



The Ombudsman's Kerry CASEBOOK

Office of the Ombudsman, Dublin, Ireland.

Kerry Special Edition 2016

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Learning from complaints

When my Office examines complaints, we are looking to see whether the person complaining has received a poor service, or not received a service they were entitled to. If this is the case, and the person has suffered an injustice as a consequence, we aim to put things right for them. Where possible, we try to put them back into the position they would have been in had nothing gone wrong.

However, that's only part of the work of an Ombudsman. As well as looking to put things right for individuals, we are also looking to make sure that mistakes are not repeated. We help public services to improve through learning from mistakes or from good practice.

In some complaints, the cause of any failure is just a one off – it's unlikely to happen again. In others, it can become clear that the failures were because of issues that could cause the same failure to be experienced by others. This can be because of poorly trained staff, poor management, inadequate systems or procedures or on occasions, problems with legislation. Making sure that people learn from their own mistakes, and where possible, those of other public service providers, is a key part of our work.

Often, we resolve matters without the need for a full investigation. This can get matters resolved for the individual, but can mean that the learning is limited. To tackle this issue, we introduced quarterly Ombudsman Casebooks which include summaries of cases we have closed. These Casebooks are aimed at service providers. The cases are divided into categories so that public service providers in each sector can readily learn from our findings. There are also cases where we find



Ombudsman Peter Tyndall

no failures, and this illustrates that the work of the Office is to consider cases objectively.

This Casebook is the first Kerry Casebook we have produced. It is being published on the occasion of our visit to Kerry to raise the profile of the Office with potential complainants. It forms part of an extensive outreach programme which my Office undertakes throughout the year.

During the visit, we will meet with key public service providers, provide a seminar for local elected representatives and bodies in jurisdiction, provide training for Citizens Information Centre staff on taking complaints for our Office and have staff available to take complaints from members of the public.

We hope that the Casebook will prove of benefit to service providers in Kerry and that it will contribute to the delivery of better public services in the future.

Peter Tyndall, Ombudsman
September 2016

Statistics

Complaints received from Kerry between January 2013 and July 2016

Kerry Cases received in last 5 years



Dept of Agriculture, Food & the Marine	Amount
Disadvantaged Areas Scheme	21
Single Farm Payment	10
R.E.P. Scheme	8
Forest Premium Scheme	6
Agri-Environment Options Scheme	4
Other	11
Total	60

All Cases	Amount
Department of Social Protection	95
Kerry County Council & Town Council	87
HSE	65
Department of Agriculture, Food & the Marine	60
Revenue Commissioners	24
Student Universal Support Ireland (SUSI)	17
Other Public Service Providers	53
Total	401

Kerry County Council & Town Council	Amount
Housing	29
Planning	22
Motor Tax & Driver Licence	7
Roads/Traffic	6
NPPR	5
Pollution	5
Water Supply	3
Other	10
Total	87

Department of Social Protection	Amount
Supplementary Welfare Allowance	19
Jobseekers Benefit/Allowance	15
Disability Allowance	11
Carers Benefit/Allowance	9
Family Income Supplement	9
State Pension Contributory/Non-Contributory	8
Widows/ers Pension Contributory/Non-Cont	4
Illness Benefit	3
Other	17
Total	95

Health Service Executive	Amount
Medical & GP Cards	19
Hospitals - General	13
Primary & Community Care	5
Hospitals - Psychiatric	4
Nursing Home Support Scheme	3
Long Term Illness Card	2
Disability Services	2
Social Work Services	5
Other	12
Total	65

Agriculture

Afforestation Grant and Premium Scheme

Department of Agriculture, Food and the Marine
C01/14/1665

Upheld

Background

A man complained to the Ombudsman that the Department of Agriculture, Food and the Marine (the Department) sought to recover over €25,000 from him following the flooding of his land in Kerry. The man had received the money through the Afforestation Grant and Premium Scheme to cover the cost of establishing a forest.

The Department inspected the man's land and approved his grant in 2004. The forest was destroyed by severe flooding in 2009. When he realised the extent of the damage the man contacted the Department in 2010 looking for advice about what he should do. The Department stopped his payment and did not make a decision about how it was proceeding for nearly three years. In January 2013 the Department demanded repayment of the grant of over €25,000, in full, within one month.

Examination

The land is surrounded by canals which form part of a local drainage network. The local authority is responsible for maintaining the drains feeding this network. The local authority stopped draining the canals around 2009 because of damage caused by the floods. The local authority said that it could not maintain the local drainage network each year because of budget restrictions. The drains on the man's land were satisfactory but could not work properly because the local drainage network was not being maintained.

The Department said that the reasons it demanded repayment were that:

- the trees had been removed by the man from the land
- the man had not said in his original application that his land was subject to flooding
- it considered that the man was aware of the risk of flooding and that it was his responsibility to comply with the conditions of the scheme
- it was unreasonable for the man to rely on the actions of the local authority to comply with his obligations and that this was the reason why force majeure did not apply in this case.

The man appealed the Department's decision and provided evidence that the flood destroyed the trees and caused damage to his land. The local authority confirmed that the severe rainfall, high tides and excessive amounts of material in the drainage channel had prevented proper drainage which was outside the man's control. (Subsequently a Department official confirmed that the trees had been removed as a result of the flooding).

The Ombudsman discovered that the South Western Regional Fisheries Board had written to the Department in May 2004 advising it that part of the site may be subject to flooding. This was before the Department approved the grant in August 2004. The man told the Ombudsman that he had no knowledge of the Board's report.

A Forestry Inspector from the Department had visited the man's land in May 2013 and said that it was a case of force majeure. However this was overturned by the Department in December 2013. The Department defines force majeure as 'circumstances outside the farmer's control which s/he could not have foreseen and which s/he, as a prudent farmer, took all reasonable precautions to avoid'. The Department said that circumstances which are accepted as constituting force majeure include 'a severe natural disaster gravely affecting the holdings agricultural land'.

Outcome

The Ombudsman considered that the Department had granted the man's application in the knowledge that his land may be prone to flooding, and that it was now trying to hold the man responsible for something about which he was unaware and over which he had no control.

The Ombudsman asked the Department to review the man's case, particularly with regard to the force majeure provision. The Ombudsman considered that the available evidence indicated a natural disaster that was outside the man's control.

In the circumstances the Department agreed to review its decision and decided not to recover the amount of €25,000.

Single Payment Scheme

Department of Agriculture, Food and the Marine
C01/14/1631

Upheld

Background

A farmer complained about a decision by the Department of Agriculture, Food and the Marine under the Land Parcel Identification Scheme. The Department said that the farmer's land was 80% rock whereas the farmer claimed it was only 10% rock. As a result of the decision the farmer's payment under the Single Payment Scheme (SPS) was reduced by €1,800. The farmer was unhappy that no ground inspection was carried out and that the satellite photograph, used by the Department to inform its decision, was misleading as it had large shadows along the northern section of the land due to the direction of the sun on the day the photograph was taken.

Examination

The Ombudsman requested that a ground inspection be carried out by the Department. The Department agreed. However, as the land was on a cliff-top location, there was a delay in carrying out the inspection until there was a period of good weather.

Outcome

When the ground inspection was carried out the Department discovered that the land was more suitable than it first believed and reduced the payment to the farmer by €140 rather than by €1,800.

Rural Environment Protection Scheme

Department of Agriculture, Food and the Marine

C01/14/1342

Not Upheld

Background

A man complained about a decision of the Department of Agriculture, Food and the Marine to reduce his entitlement under the Rural Environment Protection Scheme (REPS4) and to assess him for an overpayment. The decision concerned commonage claimed by the man as part of the scheme.

Examination

The terms and conditions of the REPS4 provide that all commonage claimed under the scheme should also have been claimed in an applicant's Area Aid applications for the previous five years. The man accepted that he had not claimed the commonage in his Area Aid applications.

Outcome

The Ombudsman found that the Department had correctly applied the REPS4 scheme and that its decision was reasonable.

Single Payment Scheme

Department of Agriculture, Food and the Marine

C01/15/1043

Assistance Provided

Background

A farmer complained that the Department of Agriculture, Food and the Marine had refused his application for an increased payment under the Single Payment Scheme (SPS) without carrying out an inspection of his land.

Examination

The farmer said that he had removed scrub from a land parcel and therefore the land eligible for the grant had increased. He said he had been refused the SPS, and his appeal had been denied, although an on-the-ground inspection had not been carried out. The Ombudsman asked the Department to clarify if an on-the-ground inspection had taken place.

Outcome

The Department said that an inspection should have been carried out to verify if scrub had been removed and that land had been recovered. It undertook to carry out an inspection as a priority. After the inspection was carried out, the Department informed the farmer of the new reference area. It gave him the option of lodging an appeal if he was unhappy with the findings.

Social Protection

Family Income Supplement

Department of Social Protection

C22/13/1265

Partially Upheld

Background

The Department of Social Protection (DSP) carried out a review of a man's Family Income Supplement (FIS) claims over a number of years and decided that he had not been entitled to receive FIS for periods of time when he was not working. The Department said he had been overpaid by over €21,000. It proposed to recover the overpayment at €50 per week from his current social welfare payment.

Examination

There were two distinct elements to this complaint. The first was the decision that he was not entitled to FIS during specified periods. This decision was appealable to the Social Welfare Appeals Office (SWAO). The second was the consequential overpayment, which was not appealable to the SWAO. However the man had been informed of his right to comment on the proposed method of recovery. When the man contacted the Department he focused on the proposal to recover the overpayment. By the time he complained to the Ombudsman, almost a year after the revised decisions were made, the time frame within which he could have appealed against those decisions to the SWAO had elapsed.

Outcome

The Ombudsman noted that the information in the Department's letter notifying him of the revised decisions was incorrect. The letter referred to the revision of one decision made on one (incorrectly stated) date, whereas there had in fact been revisions of four separate decisions made on four different dates over a number of years. In the circumstances, the Ombudsman considered that it would be appropriate for the Department to issue a revised decision to the man. The Department agreed. The effect of issuing a revised decision was that the man was given the right to appeal it to the SWAO. The Ombudsman explained to the man that he would have to avail of that right before his office could examine the complaint further.

Family Income Supplement

Department of Social Protection

C22/14/1402

Not Upheld

Background

A woman complained about a decision by the Department of Social Protection (the Department) to withhold arrears of Family Income Supplement (FIS) of €2,340 against an overpayment of One Parent Family Payment (OPFP), the balance of which stood at €5,962.50. Initially, the woman was informed that the Department proposed to withhold the full amount of the arrears and to recover the balance of the overpayment by way of weekly deductions of €25 from her FIS payment. However, by the time the complaint was made to the Ombudsman, the Department had decided to withhold only half of the FIS arrears against the OPFP overpayment and to recover the balance by deductions of €10 per week. In the complaint to the Ombudsman, the woman was seeking to have the full amount of the FIS arrears paid to her and the overpayment recovered by weekly deductions of €20.

Examination

When the woman was informed about the Department's initial proposal, it had been argued on her behalf that the arrears should be paid to her in full and that the overpayment should be recovered by way of weekly deductions of €10, as had been previously agreed with the Department. The Department had written to the woman saying that if she provided details of her weekly income and expenditure, her recovery plan would be reviewed without delay. At no time after that were these details supplied to the Department. The woman had average weekly earnings of around €380 per week (not including her FIS payment) which was around €104 above the appropriate Supplementary Welfare Allowance (SWA) level (below which a person's means are considered to be such that they are unable to meet their needs, and they may have an entitlement to assistance under the SWA scheme). In the woman's case, the non-payment of the FIS arrears (or half thereof) did not have the effect of placing her below the SWA level during the period covered by the arrears (i.e. her income during that period was €103.91 over the SWA level).

Outcome

The Ombudsman took account of the fact that the woman had not provided details of her income and expenditure, which would have resulted in the recovery plan being further reviewed, and also of the level of her income from employment during the arrears period. In the circumstances, the Department's final decision to withhold only half of the arrears against the overpayment (paying the other half to the woman) and to recover the balance of the overpayment by weekly deductions of €10 (which was the previous agreement with the Department) was a fair and reasonable outcome.

Exceptional Needs Payment

Department of Social Protection

C22/14/0839

Not Upheld

Background

A woman was refused an Exceptional Needs Payment towards the cost of home heating oil. Each year, during the winter months, she received fuel allowance under the National Fuel Scheme. She provided medical evidence to the Department to show that she suffers from diabetes. The Department decided that heating is an ongoing expense which should be budgeted for from weekly income and also no exceptional circumstances existed to warrant a payment towards the cost of home heating oil.

Examination

Exceptional Needs Payments are paid to help meet essential, once off, exceptional situations which a person could not reasonably be expected to meet from their own weekly income.

Outcome

As the Department had acted in accordance with the terms and conditions of the Exceptional Needs Payments Scheme and no exceptional need was identified, the Ombudsman could not uphold the complaint.

Health

Investigation Procedures - Consent

HSE

HD9/14/0919

Partially Upheld

Background

This complaint related to the way a HSE review had been conducted into the actions of a Senior Social Worker in relation to her treatment of the complainant's mother. The complainant said the HSE Review Officer had failed to interview and meet with all the relevant stakeholders or to examine the relevant files and records of the Senior Social Worker.

Examination

While the Review Officer had detailed telephone conversations with all of the relevant parties, she had omitted to review the written social work records. In addition, while the complainant's mother was deemed to be of sound mind, her consent had not been obtained for the purposes of pursuing this complaint. In this case it was suggested that the complainant's mother had suffered adverse effect.

Outcome

The Ombudsman requested that the HSE appoint a Complaints Officer to look again at the issues raised by the complainant. The HSE undertook to seek the consent of the complainant's mother before proceeding with a new examination of the complaint.

This case highlighted the need for greater attention to be paid to ensure that a person's consent is sought in a situation where they are of sound mind before examining a complaint made on their behalf.

Nursing Home Support Scheme

HSE

HD9/14/0777

Not Upheld

Background

A woman applied for support for her husband under the Nursing Home Support Scheme. She complained that the HSE had included as part of her means the notional income she received from a farm that she transferred to her son within the previous five years. The Scheme is means tested and one of its conditions is that any assets an applicant transfers up to five years before they apply are counted as part of that applicant's income. The woman said that although the formal transfer had been made within the previous five years, the farm had effectively been transferred to her son under the Early Retirement Scheme for Farmers more than ten years earlier.

Examination

The HSE told the Ombudsman that under the relevant legislation it had to take the formal date of transfer and had no discretion to take account of other circumstances such as those outlined by the complainant.

Outcome

The Ombudsman considered that the HSE was correct in its interpretation of the legislation and for this reason he did not uphold the complaint.

Local Authority

Planning

Kerry County Council

L18/13/1745

Upheld

Background

A man complained that Kerry County Council had not replied to him with details of whether a developer had paid a development bond. In addition, the man was concerned that the development would not be completed and that the Council was slow in pursuing planning enforcement action against the developer.

Examination

The Ombudsman established that the development bond had not been paid by the developer and that as the development was now complete there was no need for a bond to be paid. The Council was of the view that the development was not complete as there were outstanding works. As a result, the Council took planning enforcement action against the developer. However, this action was delayed for a variety of reasons, including a commitment by the developer to complete all outstanding works, a delay in carrying out site inspections, delays in advising the developer that works were outstanding, and a lack of resources within the Council to pursue enforcement action.

Outcome

The Ombudsman upheld the man's complaint as it was found that the Council had not provided the requested details to the complainant and that there were significant delays in pursuing planning enforcement action. While it was acknowledged that the reasons for the delay were reasonable the man was left without answers. The Ombudsman was able to report that as all outstanding works were completed the development was now complete and the matters in relation to the bond and delays were now moot.

Housing

Kerry County Council

L18/14/1343

Not Upheld

Background

A woman applied for social housing to Kerry County Council in 2007. In 2015 she complained to the Ombudsman that she had not been provided with the social housing she had applied for.

Examination

At the time the woman made her initial application there was an issue as regards guardianship of two of her children and the Council had sought clarification from the woman on this issue, so it could establish the most appropriate accommodation to suit the woman's requirements. However this clarification was not provided and the application did not proceed further.

In 2008, the woman applied again for social housing. However at this time and until 2010, the woman informed the Council that it was her intention to return home to her country of origin. Subsequently the woman was visited by Council staff and her housing needs were established. The Council informed the woman that it did not have any housing stock in any of her preferred areas and that it considered the Rent Accommodation Scheme was the best option. On two separate occasions the woman obtained private rented accommodation and requested her landlord to consider the RAS. One landlord had no interest in the scheme and while the other landlord was interested he was unwilling to bring the property up to the required standard for the RAS scheme.

Outcome

Council staff had met with the woman on a number of occasions and documentation provided to the Ombudsman indicated that there had been delays on both sides. On the substantive matter of the woman's housing application, the Ombudsman was satisfied that the Council had acted reasonably and so he did not uphold the woman's complaint.

Education

Higher Education Grant

Student Universal Support Ireland (SUSI)

E77/13/1407

Upheld

Background

The Ombudsman received a complaint from a man whose application for a student grant was refused by Student Universal Support Ireland (SUSI) on the grounds that he had not provided documentary evidence of independent residence. This decision was upheld on appeal by the Student Grants Appeals Board (SGAB).

Examination

The issue centred on the question of whether the man was living at his parents' home or, as he maintained, at the home of a relative. He said that he had provided documentary evidence to support his case in the format specified by SUSI and this included having the Department of Social Protection (the Department) complete forms about the payments he had received. SUSI was not satisfied that he had provided evidence of independent living and his application was refused. When he appealed to SGAB, it contacted the Department and obtained details of addresses that it had the man residing at. This information was taken into account in the decision to refuse the appeal.

Outcome

The Ombudsman was not satisfied that the addresses that SGAB had obtained from the Department corresponded with other information that was available. Therefore, he contacted the Department and asked for copies of all correspondence that the Department had with the man during a particular period. All of the correspondence that the Ombudsman received, including two 'proof of residence' forms, had been addressed to, or received from the man at his relative's address. With the man's consent, the Ombudsman sent this information to SGAB and asked that it review its decision.

SGAB/SUSI then changed its decision and the man was awarded the student grant at the appropriate rate.

Investigating Bullying Complaints

Third level Education Provider

E51/14/1331

Assistance Provided

Background

A student alleged that her lecturer had bullied her. The third-level education provider processed her allegation in accordance with its policy for staff on 'Preventing and Dealing with Bullying and Harassment'.

A formal investigation did not uphold the student's allegation. However, she complained that she was pressurised into having her allegation processed under the education provider's staff policy.

Examination

The education provider did not have a policy for dealing with complaints by students of bullying by staff. However, the student agreed to allow the provider examine her allegation using its staff policy. The Ombudsman did not find any evidence to support the student's allegation that she was pressurised into agreeing to the proposal.

However, he asked the provider to review its current policy and to consider developing a specific policy to cater for allegations of bullying made by students.

Outcome

The education provider agreed to review its Bullying and Harassment policy. It also adopted a Code of Conduct for Staff and agreed to review its Staff and Student Complaint procedure.

While the outcome of the examination was not of direct benefit to the student, the Ombudsman is satisfied that it should benefit other students in future.

Third Level Education Grant

Student Grant Appeals Board

E77/14/0703

Not Upheld

Background

This complaint was about the refusal of a student grant by Student Universal Support Ireland (SUSI) in respect of a Level 8 course that commenced in 2013. The decision by SUSI was subsequently upheld by the Student Grants Appeals Board (SGAB). The man was told that he could not be considered for a grant in respect of this course, because in 2010 he started a two year Level 6 course, of which he had completed only the first year. He was told that he could not be considered for a grant in respect of the Level 8 course, until he had completed one year of that course.

Examination

The Student Grant Scheme provided that if a person had started but did not finish a Level 6 or 7 undergraduate course, he or she must complete an equivalent period of study on a Level 8 course before being considered for a grant.

Under the 2013 Student Grant Scheme SUSI has discretion to waive the provisions which required a student to complete an equivalent period of study “in exceptional circumstances, in line with guidelines drawn up by the Minister”. The Ombudsman asked SUSI to review the man’s application to see if any such exceptional circumstances might exist. SUSI informed the Ombudsman that the guidelines drawn up by the Minister refer to exceptional circumstances that may arise which could impact on a student completing a particular period of study or undertaking exams. In this case, the period of study that the man did not complete was the Level 6 Course that he commenced in 2010. Therefore, any exceptional circumstances had to relate to that time. SUSI said that, after reviewing the man’s application, it was satisfied that he had not provided any evidence that there were circumstances which had an exceptional impact on his decision to leave the Course in 2011.

Outcome

The Ombudsman agreed that ‘exceptional circumstances’ had not been shown to waive the requirement that the man complete an equivalent period of study before he could be considered for a grant. He found that the decision by SUSI/SGAB was in accordance with the relevant legislation.

Property Registration Authority

Property Records

Property Registration Authority

C31/13/0292

Partially Upheld

Background

A woman complained to the Ombudsman that she was given inaccurate and confusing information by the Property Registration Authority (PRA). The woman had contacted the PRA to clarify some entries which had been made on her property folio. The woman believed that she owned the ‘freehold’ to her property. The record showed it as a ‘leasehold’ property. However, in the course of making her enquiries with the Property Registration Authority she was informed that her property was a ‘concurrent lease’ property.

The PRA then informed the woman that it had given her incorrect information and that her property was in fact a ‘leasehold’ property. The PRA apologised for the incorrect information it gave her.

The woman believed that the PRA's record was incorrect and she studied the PRA's records on her property folio including notes of all dealings and actions recorded from the date it was created. The woman was unhappy with several notes on her folio and associated maps and asked the Ombudsman to conduct an examination.

Examination

The Ombudsman noted a number of confusing notes of activities which related to the woman's property. The PRA was unable to provide clear explanations for the notes. However, none of the notes affected the woman's title to the land. The Ombudsman's examination did not locate a record that the 'freehold' for the property was purchased since the property folio was created.

Outcome

While the complaint was not upheld the Ombudsman asked the PRA to remind all staff of the importance of recording notes clearly and accurately, setting out the reasons for the actions being recorded. He added that unexplained notes had the potential to undermine the integrity of the PRA's record systems.

National Car Testing Service (NCTS)

Refusal of NCT Certificate – Right of Appeal

National Car Testing Service (NCTS)

R25/14/1576

Partially Upheld

Background

A man complained about the refusal by the National Car Testing Service (NCTS) to issue him with an NCT certificate. The man appealed the decision but was refused on the grounds that the vehicle had been repaired between the time of the initial test and the time of the appeal. The NCTS told him that as the condition of the vehicle had changed it was impossible to make any judgement on its condition at the time of the original testing.

Examination

The NCTS said that if a person believes they have been unfairly refused a test certificate they can appeal the decision. In the first instance, the matter can be raised with the person in charge of the test centre. If the issue remains unresolved, a written appeal can be made to the NCTS Customer Service Department. Complaint forms are available at test centres. If a customer is unhappy with the outcome of the NCTS's investigation, an appeal can be made to the Independent Appeals Board (IAB), operated by the Automobile Association. A further appeal can be made to the District Court.

The Ombudsman could not examine the decision to refuse the certificate and the issues raised by the man about the testing process because of the right of appeal to the Independent Appeals Board and the District Court. The District Court can decide whether or not a test was properly conducted and refer cases back to the NCTS for retesting.

However, the Ombudsman noted that the man had not been informed of his right of appeal to the IAB and District Court. He believed that the NCTS should recognise that the man had not been informed of his right of appeal and consider his request to refund the cost of the repairs. The NCTS informed the Ombudsman that it was not appropriate for the Independent Appeals Board process to be offered to the man as the appeals process is designed for vehicle owners who feel they have been unfairly refused a test certificate. It said that the man had lodged his appeal after he repaired the vehicle and had received an NCT certificate. However, it agreed to consider reimbursing the man.

Outcome

The NCTS agreed to reimburse the man 50% of his costs. The Road Safety Authority also confirmed that decision letters from the NCTS and the IAB now include details of the appeals process as well as the right of appeal to the District Court.

An explanation of the Ombudsman’s Case Closure Categories

1. Upheld:

The following describe some of the scenarios where the Ombudsman upholds a complaint:

- It has been accepted by the public service provider that maladministration has occurred which has adversely affected the complainant.
- The complainant is found to have a genuine grievance and the service provider agrees to resolve/rectify the matter.

2. Partially Upheld includes:

- The complaint is not fully upheld, but the complainant has benefitted by contacting the Ombudsman.
- The complainant has a number of grievances but only some of them are resolved.
- The complainant is seeking a specific remedy but the Ombudsman decides on a lesser remedy.
- The complainant may have come to the Ombudsman with a complaint about a particular entitlement but, on examination, it is found that a different entitlement is more relevant and the complainant receives the different entitlement.

3. Assistance Provided includes:

- The complainant has benefitted from contacting the Office although their complaint has not been Upheld or Partially Upheld. A benefit to a complainant might take the form of:
 - The provision of a full explanation where one was not previously given.
 - The provision of relevant information, or the re-opening of a line of communication to the body complained about.
- While the complaint was not Upheld or Partially Upheld, the public service provider has adopted

a flexible approach and has granted a concession to the complainant which has improved his/her position or resolved the complaint fully.

4. Not Upheld includes:

The actions of the public service provider did not amount to maladministration. In other words, the actions were not:

- (i) taken without proper authority,
- (ii) taken on irrelevant grounds,
- (iii) the result of negligence or carelessness,
- (iv) based on erroneous or incomplete information,
- (v) improperly discriminatory,
- (vi) based on an undesirable administrative practice,
- (vii) contrary to fair or sound administration

5. Discontinued/Withdrawn includes:

- The complainant does not respond within a reasonable time to requests from the Ombudsman for relevant information.
- It has been established in the course of the examination/investigation that the complainant has not been adversely affected.
- The Ombudsman is satisfied that maladministration has occurred and that appropriate redress is being offered by the public service provider. The complainant refuses to accept the redress and is insisting on a level of redress which the Ombudsman considers to be unreasonable.
- The complainant initiates legal action against the public service provider in relation to the matter complained about.

About the Office of the Ombudsman

The role of the Ombudsman is to investigate complaints from members of the public who believe that they have been unfairly treated by certain public service providers.

At present, the service providers whose actions may be investigated by the Ombudsman include:

- All Government Departments
- The Health Service Executive (HSE) (and public hospitals and health agencies providing services on behalf of the HSE)
- Local Authorities
- Publicly-funded third level education institutions and educational bodies such as the Central Applications Office (CAO) and Student Universal Support Ireland (SUSI)
- Public and private nursing homes

The Ombudsman also examines complaints about failures by public bodies to provide accessible buildings, services and information, as required under Part 3 of the Disability Act 2005.

Making a Complaint to the Ombudsman

Before the Ombudsman can investigate a complaint, the person affected must try to solve their problem with the service provider concerned. In some cases there may be formal local appeals systems which they will have to go through before coming to the Ombudsman - for example, the Agriculture Appeals Office, the Social Welfare Appeals Office etc. If they fail to resolve their problem and they still feel the provider concerned has not treated them fairly, they can contact the Ombudsman.

Further details on making a complaint can be found on our website

<http://www.ombudsman.ie/en/Make-a-Complaint/>

Contacting the Ombudsman

The Ombudsman's Office is located at 18 Lower Leeson Street in Dublin 2.

Lo-call: 1890 223030 Tel: 01 639 5600 Fax: 01 639 5674

Website: www.ombudsman.ie Email: Ombudsman@ombudsman.ie

Twitter: [@OfficeOmbudsman](https://twitter.com/OfficeOmbudsman)

Feedback on the Casebook

We appreciate any feedback about the Ombudsman's Casebook. Please email us at casebook@ombudsman.ie with any comments.



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