



**An Roinn Sláinte
agus Leanaí**

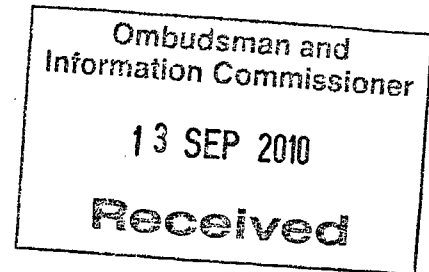
DEPARTMENT OF HEALTH AND CHILDREN

Oifig an Aire
Office of the Minister



10 September 2010

Ms Emily O'Reilly
Ombudsman
Office of the Ombudsman
18 Lower Leeson Street
Dublin 2



**Re: Ombudsman Investigation – provision of in-patient services – Section
52 Health Act, 1970**

Dear Ombudsman,

I have drawn certain aspects of your draft Report in respect of in-patient services to the attention of the Government. The Government is aware of the contents of the submissions that the Department has made to you on the aspects of the draft report furnished to it. The Government supports those submissions. The Government notes that you have rejected the Department's request to furnish it with the full report.

The Government also notes that you have not invited any comments from it on any of the contents of your draft Report notwithstanding that the draft extracts furnished to the Department raise issues of special concern to the Government and make criticisms with regard to the functioning of the Government and of Governmental arrangements.

Furthermore, many of the draft findings, comments and conclusions in the draft Report are based on an approach to health funding and the provision of health services, which, if implemented, would ignore the very serious financial constraints on the Department, the HSE and the State generally and which would create enormous liabilities that this State could not possibly afford and which the Oireachtas has never approved. The draft conclusions also ignore the legal constraints on how funding can be, and is appropriated, pursuant to constitutional and legislative procedures.

Yours sincerely

Mary Harney TD
Minister for Health and Children

Our Ref: SPI/09/0001

17 September 2010

Ms. Mary Harney TD,
Minister for Health & Children
Department of Health and Children
Hawkins House
Dublin 2

Dear Minister,

Ombudsman Investigation - provision of in-patient services
(Section 52 Health Act 1970)

I refer to your letter of 10 September 2010 in which, as I understand it, you convey the views of the Government in relation to my investigation into the provision of in-patient services. I understand from your letter that the Government has endorsed the views expressed by your Department that my investigation is being conducted without proper jurisdiction, that fair procedure requirements have not been met in the course of the investigation and that I have displayed prejudice and objective bias in relation to the investigation.

I do not accept these allegations for reasons which I have already outlined in previous correspondence with your Department.

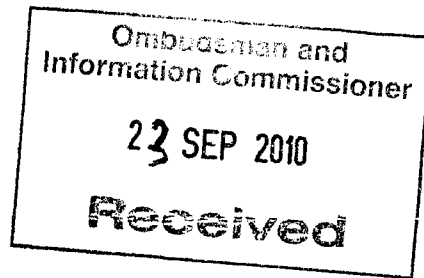
In relation to your Department's request for a copy of the full draft report, I take the view that the requirements of fair procedure have already been met in full. In order to avoid any prolongation of this dispute, and to remove the basis for any claim of unfair procedure, I have now decided to provide your Department with a copy of those portions of the draft report not provided hitherto. I have sent them to your Department under separate cover.

I am now proceeding with the finalisation of my report taking account of the detailed submission made by your Department on 23 August 2010.

Yours sincerely,

Ag. EOR

Emily O'Reilly
Ombudsman



MHP2995-10

22nd September 2010

Ms Emily O'Reilly
Ombudsman
Office of the Ombudsman
18 Lower Leeson Street
Dublin 2

Dear Ms O'Reilly

I wish to thank you for your letter concerning the provision of in-patient services (Section 52 Health Act 1970) and to let you know that its contents have been noted.

Yours sincerely

Mary Harney, T.D.
Minister for Health and Children