 were valid and 128 (or 35%) were invalid. Over the years the CICs have given invaluable support to my Office in bringing our services to the public.

Staff from my Office also made one and two-day visits to Ballina, Ennis and Sligo. A total of 151 new complaints were received as a result of these visits, of which 130 were valid and 21 (or 14%) were invalid. The combined total of new valid complaints received as a result of the monthly and one-day visits amounted to 365. Details of the 2003 programme of visits are available from my Office's website at www.ombudsman.ie

Visitors to my Office

During the year I was pleased to welcome a number of distinguished visitors to my Office.

In January my Office received a delegation of public servants from Singapore who are engaged in public service modernisation. Singapore does not have an Ombudsman or legislation permitting access to official information. They were particularly interested in exploring the impact of these legislative provisions on the Irish public service modernisation programme.

In September I received a delegation from the Egyptian National Council for Women. The Council was established in 2002 and has the overall objective of protecting women from abuse of their human rights and from gender discrimination. As part of its operation it had set up its own Ombudsman Office to deal with complaints and the purpose of the visit was to draw on the experience of my Office in complaint handling.

In October Sir Brian Elwood, Chief Ombudsman of New Zealand paid a visit. Sir Brian became Chief Ombudsman in 1995 and in 1999 he was elected President of the International Ombudsman Institute which is a world-wide organisation of ombudsman offices. During his visit Sir Brian kindly gave a talk to my staff on the work of his Office which combines the role of traditional Ombudsman with that of reviewing decisions to refuse access to information under the Official Information Act. Sir Brian is due to retire in 2003 and I wish him a long and happy retirement.

Also in October I received a visit from Professor Alice Brown, the newly appointed Scottish Public Services Ombudsman who was accompanied by her three deputies. Her office now carries on the work which was previously the responsibility of the Scottish Parliamentary Ombudsman, the Scottish Health Service Ombudsman, the Scottish Local Government Ombudsman and the Housing Association Ombudsman for Scotland. As a newly established Office they were particularly interested in learning about my Office's IT systems and the methods we use to bring our services to people in remote areas by means of local and regional visits.

Business Planning

Business planning activities in 2002 concentrated on three key areas, viz. the quality of the service we provide to our clients, our relationship with the public bodies within remit and the training and development of our staff.

Service to Our Clients

Case Screening

New case screening procedures were introduced in 2001 which facilitate early identification of complex complaints and complaints which are outside jurisdiction. The procedures help in matching resources to complaints and, indeed, in ensuring that resources are not needlessly expended on cases which have no merit or which, after some examination, turn out not to be within jurisdiction. A review of the new procedures was carried out in 2002 and a series of refinements have been identified which will be implemented in 2003.

These will lead to greater efficiency in the service we provide to complainants.

Quality Casework

Quality standards and indicators have been developed which will measure the quality of input by my staff to individual cases. Among the issues to be monitored are timescales for acknowledging complaints and reporting on progress to complainants, whether the case was properly screened, whether all relevant points in the complaint were satisfactorily addressed, whether correspondence with the complainant was in clear and simple language and, in the event that the decision was appealed, whether it led to a reworking of the case. Throughout 2003 a number of Office working groups will sample

individual complaint files by reference to these quality standards and indicators and will report their findings to the Management Committee at bimonthly intervals.

Of its nature quality is more difficult to measure than quantity. But the work done in developing and monitoring the quality of casework will help to ensure that in the drive towards greater efficiency, there are measures in place which put value on the quality of the case examination process and, ultimately, protect the interests of our complainants.

Client Service Strategy

Having regard to its statutory functions, and the initiatives outlined in the preceding paragraphs it will be clear that the Office, of necessity, is particularly sensitive to its clients' needs. However, in order to highlight the importance of quality customer service and the linkages with business planning and the Performance Management Development System (PMDS), work commenced in 2002 on the development of a client service strategy. Among other things, the strategy will address the principles of quality customer service including a formalised internal appeals system for complainants who are dissatisfied with the decisions in their cases.

Case Numbers

The fourth main area of activity under this heading was a concerted effort throughout the year to reduce the number of cases on hand. A 37% reduction was achieved, from 1514 cases on hand at the end of 2001 to 960 cases on hand at the end of 2002. As a result, more complainants are having their cases processed by the Office within a shorter timescale.

Relations with Public Bodies within Remit

In my Annual Report, 2001 I outlined a framework which had been agreed between myself and representatives of the County and City Managers' Association on which to build better working relations with my Office. I am happy to report good progress in this regard and that the framework, which is to some extent developmental, has been well received and is paying dividends from my perspective. The objective is to improve working relations between my Office and local authorities by developing a better understanding of our respective roles and, where possible, to accommodate the concerns of local authorities.

During the year staff from my Office met with eight County Managers and held seminars for local authority staff at three locations; Galway, Dundalk and Wicklow. The host authority at each location invited local authority staff from within their region to attend so that a number of local authorities were represented at the regional seminars. The basic theme of the seminars was; ***What local authorities can do to improve service to the Ombudsman and how the Ombudsman can help local authorities.***

Arising from feedback from the first seminar my Office issued a special booklet to all local authorities on how to deal with complaints taken up by my Office. One local authority enquired whether my Office would process complaints by way of email rather than by correspondence and this was agreed to as it will be more efficient for both organisations. I would like to record my appreciation to the County Managers who organised the seminars and for the manner in which my staff were received. We will continue to look at ways of developing seminars in 2003, possibly to include workshops on selected themes. Other local authorities have also expressed interest in holding seminars and in this regard we expect to be kept very busy this year and beyond.

My Office continued to engage with health boards, particularly on setting up internal complaints procedures and I am pleased to note that this matter is gaining increasing attention and priority within health boards. Five years ago I published a Guide to Internal Complaints Systems ***"Settling Complaints"*** and my Office is always willing to provide whatever help we can to those bodies within jurisdiction that do not as yet have an internal complaints system. The reason I encourage internal complaint systems is twofold; it improves the quality of decision making in the body concerned and it should reduce the number of complaints to my Office.

A further positive development during the year was the establishment, in May 2002, of the Agriculture Appeals Office. This was set up under the Agriculture Appeals Act, 2001 and is designed as an appeals mechanism for farmers who are dissatisfied with decisions of the Department in relation to their entitlements under any of the FEOGA schemes. As I mentioned in last year's Annual Report, the Act specifically provides that the Office comes within my remit and I can therefore examine complaints where the appellant is dissatisfied with the outcome. I very much welcome the establishment of the Office and I look forward to working with it to assist in the improvement of the administration of schemes by the Department.

Our Staff

Performance Management and Development (PMDS)

In 2001, we launched the PMDS, we trained all staff in its operation and went live with the system in 2002. Every staff member now has a role profile, a statement of key deliverables and corresponding performance indicators and a training and development plan. At the time of writing, every staff member's performance for the year 2002 is being reviewed by his or her manager and, where appropriate, changes to individual training and development plans are being agreed. These training and development plans are facilitating the Office in developing generic training and have led to a considerable increase in the number of training days delivered in 2002. Most importantly, training is now more job-focused and is helping to meet organisational needs as well as individual staff members' needs.

One of the key benefits arising from the introduction of PMDS has been to bring home to staff and managers alike the relevance of the Office's business plans to their own day-to-day work. Organisational goals have been broken down into section level objectives and, in turn, these are formulated as annual targets for individual staff members under PMDS. There have been two important outcomes to this approach. First, managers are becoming more aware of the importance of *" the business of managing"* and the resources which are available to them in their efforts to meet their objectives. Second, staff are becoming more aware of the importance of their individual contributions and the training and development supports which are necessary to help them to realise optimum performance.

Developing a Human Resource Management (HRM) Strategy

In 2002, with some assistance from an outside facilitator, the Management Team developed a draft HRM Strategy for the Office. Some of the elements of the strategy were first identified when formulating the Office's Business Plan 2000-2001. However, it was decided at that time to prioritise just two key HRM issues viz. management development training for the Senior Management Team and implementation of PMDS. The objectives in the Business Plan in relation to these two issues have been met in full.

Having now reviewed the entire HRM agenda we see the essence of a HRM strategy as a sustained focus on the people who do the work of an organisation. A HRM strategy is essential for maintaining quality customer care, attracting and retaining high quality staff and ensuring ongoing commitment from staff to continuously improving the organisation. It entails the development of strategies to attract the right people to the organisation with appropriate skills and competencies and strategies to retain them, once recruited. These represent new challenges for the civil service and, in turn, our organisation as it now has to compete as never before with other attractive employment opportunities for school leavers, graduates and others seeking to re-enter the work force in mid-career.

PMDS has created a new awareness of the importance of our human resources in meeting individual targets, section objectives and organisational goals. In the past there was a tendency to formulate strategic and business plans without devoting too much attention to what was needed to facilitate staff in the task of implementing these plans. The purpose of a HRM strategy is to address these staff needs as well as the organisational needs mentioned above.

The Office's Partnership Committee has already contributed to the development of the HRM Strategy and there will be wider consultation with staff generally. The Committee will also have a role in implementing specific aspects of the strategy.

Review of Partnership Process

With the assistance of an outside facilitator, the Office's partnership process was reviewed. As a result of the review, the Partnership Committee and its various working groups are now more actively involved in the Office's change management agenda. The Committee is also developing a range of initiatives to raise the staff's awareness of its activities.

Notices issued under Section 7 of the Ombudsman Act, 1980

In line with a policy I introduced in 1998, I am publishing the statistics on the number of Section 7 notices issued by my Office during the year. A Section 7 notice is a statutory demand for the provision of information which my Office requires in examining a complaint. It is normally only issued as a last resort when there has been an unacceptable delay on the part of the public body in providing the requested information. My 1998 Annual Report listed a total of 45 notices. In 1999 this was reduced to 27 and this was further reduced to 14 in 2000. I was disappointed to record an increase to 19 in 2001. The total for 2002 amounts to 16 which breaks down as follows:

Body	No. of Section 7 Notices Issued
Civil Service	
Department of Education and Science	4
Department of Health and Children	3
Office of Public Works	1
Local Authorities	
Buncrana Town Council	1
Cork City Council	3
Galway City Council	1
Kildare County Council	1
Mayo County Council	1
Wexford County Council	1
Total	**16**

While I am glad to record a reduction in the number of Section 7 notices issued compared to last year an unwelcome feature of the figures is that the Department of Education & Science once again tops the list for the third year in a row. Half the total of notices issued were sent to local authorities. I would urge the public bodies with poor records in responding to my Office to seek to come to grips with this pattern by setting organisational goals aimed at improving response times to my Office as part of their business planning targets.

Redress for Taxpayers

During 2002 I submitted a special report "Redress for Taxpayers" to both Houses of the Oireachtas. Following an investigation which I carried out into a number of complaints against the Revenue Commissioners, the Revenue refused to implement three of my five recommendations. This was an unprecedented event in the history of the Office of the Ombudsman and for this reason I considered it necessary to present a special report to each of the Houses of the Oireachtas under Sections 6(5) and 6(7) of the Ombudsman Act, 1980. The background to the investigation is set out below.

The investigation concerned the actions of the Revenue Commissioners in respect of two issues:

(i) time limits on retrospective refunds of tax wrongly collected and

(ii) compensation for loss of value where tax refunds are made in cases where the overpayments of tax were the result of maladministration.

The first issue involved two widows both of whom are in receipt of public service occupational widows' pensions. Following a 1988 High Court decision, *Ó Coindealbháin (Inspector of Taxes) v Breda O'Carroll [1988] ITR 221*, which held that the children's portion of a Garda Síochána widow's pension should not be taxed as the income of the surviving parent, both women claimed refunds of the tax incorrectly deducted from them. The decision of the High Court had wide-ranging implications as it applied not only to Garda widows but also to widows of civil servants, local authority officials and teachers. In the case of all those affected by *O'Carroll*, Revenue refused to allow a full refund of the tax and limited the refund to what it claimed was a

statutory limit of five years. The two widows complained to me that they had been wrongly denied full refunds of tax. Both complainants also claimed compensation for loss of value for the refunds denied them and for the amounts actually refunded to them. In addition, six other complainants complained that a tax refund properly owing to them had been wrongly retained by Revenue for lengthy periods. Revenue had refused to pay them interest or compensation for loss of value on the grounds that there was no specific statutory provision which provided for the payment of such interest in their particular circumstances.

As a result of the investigation I made five recommendations:

1. Revenue should undertake to make retrospective payments covering the ten year period prior to the date of the claim made by the two widows in respect of any income tax levied and not already refunded, on the pension payments made to their children during that period;

2. Revenue should put in place as soon as possible arrangements whereby refunds of any income tax levied, and not already refunded, can be made to all individuals who were similarly affected by the *O'Carroll* judgement;

3. Revenue should make a compensation payment for loss of purchasing power or loss of interest on the refunds of income tax made in the individual cases which are listed in the investigation report and in all cases to which recommendation **2** applied;

4. Revenue should similarly make compensation payments for loss of purchasing power or loss of interest in other cases where a complaint has been made to the Ombudsman and where the examination of the complaint has been held over pending the outcome of this investigation;

5. Revenue should without delay make provision for a general scheme for payment of compensation for loss of purchasing power in respect of tax refunds made to taxpayers of income tax levied and paid. This general scheme should be designed to cover cases where, as a result of an error, misinterpretation, oversight or other similar action on the part of the Revenue Commissioners, the taxpayer has been adversely affected.

The Revenue Commissioners accepted recommendation **1** in full and recommendation **2** subject to certain reservations. They said that they could not implement the remaining recommendations involving compensatory payments claiming that they did not have the statutory authority to do so.

With regard to recommendation **5**, the Minister for Finance made provision for a new general entitlement to interest on overpaid taxes in the Finance Bill 2003. This provision will, when implemented, apply from six months after the date on which the claim is made by the taxpayer. However, where Revenue misconstrues the law, interest will be paid from the date the excess tax was paid, subject to the overall time limit on repayments of four years. The provision met the requirements of recommendation **5** and I was pleased with this development.

After I submitted my special report to both Houses of the Oireachtas on the investigation I was invited, as was the Chairman of the Revenue Commissioners, by the Joint Oireachtas Committee on Finance and the Public Service to brief members on the circumstances of the investigation and my recommendations.

Following this briefing, the Minister for Finance made a further amendment to the Finance Bill 2003 which fully met the requirements of recommendation **3**. In addition, the Minister also announced that compensation payments would be made on an *ex gratia* basis to the taxpayers affected by recommendation **4**. I warmly welcomed this development and I very much appreciate the Minister's decision, in co-operation with the Revenue Commissioners to pay compensation to the taxpayers involved. I believe that the Minister has affirmed the proud record of the Office of the Ombudsman in having the authority of its recommendations recognised. I also wrote to the Chairman of the Joint Oireachtas Committee on Finance and the Public Service to thank him and the members of the committee for the energy and attention which they had devoted to my special report. I stated that the time which the committee gave to my report was crucial in securing justice for the people involved and it also demonstrated the power of effective parliamentary scrutiny.

The full text of my investigation report is on my Office website at www.ombudsman.ie

Publication of Case Digest

During the year I compiled a Digest of Cases which outlined details of twenty significant cases completed by my Office in 2000-2001. It was published early in 2003. My Annual Reports provide a snapshot of the work of my Office over a particular twelve month period. Due to space constraints it is not always possible to give details of all cases of interest during a particular year and so the digest is meant to complement my Annual Reports. It also highlights the developmental role of my Office over the years and illustrates how my staff tackle cases and achieve solutions to complaints. It includes an outline of the various powers available to my Office and how these powers are used to resolve complaints. I hope the digest helps to raise public awareness of my Office and illustrates to the public generally that there is a very effective free service at their disposal to assist them when things go wrong in their dealings with public bodies. The digest is available from the Government Publications Office or can be downloaded from the Office website. Similar digests will be published on an occasional basis in the future.

6

Chapter Six

Statistics

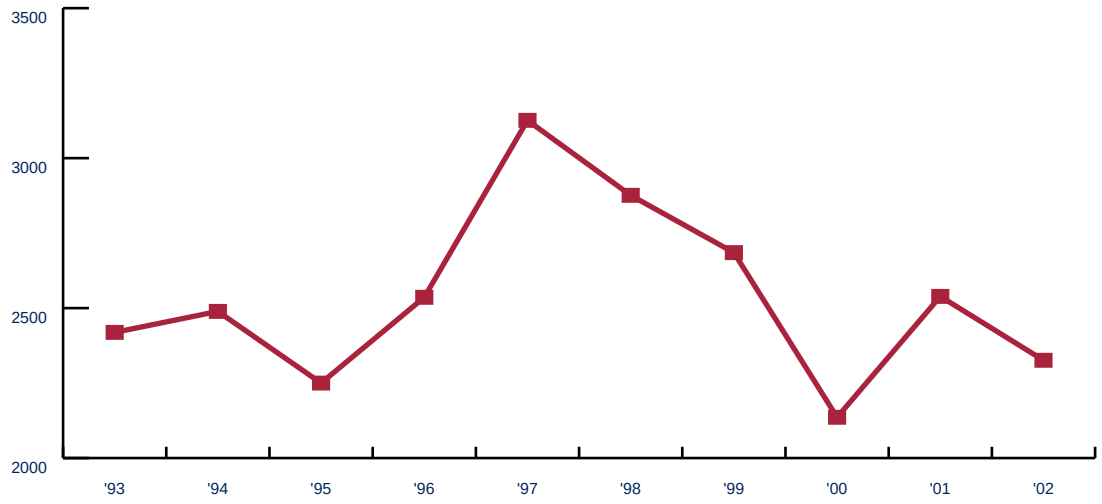
Chapter 6
Statistics

1. Overview of 2002 complaints

Complaints	Numbers
Received in 2002	3209
Outside Jurisdiction	883
Total within Jurisdiction	2326
Carried forward from 2001	1514
Total on hand for 2002	3840
Completed in 2002	**2880**
Carried forward to 2003	960
Enquiries	8501

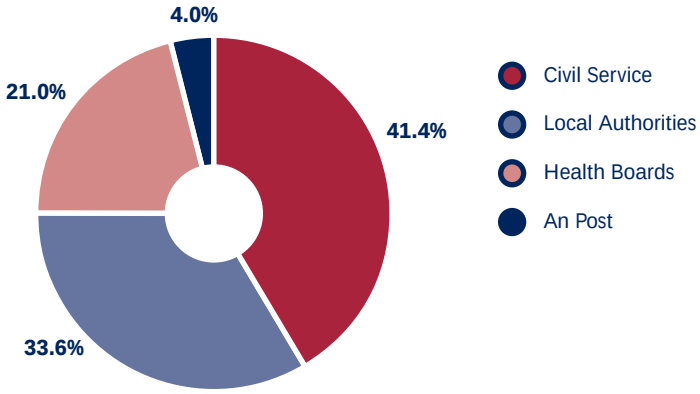
2. 10 Year trend of valid complaints received

1993	2419
1994	2489
1995	2250
1996	2536
1997	3126
1998	2876
1999	2685
2000	2136
2001	2539
2002	2326

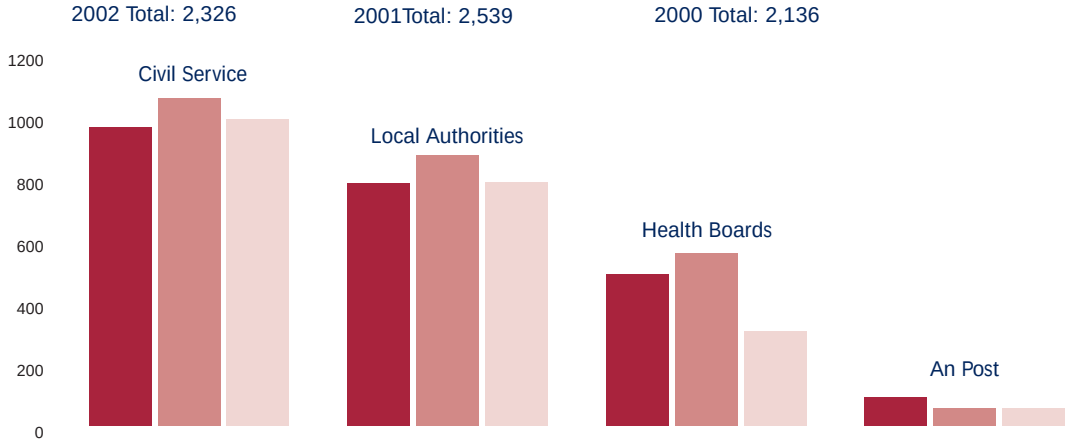


3. Analysis of Valid Complaints Received in 2002

Civil Service	964
Local Authorities	781
Health Boards	489
An Post	92
Total	**2326**



4. Three Year Comparison - Valid Complaints Received



2002	964	781	489	92
2001	1056	872	555	56
2000	989	787	304	56

5. Civil Service - Valid Complaints Received in 2002

	Brought forward from 2001	Received in 2002	On hands for 2002
Social and Family Affairs	206	398	604
Agriculture and Food	163	186	349
Education and Science	67	96	163
Revenue	57	112	169
Environment and Local Government	17	23	40
Health and Children	8	12	20
Land Registry	3	13	16
Communications, Marine and Natural Resources	13	25	38
Justice, Equality and Law Reform	8	26	34
Enterprise, Trade and Employment	3	4	7
Office of Public Works	6	9	15
Others	24	60	84
Total	**575**	**964**	**1539**

6. Local Authorities - Valid Complaints Received in 2002

Carlow	7	7	14
Cavan	9	3	12
Clare	14	44	58
Cork City Council	29	33	62
Cork County	34	40	74
Donegal	20	20	40
Dublin City Council	40	91	131
Dún Laoghaire - Rathdown	26	33	59
Fingal	20	29	49
Galway City Council	23	30	53
Galway County	25	33	58
Kerry	38	25	63
Kildare	23	25	48
Kilkenny	8	8	16
Laois	13	23	36
Leitrim	4	7	11
Limerick City Council	12	23	35
Limerick County	13	20	33
Longford	14	4	18
Louth	11	22	33
Mayo	41	54	95
Meath	17	20	37
Monaghan	1	8	9
North Tipperary	13	20	33
Offaly	9	9	18
Roscommon	14	10	24
Sligo	10	25	35
South Dublin	19	24	43
South Tipperary	6	12	18
Waterford City Council	3	8	11
Waterford County	8	11	19
Westmeath	10	7	17
Wexford	24	19	43
Wicklow	22	34	56
Total	**580**	**781**	**1361**

Complaints received against Borough Councils and Town Councils are included in the County figures

7. Health Boards - Valid Complaints Received in 2002

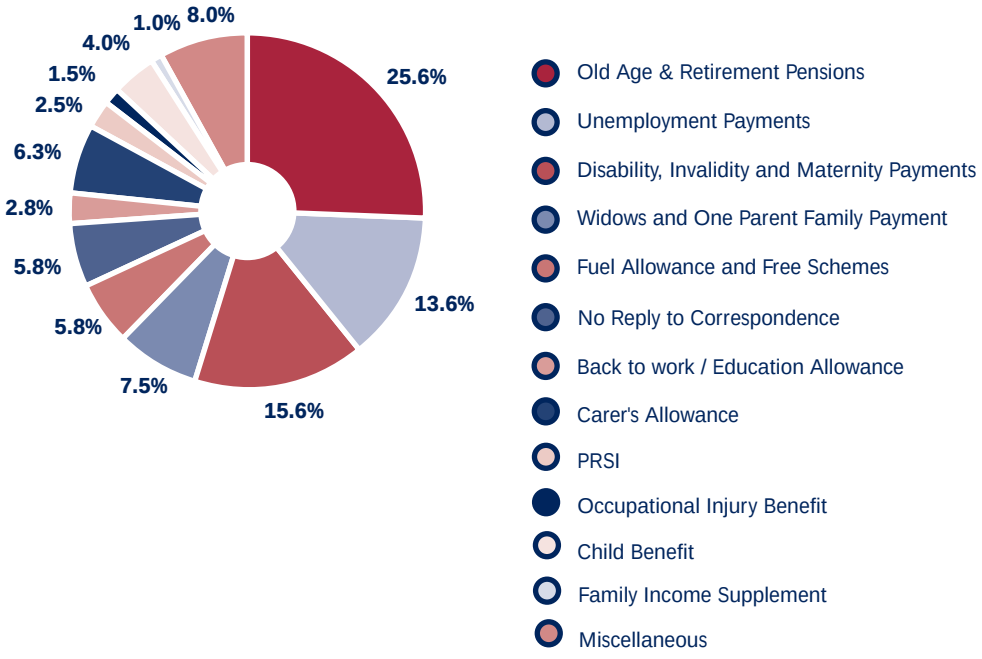
	Brought forward from 2001	Received in 2002	On hands for 2002
Eastern	1	1	2
Midland	21	34	55
Mid-Western	47	54	101
North Eastern	15	23	38
North Western	13	15	28
South Eastern	43	37	80
Southern	51	61	112
Western	52	71	123
Northern Area	40	73	113
East Coast Area	27	41	68
South Western Area	35	73	108
Eastern Regional Health Authority	1	6	7
Total	**346**	**489**	**835**

8. An Post - Valid Complaints Received in 2002

	Brought forward from 2001	Received in 2002	On hands for 2002
An Post	13	92	105
Total	**13**	**92**	**105**

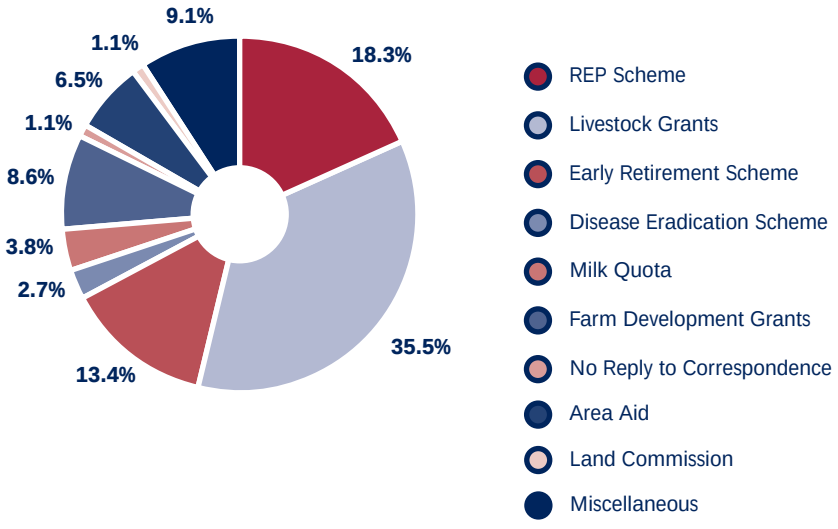
9. Department of Social and Family Affairs - Breakdown by Main Categories of Complaint Received in 2002

Old Age & Retirement Pensions	102
Unemployment Payments	54
Disability, Invalidity and Maternity Payments	62
Widows and One Parent Family Payment	30
Fuel Allowance and Free Schemes	23
No Reply to Correspondence	23
Back to work / Education Allowance	11
Carer's Allowance	25
PRSI	10
Occupational Injury Benefit	6
Child Benefit	16
Family Income Supplement	4
Miscellaneous	32
Total	**398**



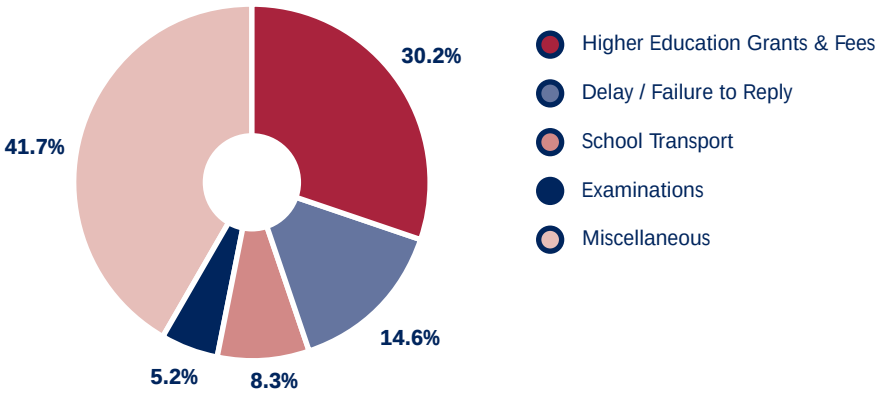
10. Department of Agriculture and Food - Breakdown by Main Categories of Complaint Received in 2002

REP Scheme	34
Livestock Grants	66
Early Retirement Scheme	25
Disease Eradication Scheme	5
Milk Quota	7
Farm Development Grants	16
No Reply to Correspondence	2
Area Aid	12
Land Commission	2
Miscellaneous	17
Total	**186**



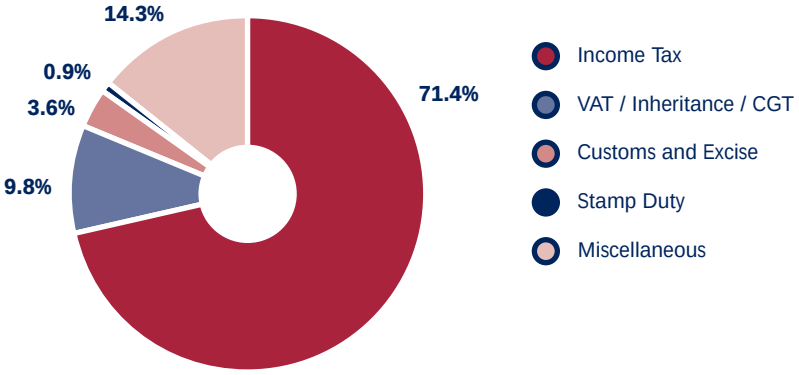
11. Department of Education and Science - Breakdown by Main Categories of Complaint Received in 2002

Higher Education Grants & Fees	29
Delay / Failure to Reply	14
School Transport	8
Examinations	5
Miscellaneous	40
Total	**96**



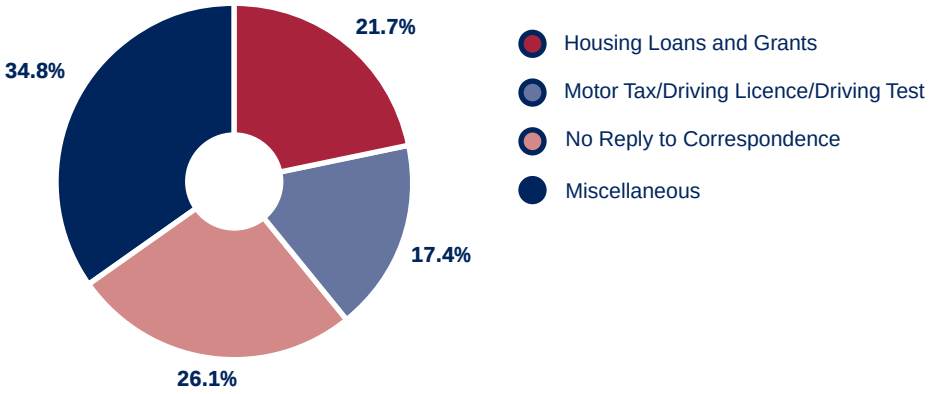
12. Office of the Revenue Commissioners - Breakdown by Main Categories of Complaint Received in 2002

Income Tax	80
VAT / Inheritance / CGT	11
Customs and Excise	4
Stamp Duty	1
Miscellaneous	16
Total	**112**



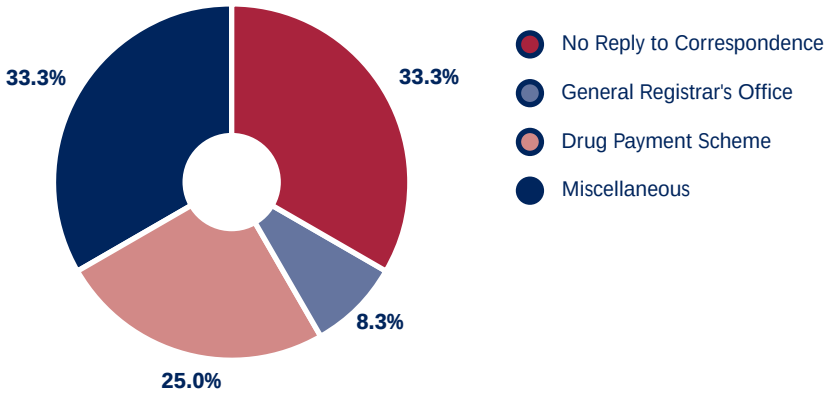
13. Department of the Environment and Local Government - Breakdown by Main Categories of Complaint Received in 2002

Housing Loans and Grants	5
Motor Tax/Driving Licence/Driving Test	4
No Reply to Correspondence	6
Miscellaneous	8
Total	**23**



14. Department of Health and Children - Breakdown by Main Categories of Complaint Received in 2002

No Reply to Correspondence	4
General Registrar's Office	1
Drug Payment Scheme	3
Miscellaneous	4
Total	**12**



15. Local Authorities - Breakdown by Main Categories of Complaint Received in 2002

Housing		289
Allocations & Transfers	139	
Loans & Grants	66	
Repairs	55	
Sales	26	
Rents	3	
Planning		170
Enforcement	121	
Administration	49	
Roads and Traffic		83
Delay - Failure to Reply		82
Waste Disposal		15
Water Supply		13
Sewerage and Drainage		12
Service Charges		23
Motor Tax & Drivers Licence		11
Rates		8
Acquisition of land/rights		7
Access to Information on the Transfers		5
Parks/Open Space		5
Miscellaneous		58
Total		**781**

16. Health Boards - Breakdown by Main Categories of Complaint Received in 2002

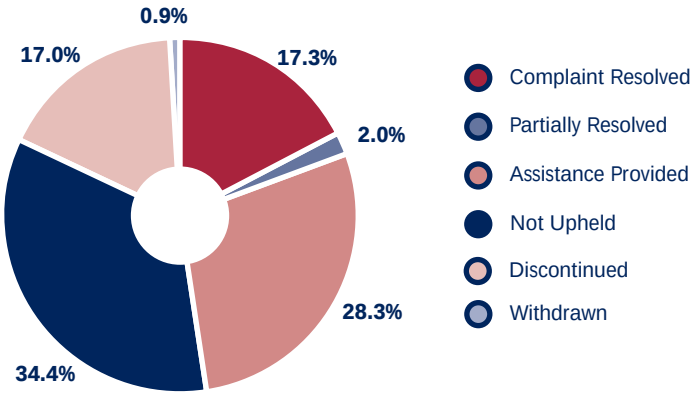
Supplementary Welfare Allowance		100
Exceptional Needs Payment	37	
Rent and Mortgage Allowances	28	
Back to School	12	
Clothing/footwear Allowance, Miscellaneous	23	
Health Services (General)		56
Medical Card	48	
Drugs, Medicines and Appliances	8	
Hospital Services		118
Nursing Homes/Long Stay	98	
Miscellaneous	20	
Delay / Failure to reply		32
Hospital Charges		4
Cash Payments (other than SWA)		34
Provision of Service		10
Dental Service		15
Services for the Elderly		19
Housing Aid, Childcare / Social Work Services		13
Miscellaneous		88
Total		**489**

17. Valid Complaints Received by County in 2002

Carlow	24
Cavan	20
Clare	114
Cork	241
Donegal	64
Dublin	588
Galway	164
Kerry	75
Kildare	50
Kilkenny	30
Laois	59
Leitrim	18
Limerick	121
Longford	19
Louth	51
Mayo	127
Meath	63
Monaghan	21
Offaly	31
Roscommon	31
Sligo	53
Tipperary	88
Waterford	47
Westmeath	32
Wexford	64
Wicklow	69
Outside Republic	62
Total	**2326**

18. Analysis of Complaints Completed in 2002

Complaint Resolved	499
Partially Resolved	58
Assistance Provided	814
Not Upheld	991
Discontinued	491
Withdrawn	27
Total	**2880**



19. Civil Service - Complaints Completed in 2002

	Resolved	Partially Resolved	Assistance Provided	Discontinued	Withdrawn	Not Upheld	Total Completed
Social and Family Affairs	35	1	157	105	7	232	537
Agriculture and Food	18	4	28	22	3	158	233
Education and Science	16	5	10	17	0	42	90
Revenue	14	2	54	22	0	36	128
Environment and Local Government	8	1	10	7	0	9	35
Health and Children	2	0	7	1	1	0	11
Land Registry	2	0	10	2	0	2	16
Communications, Marine and Natural Resources	2	0	6	2	1	7	18
Justice, Equality and Law Reform	5	0	10	3	0	4	22
Enterprise, Trade and Employment	1	0	4	0	0	2	7
Office of Public Works	4	0	1	2	0	5	12
Others	8	3	11	9	0	15	46
Total	**115**	**16**	**308**	**192**	**12**	**512**	**1155**

20. Local Authorities - Complaints Completed in 2002

	Resolved	Partially Resolved	Assistance Provided	Discontinued	Withdrawn	Not Upheld	Total Completed
Carlow	3	0	5	3	0	0	11
Cavan	4	0	5	0	1	2	12
Clare	7	2	9	3	0	16	37
Cork City Council	16	0	13	6	0	14	49
Cork County	14	1	10	9	0	24	58
Donegal	7	2	8	6	1	9	33
Dublin City Council	20	1	26	31	3	22	103
Dún Laoghaire Rathdown	15	0	20	3	1	9	48
Fingal	11	0	11	5	0	14	41
Galway City Council	13	6	14	7	1	2	43
Galway County	12	1	16	7	0	2	38
Kerry	10	0	22	12	0	11	55
Kildare	10	1	5	2	0	3	21
Kilkenny	3	2	4	1	0	0	10
Laois	9	0	13	4	0	2	28
Leitrim	2	0	2	3	0	2	9
Limerick City Council	5	2	11	5	0	4	27
Limerick County	9	0	10	4	0	5	28
Longford	4	2	4	1	0	3	14
Louth	3	1	6	8	0	8	26
Mayo	19	1	24	4	0	13	61
Meath	7	1	14	2	0	2	26
Monaghan	1	0	0	5	0	1	7
North Tipperary	7	0	12	7	0	2	28
Offaly	4	0	2	3	0	4	13
Roscommon	5	1	5	1	1	4	17
Sligo	10	0	9	3	0	2	24
South Dublin	7	0	12	3	1	8	31
South Tipperary	4	0	3	2	0	3	12
Waterford City Council	5	0	1	0	0	1	7
Waterford County	6	1	6	1	0	0	14
Westmeath	3	0	5	1	0	5	14
Wexford	9	2	10	7	0	5	33
Wicklow	19	1	8	7	1	6	42
Total	**283**	**28**	**325**	**166**	**10**	**208**	**1020**

Complaints received against Borough Councils and Town Councils are included in the County figures

21. Health Boards - Complaints Completed in 2002

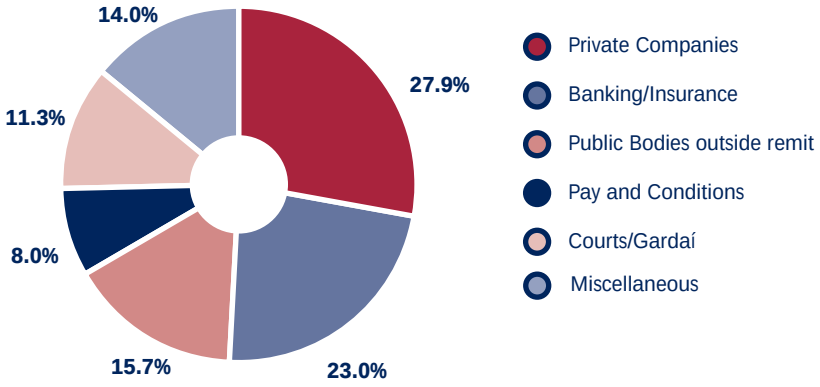
	Resolved	Partially Resolved	Assistance Provided	Discontinued	Withdrawn	Not Upheld	Total Completed
Eastern	1	0	1	0	0	0	2
Midland	21	0	7	5	0	17	50
Mid-Western	5	0	14	20	1	32	72
North Eastern	2	0	8	4	0	13	27
North Western	3	0	6	4	0	7	20
South Eastern	17	1	23	10	0	7	58
Southern	5	0	45	23	1	16	90
Western	8	11	12	23	0	36	90
Northern Area	10	0	14	17	1	46	88
East Coast Area	3	0	19	10	1	24	57
South Western Area	8	0	10	12	0	52	82
Eastern Regional	0	0	3	2	0	0	5
Total	**83**	**12**	**162**	**130**	**4**	**250**	**641**

22. An Post - Complaints Completed in 2002

	Resolved	Partially Resolved	Assistance Provided	Discontinued	Withdrawn	Not Upheld	Total Completed
An Post	18	2	19	3	1	21	64
Total	**18**	**2**	**19**	**3**	**1**	**21**	**64**

23. Analysis of Invalid Complaints Received in 2002

Private Companies	246
Banking/Insurance	203
Public Bodies outside remit	139
Pay and Conditions	71
Courts/Gardaí	100
Miscellaneous	124
Total	**883**



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