



# The Ombudsman's Waterford CASEBOOK

Office of the Ombudsman, Ireland.

Waterford Special Edition 2017

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## Helping to improve services

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 is only part of our work. 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 and from good practice.

In some complaints, the cause of any failure is just a one off – it is 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.

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



Ombudsman Peter Tyndall

This is the first Waterford Casebook we have produced. It is being published on the occasion of our visit to Waterford 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.

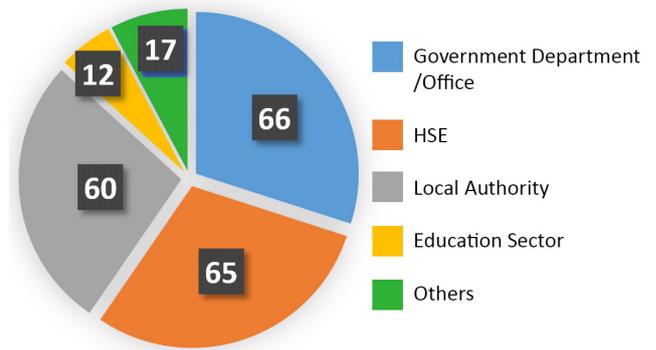
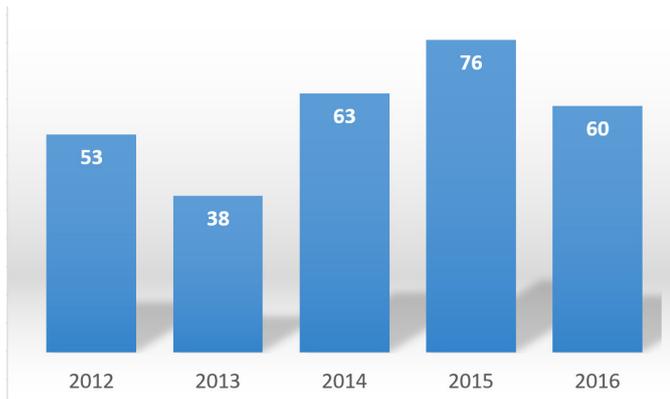
We hope that the Casebook will prove of benefit to service providers in Waterford and that it will contribute to the delivery of better public services in the future.

Peter Tyndall September 2017

# Statistics

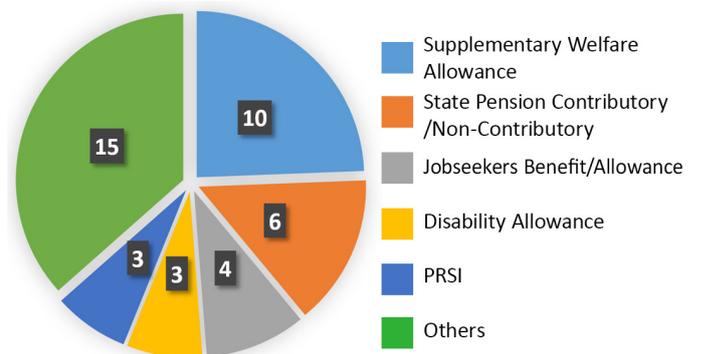
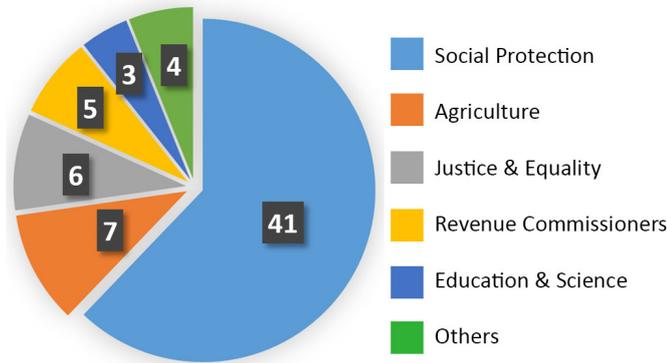
Complaints received from Waterford from January 2014 to July 2017

Complaints received in last 5 years    Complaints received by sector



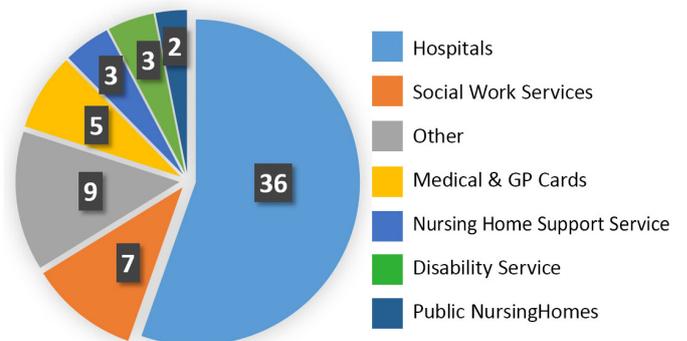
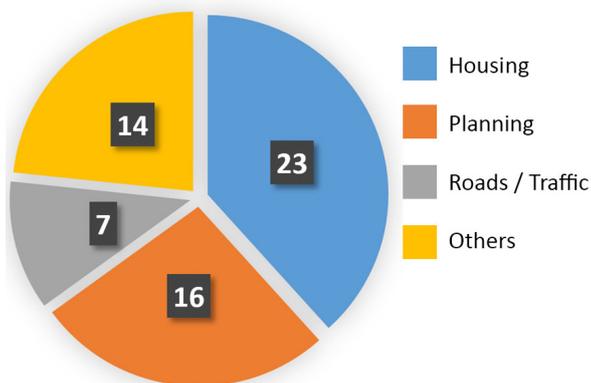
Government Department/Office

Department of Social Protection



Waterford City & County Council

HSE



# Department of Social Protection

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## Invalidity Pension

C22/15/1358

### # Upheld

#### Background

A Waterford man complained about the Department of Social Protection's refusal to backdate his Invalidity Pension (IP). The man had made two applications for an IP. The first one, in January 2012, was refused. The second was accepted, and he was granted IP from December 2013. The man asked that his IP be backdated to the date of his initial application in 2012 but the Department refused.

#### Examination

The man had been receiving Illness Benefit (IB) from June 2008 until he was awarded the IP in 2013. Illness Benefit is paid by the Department when a person cannot work due to illness.

The Ombudsman acknowledged the criteria for the payment of IB and IP are different but noted that the man's medical condition on his first IP application was the same as on the second application. He requested that the Department review its decision.

#### Outcome

The Department agreed to pay the man the difference between Illness Benefit and Invalidity Pension from the date of his unsuccessful IP application in 2012 to when he was awarded the IP in 2013.

## One Parent Family Payment

C22/15/1015

### # Upheld

#### Background

A woman contacted the Ombudsman because the Department of Social Protection had demanded repayment of a One Parent Family Allowance. The overpayment arose because the woman had not informed the Department that her children had been removed from her care.

#### Examination

The woman had little capacity to make reasonable decisions at the time of the overpayment because of alcohol-related issues. However, in the previous year she has given up alcohol. The Ombudsman asked the Department to review her case under Section 246(3) of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007. That section provides that 'the amount of an overpayment to be repaid to the Department may be reduced by the amount of any other benefit or assistance to which the person would otherwise have

been entitled' in the period to which the overpayment relates had they not been in receipt of the payment which gave rise to the overpayment.

#### Outcome

The Department reduced the overpayment by €2,500 to reflect the fact that the woman would have been entitled to Supplementary Welfare Allowance during the period she was wrongly claiming the One Parent Family payment.

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## Invalidity Pension

C22/15/2720

### # Upheld

#### Background

A man who had a disability since 2011 was granted Disability Allowance by the Department of Social Protection later that year. In 2013 the Department granted his application for Invalidity Pension. The man then asked that his application for Invalidity Pension be backdated to November 2011, when he first became disabled. However the Department and subsequently the Social Welfare Appeals Office refused.

#### Examination

Disability Allowance is means tested and the man received an allowance of approximately €5 per week. However, under the Invalidity Pension scheme the man would have received €190 per week. The man said that the Department's staff in its local office had incorrectly advised him to apply for Disability Allowance rather than Invalidity Pension in 2011.

The Department had written to him prior to his application for Disability Allowance suggesting that he may qualify for Invalidity Pension. However, the man has extremely poor literacy skills and had visited the local office to discuss his application and get advice.

After an examination of the Department's files the Ombudsman believed there were sufficient grounds to consider that the man had been misinformed by Department staff in 2011. The Ombudsman asked the Social Welfare Appeals Office to review the case.

#### Outcome

After reviewing the evidence, the Social Welfare Appeals Office revised its decision. The man's Invalidity Pension was backdated to 2011 and he received arrears of nearly €11,788 (which included a deduction for the amount of Disability Allowance he had already received).

# Health

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## Care and Treatment

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### University Hospital Waterford

H52/16/3864

#### # Not Upheld

##### Background

A woman complained that University Hospital Waterford did not offer her a bed in a private room following surgery and a prolonged course of treatment.

##### Examination

The particular unit in which the woman was a patient has 68 beds, eight of which are private single rooms.

The private rooms were used at the time to accommodate patients who required isolation for infection prevention and control reasons. Patients who require end of life care are also prioritised for these rooms.

On discharge from her surgery the hospital assigned the woman a bed in an observation ward. The hospital then allocated her a semi-private room when it deemed her well enough. She was allocated a private room when one became available, having regard to other competing clinical demands on the availability of these rooms.

##### Outcome

The Ombudsman was satisfied that the hospital's actions were reasonable.

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### University Hospital Waterford / Wexford General Hospital

H52/14/1636

#### # Not Upheld

##### Background

A woman complained about the care and treatment given to her mother while a patient in University Hospital Waterford and Wexford General Hospital. She had been a patient in Wexford but was moved to Waterford for surgery. The woman complained that there was a lack of communication between the hospitals before and after the surgery, and that the Waterford Hospital failed to arrange a follow-up appointment with the Orthopedic Consultant in Wexford. She also said that there was no care plan for her mother after the operation.

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### Examination

A review of the medical records confirmed that a care plan was in place and that it was followed by medical and nursing staff in Wexford. It was also clear from the file that staff in both hospitals had been communicating in relation to the mother's medical condition, medications, treatment, care plan etc. University Hospital Waterford had accepted responsibility for failing to arrange the follow up appointment. The hospital apologised for this and it took steps to ensure it would not happen again. The woman's mother had also been reviewed by a member of the Consultant's team after she was transferred back to Wexford.

### Outcome

The Ombudsman concluded that there was a care plan in place and that communication between both hospitals was not an issue. He was satisfied that the hospital had apologised for the failure to arrange the follow-up appointment and had taken steps to prevent it happening again.

The woman also raised a number of issues about the alleged misdiagnosis of a medical condition and medical negligence. However, the Ombudsman is unable to examine issues which relate to clinical judgement.

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## University Hospital Waterford

### Care and Treatment

H52/14/0465

#### # Upheld

### Background

A woman attended University Hospital Waterford for a consultation regarding a preoperative gynaecological procedure. During the course of the consultation the woman said the doctor, who was a locum, was unable to answer certain questions and did not conduct a pregnancy test or sign the necessary form. A number of days later the woman attended the hospital and underwent the procedure. It subsequently came to light that the woman was pregnant and that if the correct test had been carried out there would have been no need for her to undergo the procedure. The woman complained to the HSE and then to the Ombudsman.

### Examination

The Ombudsman examined the investigation into the woman's complaint that was carried out by the hospital. The Consultant accepted that the locum doctor should have been able to answer all the woman's questions and carry out the necessary tests. It was also accepted that records of the woman's treatment were not as well kept as they should have been. Following its investigation of the woman's complaint, the hospital apologised to her for the actions of the locum doctor. It changed its procedures regarding pregnancy testing for gynaecology patients, including the use of consent forms, and provided training for staff on the role of each staff member in the management of complaints.

### Outcome

The Ombudsman considered that, while the shortcomings in the woman's care should not have arisen, the steps to improve the quality of its service taken by the hospital following its investigation of the woman's complaint were reasonable.

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### Complaint Handling

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## University Hospital Waterford

H52/14/1431

### # Assistance Provided

#### Background

A man was unhappy with the level of care he received at University Hospital Waterford and complained to the General Manager of the hospital. The man had been seen by two Consultants at the hospital and the General Manager had requested the Consultants to reply directly to the issues raised in the man's complaint. The General Manager had also indicated that he was willing to meet with the man and discuss all aspects of his complaint.

#### Examination

The man contacted the Ombudsman when the Hospital had failed to respond to his correspondence to the General Manager of the hospital. The hospital apologised to the man for its failure to respond to his initial correspondence. It also offered to arrange a meeting between the man, the General Manager and the relevant Consultants to discuss his concerns.

### Outcome

The Ombudsman was satisfied with the hospital's response to the man's complaint.

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## University Hospital Waterford

H52/14/1908

### # Partially Upheld

#### Background

A man complained about the Health Service Executive's handling of his complaint that a security guard at University Hospital Waterford had assaulted him.

#### Examination

The HSE acknowledged that there were delays as a result of the complaint not being initially processed in the correct office. It said that staff were on leave and that there was a lack of resources. The HSE accepted that the timeframes in its 'Your Service, Your Say' policy had not been met. As part of the Ombudsman's investigation his officials examined the CCTV footage of the alleged assault.

## Outcome

As a result of a review of the handling of this complaint, further staff were allocated to the office dealing with complaints and the Deputy General Manager is now more involved with the process relating to the management of complaints. The staff member involved received a conflict resolution training refresher course. In addition the HSE confirmed that all staff involved in the handling of complaints will be participating in a management of complaints education programme.

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## Nursing Home Support Scheme

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## HSE

HD7/14/0415

### # Partially Upheld

#### Background

A woman complained to the Ombudsman when the HSE sought repayment of €7,485 of funding she had received under the Nursing Home Support Scheme. When the complainant's husband died the woman continued to receive a higher rate of subvention than she was entitled. While the woman's son had not informed the HSE, as required, the Nursing home had informed the HSE of the death of the woman's husband three days after the death.

#### Examination

The Nursing Home Support Scheme application form completed by the woman's son in respect of both his parents, stated at part 5 - "that the applicant must report to the HSE, within 10 working days any changes in his/her or their parents circumstances which may affect entitlement to financial support."

The Chief Appeals Officer was of the view that this requirement had not been complied with and as such no reduction in the outstanding amount should be allowed in this case.

#### Outcome

The Appeals Office accepted that the Nursing home had notified HSE Elderly Services in Waterford. On this basis the HSE reduced the outstanding amount by 50%. As the son had not informed the

HSE as required and as his mother had received a higher rate of subvention than she would have been entitled to, the Ombudsman considered that the HSE offer was reasonable.

## Care and Treatment

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### National Ambulance Service

H09/16/3579

#### # Not Upheld

##### Background

A man complained about the care provided to his father by the National Ambulance Service in Waterford. The man said that an ambulance crew who called to his home twice on the same day left his father lying on the floor. The man said the crew would not put his father back into bed even though his mother gave her permission for them to do so and that the Ambulance Control had said that it would.

##### Examination

The Ambulance Service explained that the ambulance crew did not put the man's father back into bed as they believed there was a risk that he might fall from it. They left him on the mattress on the floor and asked Ambulance Control to contact the Community Care Section of the HSE to make it aware of the man's situation. The crew had also offered to take the man's father to hospital but the offer was refused.

##### Outcome

The Ombudsman was satisfied that the ambulance crew had made a reasonable decision following their assessment of the situation and with the best interest and safety of the man in mind.

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## Delay in Dental Treatment

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### University College Cork

E81/16/1511

#### # Assistance Provided

##### Background

A man from Waterford complained about his dental treatment at University College Cork (UCC) and about its complaint handling policy. He said that he had been left with significant dental problems as a result of treatment he received by student dentists and that there had been a delay in receiving his treatment. He told the Ombudsman that he resorted to getting private treatment to rectify the issue, at his own expense.

##### Examination

Prior to contacting the Ombudsman the man had met with UCC staff to discuss his complaint. UCC told him that it did not intend to continue with his treatment as he was no longer eligible for treatment with a student dentist.

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He then made a detailed complaint to UCC but was unhappy with the response he received. The Ombudsman could not examine the substantive issue of his complaint as it related to clinical judgement, which is outside the remit of his Office. He did however examine the administrative actions of UCC including its complaint procedures.

While the man had submitted a complaint to UCC he received a response which said that UCC had nothing further to add. UCC said that its staff had spent considerable time with the man on the day of their meeting, where they discussed the man's dental treatment and explained why they decided to discontinue his treatment.

UCC also explained that treatment carried out by student dentists is slower than with a qualified dentist as they are becoming familiar with procedures and all of their work has to be assessed by a tutor. UCC said that this is explained to patients prior to commencing treatment.

#### Outcome

Following the Ombudsman's contact with UCC, it said that it would accept additional correspondence from the man if he had any further questions. In addition, UCC agreed that it would arrange for the complaint to be considered by a Professor not previously involved with the treatment and or the complaint.

## Local Authority

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### Waterford City & County Council

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#### Housing General

L50/15/1737

#### # Assistance Provided

##### Background

A man complained about the way Waterford City and County Council handled his complaint about his rental property, his place on the housing list and his housing application.

##### Examination

In relation to his place on the housing list, the Ombudsman discovered that the man had been removed from the list in error. This was rectified and it did not affect his position on the list.

In relation to the property the man was renting, the Council had pursued the matter with the landlord, who had failed to carry out any repairs. However, the landlord's company had since gone into receivership and it was unclear who was responsible for the property. Although the Council is not responsible for repairs to private rented accommodation, a Council engineer had assessed the property and identified several issues to be addressed.

### Outcome

The Ombudsman was satisfied that the Council had handled the case correctly. The Ombudsman informed the man about a Council Housing Application Payment scheme. This allowed him to rent a different property privately while waiting for a Council property.

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## Sewerage & Drainage

L51/13/1612

### # Not Upheld

#### Background

A woman made a complaint about repairs to a drain/sewer which ran under her property which she believed was the responsibility of Waterford County Council. She said that leakage from the drain caused weakness in the soil with consequential subsidence in her house. Her understanding was that this is a public sewer and therefore the Council was liable to maintain it. She said that this infrastructure had been built on land purchased by her parents from the Council in the 1970s.

#### Examination

The issue of who is liable to maintain and/or repair drains/sewers is something that has arisen in a number of complaints to the Ombudsman. The question of whether such liability rests with a Council or with a property owner depends on whether the infrastructure concerned is a drain or a sewer, as defined in legislation.

Essentially, if it is a sewer the Council is liable for its maintenance and repair. If it is a drain the property owner is liable. Legal definitions for 'drain' and 'sewer' are contained in the Water Services Act 2007.

The Council said that the land was sold to the woman's parents as a 'serviced site' and, while it acknowledged that it constructed the drains to service four sites, it did not accept that the damage caused to her home was as a result of any negligence on its part. The Council provided the Ombudsman with a copy of the indenture of sale for the land with a map showing the site with the drains clearly marked.

#### Outcome

The Ombudsman was satisfied that, under the indenture, the land had been sold as a serviced site and that the sale included "the drains to be laid in or under the demised premises". He was also satisfied that what was laid on the woman's property were drains, as defined in the relevant legislation (i.e. drainage pipes for the collection of waste water that are not owned by, vested in or controlled by the Council and which are used to convey waste water from one or more premises). Therefore, the

Ombudsman was satisfied that liability to maintain/repair them rested with the woman and not with the Council.

# Education

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## Waterford Institute of Technology

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### Delay in processing applications

E84/14/1148

#### # Upheld

##### Background

A woman complained that Waterford Institute of Technology (WIT) took approximately 11 months to inform her that it was unable to grant her application for a full-time Postgraduate Research programme. The woman also sought financial compensation for the distress the incident caused her and for the impact on her career.

##### Examination

According to guidelines issued by WIT, applicants are advised that it can take up to two months before receiving confirmation that they have been accepted onto postgraduate research study.

The woman first applied in October 2012 and from February 2013 onwards she was led to believe from various written communications that she would be offered a place in September 2013.

She received a letter on 30 September 2013 saying that she was not being offered a place. This was a few days before her programme was due to start and too late to start the process for a place in another college.

The woman wrote to the WIT seeking an explanation for the delay and the decision but was unhappy with its response.

##### Outcome

WIT accepted that its engagement with the woman was below an acceptable standard and agreed to pay her €1,500 as a gesture of goodwill. The WIT also agreed to carry out a review of all of its administrative procedures, including the information on its website, FAQ,

Guidelines, Procedures, etc. to ensure that all sources of information are consistent. It also took steps to amend correspondence about a 'provisional offer' to ensure that applicants are informed that it is a provisional offer only. WIT confirmed that the Registrar will advise all staff that it is the Registrar only that advises applicants of the success or otherwise of an application. The woman declined the financial compensation.

# Environment

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## Sustainable Energy Authority of Ireland

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### Utility Works

O95/15/0290

#### # Not Upheld

##### Background

A woman complained to the Ombudsman about multiple problems with her heating system, which was installed by the Sustainable Energy Authority of Ireland (SEAI), as part of the Better Energy Warmer Homes Scheme in Waterford.

##### Examination

The heating system ceased working completely since the woman first complained about it.

Following a request from the Ombudsman SEAI agreed to undertake a new inspection of her home by an appropriately qualified person to see what the issues were.

The inspectors determined that there was a leak in the sub-floor pipework of the ground floor heating circuit which meant this circuit could not maintain water pressure. The pipework in question was in the property from an original heating system. Under normal circumstances when such pipework is encountered, SEAI contractors replace it with copper piping which is surface mounted on walls. However, the woman was opposed to this proposal as she did not want pipes to be surface mounted. The contractor therefore proceeded to replace what pipework he could, connecting as appropriate to the original system.

SEAI was satisfied that the woman's heating ceased to function because of a substantial leak in pipework which was retained at her request. SEAI said the defect was in no way related to works completed by the contractor. SEAI would therefore not accept responsibility to undertake any remedial actions.

The Ombudsman accepted that the leak identified by SEAI was part of the original heating system which the woman did not want to replace, and was not related to the works carried out by SEAI contractors. Accordingly, he also accepted that, as the contractors acted in accordance with the woman's wishes, they were limited in what they could do.

##### Outcome

The Ombudsman was satisfied that SEAI's position was fair.

# OTHER OMBUDSMAN CASES OF INTEREST:

## Woman refused Care Allowance for one of her two sons despite both having a similar condition

### Background

Domiciliary Care Allowance (DCA) is a monthly payment for a child aged under 16 with a severe disability, who requires ongoing care and attention, substantially over and above the care and attention usually required by a child of the same age. The child must have a severe disability that is likely to last for at least one year.

I received a complaint from a woman who applied for DCA for her son in October 2010 but was refused. In January 2013, she applied for DCA for her older son, who has a similar condition to his brother. The woman was initially refused DCA for her older son. However, when she submitted further correspondence to the Department of Social Protection in March and April 2013, her application was referred back to the Department's Medical Examiner for review and she was awarded DCA for the older son. She was now left in a situation where she had two children with a similar condition; where one of them was regarded as being eligible for DCA, while the other son was not.

### Examination

My examination of the Department's file showed that some of the medical records for her son had not been sent to a Medical Examiner for review before the appeal was heard in his case. In light of this, I wrote to the Department asking it to review all of her son's medical records.

### Outcome

The Department agreed to review the case. Based on the additional information her second son was now found to be medically eligible for the allowance. The Department revised its decision and decided awarded DCA to the woman from 1 December 2011. The total amount paid to her from the Department was €12,000.

## Department of Agriculture sought repayment of €25,000 from man after his land flooded

### Background

A man complained to the Ombudsman after the Department of Agriculture, Food and the Marine sought to recover a grant of over €25,000 from him following flooding of his land in Kerry. The man had received a grant under the Department's Afforestation Scheme to establish a forest on his land. However the forest had been destroyed following severe flooding in 2009.

### Examination

The Department maintained that the man knew that his land was prone to flooding when he made the application for the grant in 2004. It also maintained that the man was partially responsible for damage to the forest.

The Ombudsman discovered that the Department had inspected the man's land and had been made aware that the land may be prone to flooding prior to granting the man's application. In addition, the Ombudsman was satisfied that the Department's definition of 'force majeure' applied in this particular case and therefore, the man was not responsible for the destruction of the forest.

### Outcome

The Ombudsman decided that the Department had acted unfairly in seeking recovery of the money. The Department agreed not to pursue the repayment.

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## Dog owner fined based only on an allegation

### Background

A man was fined by Cork County Council following an allegation that a third party had been attacked by his dogs. He was contesting the fine in the District Court when he contacted the Ombudsman. The man complained that the Council had fined him without having first established the facts and there was no formal appeals procedure.

### Examination

The Ombudsman established that the Council had a policy of fining dog owners following receipt of signed written statements about their dogs without investigating the complaints. He considered this unfair and asked the Council to review its policy.

### Outcome

The Council confirmed that it had conducted an internal review and amended its protocol. This now provides that on receipt of a verbal or written complaint, the Dog Warden will contact both the complainant and the owner of the dog(s) to investigate the alleged incident. The Council discontinued the prosecution and the man was awarded costs.

## Council imposes time limit for local residency contrary to regulations

### Background

A woman who lived in Laois applied to Laois County Council for social housing. The Council refused her application as she had no 'local connection' to the area. In doing so the Council said that it was applying a condition in the social housing regulations. The woman contacted the Department of Environment and Local Government. She said that the Department told her that the Council's decision was wrong and that, as she had an address within the Council area, she should be assessed for social housing. When she appealed the decision to the Council her application was again refused, this time on the grounds that she had not lived within the Council area for a period of six months or longer.

The regulations which the Council referred to - the Social Housing Assessment Regulations, 2011- provide that a person may be assessed for social housing if they satisfy one of a number of conditions, one of which states that the local authority must be the one in which the applicant 'normally resides'. The phrase 'normally resides' is not defined in the regulations and no period of time is mentioned for being resident. In this case the Council decided that it was to mean at least six months resident in the area prior to the housing application. The woman brought her complaint to my Office. I also received a similar complaint from a couple who had received a similar response from Laois County Council in relation to their housing application.

### Examination

I noted that the period of six months was not set out in any legislation and was not included in the Council's Housing Allocation Scheme. I contacted a number of local authorities to find out how the regulations were being interpreted by each. It emerged that the practice varied widely. Some authorities required the applicant to have lived within the area for a specified time while others applied no such requirement.

Laois County Council did not accept that there should be no time limit. The Council said that it would continue to apply its 'six month' rule in the absence of a specific definition in the regulations or guidance from the Department of Environment and Local Government. When I contacted the Department it clarified that it was its opinion that the regulations did not allow local authorities to set such time limits.

### Outcome

I asked the Department of Environment and Local Government to review the guidance material that had issued to local authorities and to clarify the application of the regulations. The Department agreed and issued a circular clarifying that a housing authority may not impose a minimum period of residence in an area prior to accepting an application for social housing.

Following this advice Laois County Council accepted that the complainants had a right to be assessed for social housing. As the six month period had elapsed both the woman and the couple were already on the housing waiting list and receiving social housing support. However, I requested that their applications for social housing be backdated to the original dates of application and the Council agreed to this. This had the benefit of improving the complainants' positions on the housing list.

## Student asked to read from wrong paper when assessing reading ability

### Background

A mother complained on behalf of her son who has Asperger's Syndrome after he was refused a reader for his Leaving Certificate Examinations under the RACE Scheme.

### Examination

In order to obtain a reader, the student must meet certain criteria. These include reading a passage from a sample examination paper at the appropriate level. The student was sitting three Higher Level subjects in his Leaving Certificate Examinations. The SEC file showed that the school had asked the student to read from Ordinary Level English sample papers. This did not provide a true reflection of his reading difficulties. The error had not been noticed during the review or the appeals process.

The Ombudsman asked the Commission to have the student reassessed at the correct level.

### Outcome

As a result of the reassessment, the student was found to meet the criteria to qualify for a reader for his Leaving Certificate Examinations.

# 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 body that maladministration has occurred which has adversely affected the complainant.
- The complainant is found to have a genuine grievance and the body agrees to resolve/rectify the matter.
- The body departs from the original position some form of redress is offered

## 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 body 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 body 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 body. 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 body in relation to the matter complained about.

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# About the Office of the Ombudsman

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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.

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## 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/>

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## 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](http://www.ombudsman.ie) Email: [Ombudsman@ombudsman.ie](mailto:Ombudsman@ombudsman.ie)

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

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## Feedback on the Casebook

We appreciate any feedback about the Ombudsman's Casebook. Please email us at [casebook@ombudsman.ie](mailto:casebook@ombudsman.ie) with any comments.

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