



IMPROVING PUBLIC SERVICES



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Designed by:

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Ombudsman

Annual Report 2017

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Report to the Oireachtas

I hereby submit the Annual Report of the Office of the Ombudsman to the Dáil and Seanad pursuant to the provisions of Section 6(7) of the Ombudsman Act 1980 (as amended). This is the 34th Annual Report submitted in relation to the work of the Office of the Ombudsman since it was established in 1984.

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

Peter Tyndall
Ombudsman

June 2018



Ms Jacqui McCrum
Director General

CHAPTER 01

Chapter 1: Introduction from the Ombudsman – Improving Public Services

1.1 Introduction

2017 was a highly productive year for my Office. The number of complaints remained broadly the same as in 2016. However, the number of systemic and own initiative investigations we undertook reached new highs.

Most of our work relates to individual complaints. Often, we can resolve these at an early stage without the need for a formal examination. On occasions, a phone call from my Office is enough to put right something which has gone wrong. On other occasions, it becomes clear quite quickly that the body complained about has not done anything wrong. We can offer a better explanation to the individual, and reassurance that they have not lost out as a result of unfair or improper decisions. In cases where we find that the legislation or process has a flaw, we will take steps to put this right. Complaints that need more consideration are often about individual issues, but can sometimes reveal problems that are likely to impact on many other people. These complaints can then spark wider investigations to establish if others have been affected. If they have then we need to see what steps are needed to put things right, not just for people who have complained to my Office, but for all those who have been affected. We need to make sure that the same issues do not affect other people in the future. Sometimes we see clusters of complaints with a common theme, which again prompt us to give wider consideration to the underlying issues.

‘Opportunity Lost’ – Magdalen Restorative Justice Scheme investigation

Inside, you will find commentary on some key investigations undertaken during the year. Most prominent amongst these was the investigation into the way in which the Department of Justice and Equality administered the Magdalen Restorative Justice Scheme. This hard hitting report highlighted the exclusion of some women from the scheme who had worked in the laundries and lived in the convents in which they were located. It also highlighted the way in which women who were eligible for the scheme, but were deemed to lack capacity, were unable to access it. While the majority of the recommendations were accepted quickly, the issue of access to the scheme took longer to resolve. In April 2018 the Minister for Justice and Equality announced that he will implement all of the recommendations in the report. I will continue to work with the Department to avoid any further delay in implementation.

‘Lost at Sea’ investigation

Some people consider that because an Ombudsman can only make recommendations and does not have binding powers, that the Office is likely to be ineffective. In practice, this is not the case. In more than 30 years of the Office in Ireland, only one recommendation had ever been categorically rejected. This was in respect of the “Lost at Sea” report. I am delighted to say that after many years, the recommendations in this report have finally been implemented. I am very grateful to the Government for finally righting this historic wrong.

The investigation related to an unsuccessful application by a family for replacement capacity under the Lost At Sea Scheme. The scheme was set up in 2001 to assist boat owners who had a tradition of sea-fishing by replacing fishing capacity for a boat sunk between 1980 and 1989.

Motorised Transport Grant/Mobility Allowance investigation

Generally, I have been able to agree findings and recommendations in advance with the body I have investigated. That was the case with Tusla, and the HSE, when I published my investigation reports during the year. I am pleased that both bodies are now taking steps to put in place the necessary changes. However, I want to draw attention to the failure to bring forward new proposals to meet the mobility needs of disabled people. The Motorised Transport Grant and the Mobility Allowance schemes were both discontinued when my predecessor, Emily O’Reilly, found that they were in breach of Equal Status legislation. The promised successor scheme is now many years overdue. This problem is compounded by the fact that the Disabled Drivers and Disabled Passengers Scheme, which provides tax concessions, has narrow and unhelpful access criteria. I think at this stage I have had representations about the scheme from virtually every member of the Oireachtas on behalf of disabled constituents.

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Disabled people need to be able to travel to fully take part in the life of our communities. I will be making further representations to seek a resolution to the current, completely unacceptable, position.

Complaints from those in asylum seeker/refugee accommodation centres

On a very positive note, I am pleased to draw attention to the acknowledgement that my jurisdiction includes examination of complaints from those living in accommodation centres for asylum seekers and refugees (sometimes referred to as 'Direct Provision' centres). The work of my staff in visiting every centre and tackling issues as they arose, as well as dealing with formal complaints, was an important step forward. Many residents are fearful of authority, afraid that complaining might affect their application for asylum and do not have English as a first language. I would like to thank the Department of Justice and Equality officials for their assistance in addressing the problems as they have arisen.

The future

In 2018, my Office will be conducting follow up investigations into health complaints and end of life care, to ensure that the recommendations in our "Learning to Get Better" and "A Good Death" reports have been implemented and are bringing about the necessary improvements. My staff have been engaged with those responsible within the health service for implementing these recommendations and I know that much good progress has been made. Later in the year, we plan to begin a major investigation into the provision to ensure that people with intellectual disabilities can be properly supported to lead fulfilling and engaged lives within their communities.

I would like to close by offering my thanks to all the staff in my Office for their commitment and dedication through the year. In particular my thanks are due to Senior Investigators, Sean Garvey and Tom Morgan, and to the Director General of the Office, Jacqui McCrum.



Peter Tyndall
Ombudsman

June 2018

CHAPTER 02



Chapter 2: Improving Public Services through complaints

In this Chapter I set out my role, an analysis of the complaints we received in 2017 and highlight some of the issues that arose during the year.

2.1 Role of the Ombudsman

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

- government departments
- local authorities
- the Health Service Executive (HSE)
- public hospitals
- publicly-funded third level education institutions
- nursing homes

During 2017 it was confirmed that I can examine certain complaints from those living in 'direct provision' accommodation. This is a development which I warmly welcomed.

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

When considering complaints we will consider if the action complained about, for example a decision was made, or there was a failure to act:

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

In practice, many complaints are resolved informally after my Office has brought the complaint to the attention of the public service provider concerned.

If I uphold a complaint I will recommend appropriate redress. I may also make recommendations which aim to reduce the likelihood of others being similarly affected in the future.

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

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



“We greatly appreciate the assistance of the Ombudsman in taking on and resolving this matter, and it’s been a pleasure to deal with you personally.”

2.2 Complaints received and completed: Analysis

In 2017, the total number of complaints received by my Office about service providers within my jurisdiction was 3,021.

79% of cases were closed within 3 months, 91% within six months and 98% were closed within 12 months.

Of the 1,542 cases within my jurisdiction that were substantively examined, 27% of cases were fully upheld, 3% were partially upheld, assistance was provided in 14% of cases, and 56% were not upheld. Overall, in 44% of cases, members of the public directly benefitted from contacting the Office. Even where complaints are not upheld, we are often able to provide an explanation or reassurance.

An additional 1,518 complaints were either discontinued, withdrawn or outside remit. Usually in these cases the complainant has not yet completed steps to resolve their complaint with the public service provider. We ask them to go back to the local service to complete the complaint process, and invite them to come back to us if the case is not resolved.

In cases that are outside our remit we try to provide contact details for the appropriate body who can consider their complaint.

The Government Departments/Offices sector is the largest source of complaints (at 31.5% compared to 38.4% in 2016), followed by Local Authorities (28.2% compared to 27.6%) and the Health and Social Care Sector (20.1% compared to 19.7%). (This is broadly consistent with the volume of interactions that these bodies have with service users).

Of the 953 complaints made against the Government Departments/Offices, 655 were against the Department of Social Protection (now the Department of Employment Affairs and Social Protection), 87 against the Department of Agriculture, Food and the Marine, 65 against the Revenue Commissioners and 32 against the Department of Justice and Equality.

109 of the 852 Local Authority complaints were against Dublin City Council, 72 against Cork County Council, 66 against Cork City Council, 59 against Limerick City and County Council, 48 against Galway City Council, and 46 against Galway County Council. This reverses the trend from 2016 where for the first time Cork City Council was higher than Dublin City Council.

In the Health/Social Care sector there were 538 complaints against the HSE (or bodies acting on its behalf). 246 of these were about hospitals. 59 involved medical or GP cards and 55 related to Primary and Community Care. There were 70 complaints relating to Tusla.

A total of 120 complaints were received about Regulatory Bodies, 44 of which were against the Road Safety Authority and 35 against the Law Society of Ireland.

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We received 202 complaints against publically funded-third level education bodies such as universities and institutes of technology (including 72 against Student Universal Support Ireland) and 24 against the HEAR/DARE access schemes operated by institutions within the sector. I am pleased to report a 75% reduction in the number of complaints against the State Examinations Commission (SEC) in 2017 at 14 compared to the 57 received in 2016. This reduction follows protracted engagement by my Office with SEC on the examination results appeal process in particular.

We received 140 complaints against other public service providers that first came within my jurisdiction in May 2013.

My Office completed 47 of 63 complaints received against private nursing homes during 2017, which was the second full year they were subject to examination. Of these 47, 4 were not upheld, 8 were upheld, 3 were partially upheld and assistance was provided in 2 cases. The remainder were withdrawn or discontinued.

In April 2017 it was confirmed that I can examine complaints from asylum seekers and refugees living in State-provided accommodation centres and Emergency Reception and Orientation Centres. The outcomes of the 115 such complaints I received in 2017 are set out in table 13. The table includes all complaints received from those living in accommodation centres about service providers such as the Department's Reception and Integration Agency (44), the Direct Provision Centres (30), the Department of Social Protection (20), health complaints (10), and the Legal Aid Board (3). Of the 115 complaints received, 9 were upheld and 25 were not upheld. We provided assistance to the complainant in 26 cases while the remainder were withdrawn or discontinued. My staff also resolved many issues through direct intervention while visiting centres.



*"Dear Sir, Madam.
I am writing to thank you for getting the disability for my cousin. I knew he was entitled to it but the system let him down. He is doing fine at the moment but has to take it easy. Once again I sincerely thank you on behalf of my cousin."*

2.3 Notices issued to service providers under section 7 of the Ombudsman Act

Section 7 of the Ombudsman Act 1980 (as amended) confers very significant powers on the Ombudsman in terms of acquiring documents and information necessary for the examination or investigation of complaints. Under the Act, there is a legal obligation placed on “any person who, in the opinion of the Ombudsman, is in possession of information, or has a document or thing in his power or control, that is relevant to the examination or investigation” to provide that material to the Ombudsman.

In almost every case the information I need is provided to my Office without the necessity to issue a section 7 notice. My Annual Report is used to publish the number of occasions where I have issued a section 7 notice.

During 2017 my Office was required to issue one section 7 notice. The notice related to information sought from the HSE concerning Portiuncula Hospital. Subsequent to the issuing of the notice, the HSE provided the information sought and the complaint was brought to a conclusion.

2.4 Complaints from asylum seekers/refugees in ‘accommodation centres’

On the 3 April 2017, it was confirmed that my Office had remit to accept certain complaints from asylum seekers and refugees living in government-provided accommodation centres – sometimes known as ‘direct provision’. To raise awareness of my role in the area, my staff visited 30 of the 32 accommodation centres operated by the Reception and Integration Agency (RIA) and the three Emergency Reception & Orientation Centres (EROC) operated by the Irish Refugee Protection Programme (IRPP). I produced a factsheet explaining my remit and it is available on my website in the 5 most common languages (English, French, Urdu, Arabic & Russian) spoken by residents of the centres. In conjunction with the Ombudsman for Children’s Office, information sessions were held for centre managers, the RIA and the voluntary organisations working with asylum seekers and refugees. In early 2018 I published a commentary (available on my website) on my Office’s work in 2017 in providing independent redress for refugees and asylum seekers who have engaged with State-provided accommodation and services.



2.5 Department of Employment Affairs and Social Protection: Complaints about the recovery of overpayments

Following an increase in the number of complaints against the Department of Employment Affairs and Social Protection (DEASP) over the past two years, my Office engaged with the Department in a systemic examination of its overpayments recovery policy and practice.

During this examination 95 complaints were received by my Office. Of the complaints examined and closed to date approximately 60% were concluded in favour of the complainant.

Concerned about the abnormally high rate of 'upheld' complaint outcomes, my Office randomly selected two Intreo Centres in which to conduct a systemic examination of local overpayment case files. Arising from this examination, as well as the complaints received from individuals, I identified several matters of potentially unsound administrative practice to the Department.

I was principally concerned about the Department's practices with regard to the following:

- overpayments to customers because of errors made by the Department's own staff
- legacy non-performing debt – particularly older overpayments where there had been no communication from the Department to the customer for several years
- undue delay by the Department in acting on information in its possession
- lack of evidence of overpayment – including appropriate documentation and records
- poverty proofing – to ensure that mandatory deductions from customers' incomes does not cause severe hardship to them or their families
- uniformity – to ensure that decisions to raise a debt and pursue recovery are consistent throughout the country
- adherence to the principles of natural justice

On a broader front I also made a submission to the Department of Public Enterprise and Reform for inclusion in its review of its good practice guide for public bodies on debt collection.

Staff in my Office have been having regular meetings with the DEASP's Central Debt Management Unit to address individual complaints and the systemic issues identified. The Department is preparing a revised overpayment management and debt recovery policy guideline, which it intends to roll out upon completion.

I am satisfied with the positive approach and cooperation from the DEASP in addressing my concerns. The process of engagement between my Office and the Department is expected to conclude in 2018.

2.6 Complaints under the Disability Act 2005

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

As I have reported in previous years, the low number of complaints about Part 3 of the Disability Act is very disappointing (2 received in 2017). It is vitally important that people with disabilities are informed as to their rights on access to services and information and that they are aware of their right of recourse to me as Ombudsman to examine their unresolved complaints. My Office has published an information booklet about my role in this area. It is also crucial that both professional and non-professional people involved in the disability sector are knowledgeable about the Disability Act 2005.



"I would like to thank you for your email and for the courteous and efficient treatment of my complaint by you and the staff of the Ombudsman's office."

CHAPTER 03



Chapter 3: Improving Public Services through investigations

The vast majority of complaints we examine are resolved quickly and informally. However, occasionally I am required to initiate an investigation of a complaint or group of complaints. During 2017 I published the outcome of the following systemic investigations.

3.1 Opportunity Lost: An investigation into the administration of the Magdalen Restorative Justice Scheme

'Opportunity Lost' – the report of my investigation into the administration by the Department of Justice and Equality of the Magdalen Restorative Justice Scheme - was published in November 2017. The focus of the investigation was on three main issues:

- eligibility for admission to the scheme
- the process undertaken in assessing applications for admission to the scheme
- the manner in which women who were deemed to lack capacity to manage their own affairs were dealt with.



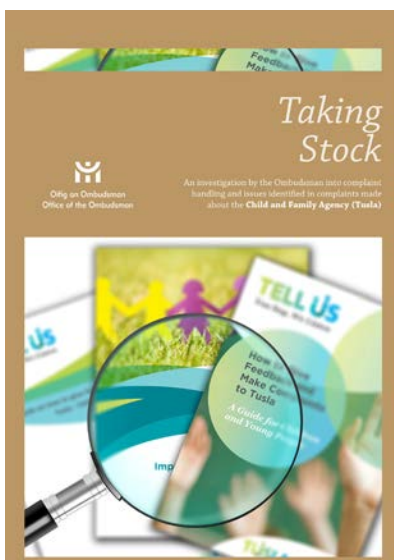
As a result of this investigation, I made four recommendations – three of which were directed towards the Department of Justice and Equality. These three recommendations are as follows:

- where there is evidence that a woman worked in one of the listed laundries but was officially recorded as having been “admitted to” a training centre or industrial school located in the same building, attached to or located on the grounds of one of the laundries, the Department should fully reconsider their application with a view to admitting them to the Scheme
- the Department should review any cases where there has been a dispute over the length of stay. All available sources of evidence and information should be pursued and considered in this regard
- the Department should work closely with the Courts Service to ensure that wardship applications in respect of the women who are deemed to lack capacity are processed in a timely manner and proactively provide practical support to the appropriate persons to ensure that these applications are made.

At the time of going to print I was actively engaging with the Department with a view to having the recommendations implemented as soon as possible. I am hopeful that the matter will be satisfactorily and fully resolved.

I also made one general recommendation which was not specifically directed towards the Department of Justice and Equality. I have recommended that guidance should be prepared centrally in respect of the development and operation of redress or restorative justice schemes generally and should be applicable across all government departments and public bodies. This is the first time my Office has issued a recommendation of this kind.

3.2 Taking Stock: An investigation into complaint handling by the Child and Family Agency (Tusla)



In July 2017, I published a thematic investigation report which looked at how the Child & Family Agency (Tusla) handles complaints about the services it provides and at the issues which form the subjects of these complaints. In particular, it looked at how Tusla has dealt with complaints about the management of retrospective allegations of child abuse, at how current allegations against adults are handled and at interactions between Tusla and foster carers.

The report centred on nine particularly serious complaints made to my Office, during the period 2012 -2016, which were either upheld or partially upheld. As part of the investigation process, 30 internal Tusla complaint files were reviewed to see how they were handled.

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My Office also hosted a Workshop attended by complaints officers working at senior level across Tusla services, to hear what they had to say about the complaints process, and how it should operate.

While the volume of complaints about Tusla to my Office is relatively low, the impact on the individuals involved in these cases was significant and included the following:

- Five years to conclude that retrospective allegations of abuse against a grandfather were unfounded
- Allegations of abuse misfiled resulting in a fifteen-month delay in them being examined by social workers
- Sensitive correspondence being sent to the wrong address on two occasions
- Adequate notes not taken during the interview process
- Interview notes destroyed before their content agreed with the person accused
- Person accused did not receive written notice of the allegations made about him
- Fostering applicant refused an opportunity to appeal a decision limiting her to the provision of respite care only
- Counselling and support not offered when fostering placement ended in an unplanned way

Undue delay also featured in some of the internal Tusla complaint files, which showed that retrospective allegations disclosed in one case were not followed up over a three-year period. In another instance, by the time the assigned social worker had contacted the complainant, the person about whom the allegations were made had died.

There were seven different themes highlighted within “Taking Stock” namely:

1. Undue delay in dealing with allegations of abuse
2. Right to fair procedures and due process
3. Notetaking and Record Keeping
4. Communications
5. Support and training for staff
6. Management and recording of complaints & complaint handling
7. Signposting to the Ombudsman

I made a number of findings and recommendations under each of these themes, all of which were accepted by Tusla. An “Action Plan” has been put in place, which is subject to review within specified timeframes.

3.3 Treatment Abroad: An investigation into the administration of the Treatment Abroad Scheme by the HSE



In January 2018, I published my investigation report into the Health Service Executive's (HSE) administration of the Treatment Abroad Scheme.

The Treatment Abroad Scheme (TAS) was introduced to ensure that all EU / EEA patients, including Irish patients, have access to the same level of medical expertise and treatments regardless of their State of residence. Where treatments and remedies they need are available in the EU / EEA, but not in Ireland, (or not available within a reasonable time-frame) Irish patients may apply for funding under the TAS to travel for the treatment. The investigation was prompted by complaints from patients whose applications for funding under the scheme were refused.

Within the Irish healthcare system the proportion of patients who seek funding under the TAS is very small. This is a reflection that the highest standards of healthcare are generally available here. For the vast majority of patients who seek treatment abroad under the scheme the application process works well. However, for a small number, the experience was extremely stressful and upsetting, and it really did not need to be.

The TAS scheme is complex and there is insufficient information for patients to understand the conditions which must be met for funding to be approved. The investigation report, which is available on www.ombudsman.ie, sets out 11 recommendations which are designed principally-

- To eliminate distressing and unnecessary refusals for patients at the end of the funding application process. This can be achieved by introducing a 'pre-referral' check system so that referring consultants can make sure that their patient and the 'treatment abroad' satisfy the criteria for eligibility under the scheme before inviting patients to apply for TAS funding.
- To assist consultants with the implementation of a 'pre-referral' check system by developing a comprehensive guide to the TAS scheme for consultants.
- To assist patients who may have entitlements under the scheme by making available clear, comprehensive and easy to understand information
- To improve the TAS appeals system for refused applicants. The appeal system should be independent of the original decision maker and have the necessary medical expertise to arbitrate on clinical and non-clinical issues.

I am pleased to report that the HSE accepted all my recommendations.

3.4 Long-Term Illness Scheme - HSE

I received a number of complaints about the Long-Term Illness Scheme. This scheme entitles people who are diagnosed with a long-term illness to avail of drugs, free of charge, for the treatment of that condition. In addition, medical card holders do not have to pay prescription charges for drugs associated with long-term illnesses. All of the complainants said that they were not made aware of the scheme at the time of diagnosis resulting in them incurring unnecessary drug and prescription costs. When they complained to the HSE, it had agreed to reimburse the costs they had incurred to the date they applied for a Long-Term Illness Card, but it declined to recoup costs beyond that date.

I discussed the complaints with the HSE pointing out that good administrative practice required it to provide clear information about schemes and entitlements for patients. I was pleased that the HSE agreed to backdate the costs incurred for each complainant up to a maximum period of four years. For new applicants, the HSE agreed to allow a period of three months for backdating purposes. It acknowledged that the level of information about the scheme was clearly inadequate and it agreed to have pamphlets distributed across all GP surgeries, pharmacies and citizen information centres, so that patients will be better informed of their entitlements.

3.5 Mobility Allowance and Motorised Transport Grant – Update

In my 2016 Annual Report (page 21) I reported that, according to the Government's Legislative Programme, the Health (Transport Support) Bill was due for publication during the 2017 Spring/Summer Session. The Bill is intended to introduce a new unified statutory scheme to replace the Mobility Allowance and Motorised Transport Grant Schemes which had been closed to new applicants in 2013 by the Department of Health. Those schemes had been found to be in breach of Equal Status legislation following investigations by my Office.

The stated purpose of the new scheme is to provide for payments to be made as a contribution towards transport costs to people with severe disabilities on a low income who cannot access public transport. It is self-evident that the new scheme is intended to offer support to a particularly disadvantaged group of people.

It is with a growing sense of frustration and disappointment that I have to report that the Government's Legislative Programme for the 2018 Spring/Summer Session once again lists the Bill but, at the time of going to print, the Heads of Bill have not as yet been published. In my view, given that it is now five years since the previous schemes were closed down, the draft legislation merits urgent attention and I will want to see evidence of this in 2018.

CHAPTER 04



Chapter 4: Improving Public Services: Case Studies

In Chapter 2 I summarised a number of the complaints my Office received in 2017. In 30% of cases I either upheld or partially upheld the complaint against the service provider. In this Chapter I present summaries of some of the complaints that I upheld.

AGRICULTURE

4.1 Farmer gets refund of €27,550 penalty as he was not informed of correct procedures

Background

A man made a complaint when the Department sought to recover €27,550 from him in relation to a Rural Environment Protection Scheme (REPS 4) payment. This scheme is designed to reward farmers for farming in an environmentally friendly manner. One of the conditions of the scheme is to notify the Department of any changes to land ownership. In 2012 he changed ownership of lands and failed to notify the relevant section of the Department. The Department asked the man to return a payment of €27,550 which he had received under the scheme which he did. The Department also cancelled the last two stages of the contract with the man.

Examination

The Department acknowledged the man's application had not been processed in accordance with Local Office procedure and that he had not received all the information to which he was entitled. The Local Office had failed to issue an 'Adjusted Plan' letter. This letter outlines the consequences of not submitting an adjusted plan to inform the Department of a change of land ownership. The Local Office had also failed to notify him of the termination of his contract.

Outcome

The Department acknowledged it failed to follow Local Office procedure and reissued the payment of €27,550 which the man had returned to the Department. The Department also processed the last two stages of his contract. This resulted in him receiving €13,651 for the last two stages of his contract.

4.2 Man refused agriculture grant after failing to tick online box

Background

A man complained to the Ombudsman when the Department of Agriculture, Food and the Marine imposed a penalty on his application for a Basic Payment in April 2016.

He had not ticked the compliance box under the 'Ecological Focus Area' on his online application. This resulted in a non-compliance penalty of €2,937. His appeal of the decision was refused as the Department said he had been notified of the error on its online system and he could have rectified the mistake.

Examination

After the Ombudsman asked the Department to review the application the Department discovered that the man had not been registered for the 'business notification text' or email alerts on the system. The 'business notification' would have alerted the man to revisit the Department's online system and check for the error.

Outcome

The complaint was upheld because the man was not registered for 'business notification texts' or emails. The Department agreed to waive the penalty of €2,937 and pay the man the remainder of his Basic Payment. A standard deduction of €74 was made under the EU Financial Crisis Reserve scheme so the man received €2,863. The man has now completed the Department's 'business notification' form which gives it permission to use his contact details for future notifications.

ASYLUM SEEKER/REFUGEE ACCOMMODATION

4.3 Girl warned for leaving rural asylum accommodation to complete education in Dublin

Background

An 18 year old woman arrived in Ireland alone, applied for asylum as a minor and started in fifth year in school in Dublin in 2016. Her only family member in Ireland was her aunt who also lived near the young woman's school. She initially lived with her aunt but this situation became unsustainable after a few months. In April 2017 she was assigned to a regional accommodation centre for asylum seekers and refugees. The Manager of that centre facilitated the young woman travelling to Dublin for school during the week then back to the regional centre for the weekend until she completed fifth year in May 2017. As she was absent from her designated centre on weekdays for several weeks the Reception and Integration Agency (RIA) issued her with a warning letter about those absences.

The young woman complained to the Ombudsman about the warning letter and confirmed that she wished to transfer to a centre in Dublin to continue her education.

Examination

RIA disputed that it had issued a warning letter and told the Ombudsman that it had not received a transfer request from the young woman. The young woman was able to provide the Ombudsman with a copy of the warning letter issued by RIA. On hearing that she needed to submit a transfer request, she did so, but it was rejected by RIA on the basis that 'exceptional circumstances' did not exist in her case.

RIA's decision appeared to the Ombudsman to be inconsistent with its policy of keeping residents in accommodation close to other family members in the country, as far as possible, and facilitating continuity of education.

The Ombudsman believed that in order to prevent a break in the continuity of her education she should be given the opportunity to remain in the same school that she had attended the previous academic year. RIA said that there was limited capacity in the one Dublin accommodation centre most suitable and accessible for commuting to her school.

The Ombudsman was satisfied that the woman's circumstances were exceptional and that everything should be done to allow her to complete her Leaving Certificate in a school she was familiar with and close to the family support of her aunt. The Ombudsman asked RIA to review its decision.

Outcome

RIA reviewed its decision on humanitarian grounds and granted the woman a transfer to a Dublin accommodation centre within commuting distance of her school and her aunt.

EDUCATION

4.4 Student entitled to grant as brother also in full time education

Background

A woman complained about Student Universal Support Ireland (SUSI) refusing her a grant on income grounds even though she had worked very few hours in her part-time job. The woman noted that her brother, who had just started third level education, was approved a grant for €1,500 even though his circumstances were almost identical to hers.

Examination

Even if the woman was not working, her reckonable income would still have been over the income threshold for grant funding. However, a student's reckonable income threshold increases if there is a family member in the home who is also in third level education. If the allowance for the woman's brother had been included in the calculation it would have brought her under the income threshold. The woman would have been eligible for a 50% grant towards her €3,000 Student Contribution Charge. The woman had not indicated that she had a sibling in third level education on her application form. However, when the woman made an appeal on income grounds, she referred to her brother being in third level education. SUSI said the application was not cross referenced at the time so it did not view her brother's details.

Outcome

SUSI reviewed its decision and agreed to contact the woman for documentation to show her brother was also in third level education. The woman received a 50% grant towards her €3,000 Student Contribution Charge.

4.5 Confusion over immigration status results in student being charged incorrect fee

Background

A woman complained about Dublin Institute of Technology (DIT) because it told her she had to pay tuition fees in line with its Fees Policy. As she had been approved for a student grant by Student Universal Support Ireland (SUSI), the woman could not understand why the tuition fee for her course was not also covered.

Examination

DIT said the different rates of fees that are applied by Higher Education Institutions are regulated by the Higher Education Authority and its Fees Policy was based on guidelines issued by the Higher Education Authority. DIT said the woman was not eligible for free fees as she had a Stamp 4 permission to remain in the State which meant she had to pay the EU rate of fees.

The Ombudsman sought information from SUSI which said it considered the woman eligible for free tuition fees. Based on this information, the Ombudsman contacted the Department of Justice and Equality to clarify the woman's immigration status, as the decisions by DIT and SUSI may have stemmed from different interpretations of the woman's immigration status. The Department of Justice and Equality clarified that the woman had a Stamp 4 permission to remain in Ireland based on a decision not to deport under Section 3 of the Immigration Act 1999.

The Ombudsman then pursued the matter with the Department of Education and Skills as it had overall responsibility for residency eligibility requirements. The Department of Education and Skills said that it had contacted the Higher Education Authority and DIT regarding the case and had provided them with the further clarification regarding the woman's immigration status.

Outcome

Having reviewed the documentation, DIT approved the woman for free tuition fees. In light of this case, DIT informed the Ombudsman that it was going to put new procedures in place so that a similar situation did not happen in future. Given that there was some ambiguity in DIT's Fees Policy regarding eligibility requirements, the Ombudsman also requested that DIT review the Policy. DIT reviewed its Fees Policy to provide clarification regarding free fees eligibility in relation to this type of permission to remain in the State.

HEALTH

4.6 Man receives payment for higher specification hearing aids

Background

A man complained about the HSE's refusal to contribute to the cost of hearing aids which he had purchased privately. He is a medical card holder and is entitled to have 'behind the ear' (BTE) hearing aids provided by the HSE. However, the ones he purchased privately were a higher specification than those which the HSE supplies. He considered that he should not be penalised because he refused to accept hearing aids which were of an inferior specification and that he should get a contribution towards his costs.

Examination

The man had originally sought 'in the ear' (ITE) hearing aids which the HSE refused to supply. It said that such hearing aids were unreliable and required more maintenance than BTE hearing aids. It appeared that the HSE had not realised that the hearing aids which he had eventually purchased, while a higher specification than those usually provided by the HSE, were BTE aids. The man was able to provide the Ombudsman with a report from a hearing specialist which he forwarded to the HSE and asked that the case be reviewed.

Outcome

The HSE agreed to make a payment of €2,000 towards the cost of his hearing aids.

4.7 Diabetic woman suffers delay in treatment due to records not being updated

Background

A woman complained about a problem she was having accessing services for regular check-ups on her feet. She was diabetic and there was a risk of amputation of her toes if her feet were not checked regularly. When she contacted the Ombudsman it had been six months since her last appointment. She said that she received a letter telling her that she would not be offered an appointment for the foreseeable future.

Examination

The Health Service Executive (HSE) said that a failure to update the woman's computer record after her last assessment resulted in her remaining a low-risk patient and therefore not receiving any future appointments. Following the Ombudsman's contact with the HSE, the error was noticed and her priority was updated. It arranged an immediate appointment, a written apology and an explanation for the error to be given to the woman. The HSE also informed the Ombudsman that the incident was reviewed to prevent it happening again.

Outcome

The Ombudsman was satisfied that the HSE had restored the service for the woman and that it had apologised to her for the error.

4.8 Woman refused full cost of second Cross Border treatment despite initial approval

Background

A woman who was suffering from pancreatic cancer complained to the Ombudsman when the HSE refunded her a lesser amount for a second similar treatment under the Cross Border Directive than it had for her first treatment.

The Cross Border Directive (CBD) allows patients to be reimbursed for the cost of treatment abroad based on the cost of public care for the treatment in Ireland or the cost abroad, whichever is the lesser.

In this instance, the woman's first application for surgery had been approved and she had received full reimbursement based on the information provided by her UK consultant. She sought similar reimbursement a second time for further similar surgery. The HSE approved her second application in advance of the surgery but then refused to reimburse her the full amount. The HSE said that the information supplied by her consultant was incorrect and referred her clinical records to the Health Pricing Office (HPO) in Ireland for an independent review. The HPO said a lesser payment should be made as, on average, the treatment she required did not require the length of stay in hospital that the consultant's information indicated.

As a result, when processing the second payment to the woman, the HSE deducted the "overpayment" from the first application and applied the lesser rate to her second application. This left the woman significantly out of pocket (€8,821) as she had to pay for her full treatment costs in advance. She was told by the HSE to take the matter up with her consultant in the UK.

Examination

The woman was expected to undergo identical treatment on both occasions. When she received approval and reimbursement on the first occasion, she had every reason to believe that the reimbursement rate would be the same on the second occasion. Her second application had been approved in advance of her treatment and details of the proposed surgical care were available to the HSE. It was not until she had undergone surgery a second time, and applied for reimbursement, that the HSE challenged her clinical care and sought advice from the HPO. The Ombudsman considered that the HSE had acted unfairly in applying the lesser payment to both applications, having already approved the higher payment.

Outcome

The HSE decided to reimburse the woman for both procedures based on the higher amount. This meant she received €8,821 to make up the financial shortfall with regard to her two applications. The HSE also agreed to review its procedures around coding to ensure that applicants have knowledge of likely reimbursement levels prior to acquiring financial liabilities for treatment abroad.

4.9 Delays in transfer of elderly man and his family not informed of falls

Background

A man complained about a 12 day delay in arranging a transfer for his late brother from Letterkenny University Hospital to University Hospital Galway, the regional centre, for a urology review. His brother's condition deteriorated before a transfer occurred and he later passed away. The man felt that not enough was done to ensure the transfer happened. In addition, his brother suffered a number of falls while he was in hospital. The family complained that they were not told about all the falls.

Examination

The man suffered four falls while in hospital. He received treatment after each fall and an orange band was placed on his wrist to indicate he was at risk of falling. However, no particular actions were taken to prevent him falling again, documentation was incomplete and the family was not notified of all the falls.

The urology team in the regional centre accepted the man for transfer but his name was not added to the bed management list in the regional centre until 13 days later. The local hospital rang most days to see if a bed was available and wrote in the bed management log book 'no bed' or 'not on list'. They were not aware, until the Ombudsman's examination, that the man's name had not been put on the list.

At one stage the team in the regional centre said the man was not suitable for transfer until more tests were done. The family was not aware of this.

It was clear that there was no agreed protocol covering the procedure for the transfer of patients between the two hospitals. The consultant had little involvement in the transfer and all dealings were by telephone which resulted in serious communication issues.

After waiting 12 days for a transfer, the family complained. The consultant rang the regional centre and the man's name was then added to the transfer list. Sadly, the man soon became too unwell for a transfer to take place.

Outcome

The Hospital Group committed to finalising a Bi-Directional Patient Flow policy to streamline the process for transferring patients within the hospital group. The importance of clear documentation and communication in arranging transfers was to be included in induction training for hospital doctors.

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The local hospital formalised a new falls management policy and specialist 'Frailty' training, which includes a module on falls prevention and management. This was rolled out to all nursing staff in the local hospital.

The General Managers of both hospitals wrote to the family and apologised.

NURSING HOMES

4.10 Family complained when nursing home doubled social charge

Background

A man made a complaint on behalf of his parents about a substantial increase in the social charge in the nursing home where they lived. The charge for the social programme was increased from €86 each per month to €173 each per month. The man complained that there was no explanation or breakdown of the charge, residents were given no choice about the charge and their ability to engage in activities was not taken into account.

Examination

Under the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013, nursing homes are required to provide facilities for recreation for residents, but no payment for these activities is included in the Nursing Home Support Scheme (NHSS or 'Fair Deal' Scheme). Nursing homes are allowed to agree charges with residents for additional services that fall outside what is covered by the NHSS.

The Regulations require that the additional services and charges must be set out and agreed upon under a 'contract of care' between the resident and the nursing home. In addition, residents in a nursing home should also be allowed to exercise choice, where reasonably practical and have their needs and preferences taken into account in the planning, design and delivery of services.

The nursing home said that the doubling of the charge was necessary due to the social programme running at a loss the previous year and to allow for increased social activities. However, the contract of care listed only an overall charge for 'entertainment' but gave no breakdown of the charge.

The Ombudsman was of the view that in order to be transparent and to comply with the Regulations the content of the social programme should be listed in the contract of care. This would enable the resident to know what they were signing up to at the outset. The Ombudsman felt that the residents should also have been consulted regarding the potential for increased activities, especially with an associated cost. Finally, the Ombudsman was also of the view that there was no financial choice for a resident to opt out of paying for any aspect of the programme which they did not wish to, or were unable to avail of.

Outcome

In this case, the nursing home introduced a new more detailed contract of care which includes a breakdown of the social charge allowing for more transparency for existing residents and enabling new residents to understand what they are signing up to on admission. Importantly, residents who do not have the capacity to take part in the social programme will now only be charged a nominal fee. Residents capable of attending all social activities will however still be fully charged. Finally, resident input into the content and design of the social programme will in future be sought, especially when an increase in activities (with an associated cost implication) is being considered.

LOCAL AUTHORITY

4.11 Woman charged €10,950 development fees despite town council waiving charge

Background

A woman said that at the time of the sale of a property her solicitor had paid €10,950 to Kildare County Council in error and that the Council was refusing to refund it. She explained that this money was for development contributions. However she had been informed in 2009 that a portion of these contributions (€6,824) had been written off by Naas Town Council as they had already been paid by a previous developer. Though a portion of these contributions had been written off in 2009 the woman's solicitor mistakenly paid the full €10,950 to Kildare County Council (who had since assumed the responsibilities of Naas Town Council) when finalising the planning permission in 2016.

Examination

The woman had appealed a decision by the Town Council in 2007 in relation to certain planning permission conditions to An Bord Pleanála (ABP). ABP's decision in 2008 was to remove certain conditions and attach a condition for development contributions of €10,950. However, the Town Council had already made an order removing a portion of the contributions as they were considered to be a duplication of previous contributions. This was made while the appeal was being considered and never conveyed to ABP.

Initially, on receipt of the money from the solicitor in 2016, the County Council said that it was correct in collecting the payment in accordance with the decision made by ABP. However, it decided to examine the file, having taken over the duties for this area following the abolishment of Town Councils. The County Council decided that if the Town Council had applied the method used in accordance with the appropriate scheme at the time in calculating contributions, any previous payments should have been taken into account and deducted from the overall charge.

Outcome

The Ombudsman put it to the County Council that the person should then be entitled to a refund of the balance of the amount paid. The Council agreed and said that it would refund the woman this amount which was €6,824.

4.12 Council refused full heritage grant after failure to use Irish thatch

Background

A man complained to the Ombudsman about Tipperary County Council's decision to only pay him half the grant the Council had provisionally approved under the Built Heritage Investment Scheme on the grounds that a specific condition requiring native Irish materials had not been met. The man said that neither the application form nor the guidance circular provided with the application form specified that the materials used must be of Irish origin. He only became aware of this months after his application had been submitted and only at the time that the provisional grant was offered. At that stage the man had already sourced the materials required and booked a thatcher. It was too late for him to source the quantity of reed necessary from that winter's Irish harvest and so he had to proceed with his thatcher's sourcing of the necessary materials.

Examination

The application form, accompanying guidelines, and information booklet on the scheme did not have a specific condition stating explicitly that 'native Irish materials' had to be used. The Ombudsman was satisfied that the man met the requirements as laid out in the relevant documentation at the time of submitting his application.

Outcome

The Council revised its decision and paid the man the remainder of the original sum it offered him of €2,500.

SOCIAL PROTECTION

4.13 Elderly woman gets social welfare benefit backdated after husband's death

Background

A woman complained about the Department of Social Protection's refusal to backdate her payment under the Household Benefits package (HHB). The woman applied for the package almost a year after her husband's death. The package was awarded from the date of her application. The woman believed that the package should have been backdated to the time that she was awarded a Widow's Contributory pension a year earlier.

Examination

The woman's household had been in receipt of the HHB in her husband's name and she did not know that she would have to re-apply within a specific timeframe after her husband's death. She said that during his lifetime her husband looked after all household matters and she was not in the habit of dealing with the household accounts, otherwise she might have noticed the withdrawal of the allowance on her utility bill. This happened following her husband's death when she had to provide a death certificate, a copy of the will and marriage certificates for bills etc. to be changed into her name. She was 82 years of age at the time of her husband's death. The Department said that it told the woman of possible additional entitlements when she was awarded her Widow's Contributory pension. The Department said there was no provision to backdate the HHB package where it is not applied for within six months of her pension being approved.

Outcome

The Ombudsman pointed out that although the Department advised her of her possible additional entitlements to HHB it did not inform her that she should apply within six months of her pension being approved in order for it to be backdated to that date. The Department agreed, on a once off basis, to backdate the award of the Household Benefits package to when she was awarded a Widow's Contributory Pension.

4.14 Man receives €47,000 after Disability Allowance backdated by six years

Background

A man complained that the Department of Social Protection had refused his application for retrospective entitlement to Disability Allowance.

The man was initially awarded Disability Allowance in 2008. However, in 2014 he requested the Department to backdate his payment to 2002 when he first became ill. He alleged that his accountant had incorrectly advised him about his social welfare entitlements during this period. He said that at the time he was self-employed, suffered from stress and was unable to work. He said that he never contacted the Department between 2002 and 2008 as his accountant said that he would not qualify for any benefits. He provided some medical evidence in support of his application. However, the Medical Assessor did not see evidence indicating a substantial degree of restriction to qualify him for backdating of Disability Allowance to 2002.

Examination

The man supplied additional medical evidence to the Ombudsman in the form of a letter from his Consultant Gastroenterologist outlining that he had suffered from hepatic injury, brain injury and severe malnourishment/malnutrition. The new evidence supported an application for retrospective entitlement of Disability Allowance between 2002 and 2008. The Ombudsman asked the Department to consider the case again in light of the new evidence.

Outcome

The Department assessed the new evidence and agreed to backdate the man's payment for the period between 2002 and 2008. Arrears amounting to €47,808 issued to the man in respect of this period.

TUSLA

4.15 Foster mother's allowances decreased despite children having intellectual disabilities

Background

A woman complained about the decision by TUSLA not to backdate a restoration of payments she was receiving for fostering children after they had turned 18. The woman began fostering two children in 2004 after over 30 years' experience in providing foster care. The older child turned 18 in 2012 and the younger child turned 18 in 2014. As both children suffered from intellectual disabilities they were unable to live independently and remained in the woman's care after turning 18.

Between 2004 and 2012 the woman was in receipt of Foster Allowance of €352 per week and Domiciliary Care Allowance (DCA) of €90 to cover the costs associated with the children's care. The DCA transferred to Disability Allowance when the children were 16 years old. When the children became 18 years old the Foster Allowance payments were reduced to €164. For a number of years the woman asked TUSLA to restore the full payment as she was providing the same level of care to the children as she had before they turned 18.

In July 2015, TUSLA introduced a standardised allowance for aftercare. This resulted in a further reduction to the woman's Foster Allowance payment to €112 per week for each foster child. It was acknowledged by TUSLA at that time that this may present financial hardship to the woman, particularly in light of the specific additional care the children required due to their disabilities. In October 2015, TUSLA decided that the woman would receive an additional €50 per week for each foster child, bringing the payment back to €162 and a once off annual payment of €600 to cover costs associated with the children's disabilities.

The woman was unhappy that the full payment was not restored and sent further requests to TUSLA for the full payment. In July 2016 TUSLA decided to increase her payment by a further €100 per foster child to reflect the level of care she was providing, taking the total payment to €262 per week for each child. This increase was backdated to when the payment was first increased by €50 in October 2015. The woman asked that the increase be backdated to the dates that each foster child turned 18. TUSLA refused this request.

Examination

It was clear that the woman had always provided the same level of care to her foster children. It was not clear why TUSLA decided she should receive a lesser payment for the period between each of their eighteenth birthdays and October 2015. The Ombudsman asked that the woman's payment for that period be reviewed.

Outcome

TUSLA reviewed the woman's payment and agreed to backdate the increased weekly payment of €262 from each of her children's eighteenth birthdays to October 2015. The woman received a payment of €28,600 from TUSLA.

CHAPTER 05



Chapter 5: Improving Public Services through external engagement

One of our strategic objectives is to drive improvements in the wider public service. We do this in a number of ways. If there is learning from the individual complaints we examine then we highlight this to the service provider involved. Sometimes a single complaint or group of complaints can highlight a systemic issue which, if resolved, can benefit a large number of people dealing with the service provider and avoid similar complaints arising in the future. We discussed some of the systemic issues we discovered in 2017 in Chapters 2 and 3. We also share learning from complaints we examine in a number of other ways, for example, through The Ombudsman's Casebook, in meetings with local service providers and by issuing general guidance to service providers.



"Thank you sounds too simple to say when someone has made a difference to your life in such a positive way. I can't tell you the weight that has been taken off my shoulders and to feel like this chapter in my life can be closed is the best Christmas gift and I mean that."

5.1 The Ombudsman's Casebook

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

One of the ways of doing this has been through The Ombudsman's Casebook, a quarterly publication.

The quarterly Casebook provides summaries of cases we have dealt with over the previous months in the Office. It describes complaints across all the areas the Office deals with, such as Health, Social Welfare, Education, Local Government, Agriculture, Taxation and Nursing Homes.

It is circulated in digital format to over 2,500 officials in public service providers, members of the Oireachtas and other public representatives. It is also available on my website, www.ombudsman.ie.

I am pleased to say that the Casebook continues to receive a very positive response from public service providers and public representatives and the number subscribing has continued to increase.

During 2017 I also published a special Waterford edition of the Casebook, summarising complaints I received from that county, to coincide with our Waterford Outreach Event in September 2017.

In November 2017 I compiled a special 'Nursing Home' edition of the Casebook summarising complaints I receive about both the public and private nursing home sector. This followed a request from the Oireachtas Committee on Public Petitions. I published this Casebook on my website in 2018.



5.2 Bringing the Ombudsman's services to the regions

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

Waterford Outreach Event 2017

On 14 and 15 September 2017 my Office organised a major outreach event in Waterford City. The event consisted of a number of initiatives over the two days:

i. Conference: 'Learning from Waterford's Complaints: How complaints can improve Waterford's public services'

This half-day conference was attended by key officials from public service providers in Waterford such as the HSE, hospitals and local authorities. A number of local TDs and representatives from voluntary groups also attended. I, and two of my officials, described the type of complaints we receive from Waterford. We explained the purpose of the quarterly Ombudsman's Casebook and how we can work together to improve the delivery of public services.

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

ii. Meetings with local public service providers

While in Waterford I met the Chief Executive of Waterford City and County Council. I also met with senior management in University Hospital Waterford where we discussed the recommendations in my investigation report – Learning to Get Better. I visited a local 'Direct Provision' centre and met with residents, centre management and representatives of local voluntary bodies.

iii. Training session for staff of Citizens Information Centres in Waterford

Citizens Information Centres (CICs) provide an excellent service to people around the country, providing advice and assistance to the public in their dealings with public service providers under my jurisdiction. In Waterford we made a presentation to 41 local CIC staff on the type of complaints we can deal with, and how local staff can take complaints from the public on our behalf. I took the opportunity to address local staff and management during the presentation. Again this event was extremely useful and we look forward to working closely with the CICs in the future to benefit the public.

iv. Complaint-taking service for the public

Staff from my Office held a full day clinic in Waterford, to take complaints from the public and provide advice and assistance to callers.

We took 61 complaints from members of the public. This surpassed the 60 we received from Waterford in all of 2016. I was pleased that we were able to help that number of people. Visitors also commented on the benefits of being able meet our staff and avail of our services.

I am pleased to say that we received extremely positive feedback from those we met and we plan to arrange a similar event in another part of the country in 2018.



At the seminar in Waterford - 'What Waterford Complains About'

Left to right: Liam Quirke, Regional Manager, Consumer Affairs HSE, Fiachra Ó Céilleachair, Communications Officer, HSE, Josephine Helen, HSE, Joan Murphy, HSE, Ombudsman Peter Tyndall, Aileen Colly, Chief Officer, HSE, Sharon Murphy HSE and Michael Morrow HSE

Picture: Noel Browne

Complaint clinics at Citizens Information Centres (CICs)

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

During 2017, Ombudsman staff were available on 36 occasions to provide advice and assistance and to take complaints from the public.

Limerick CIC in 2017 - 53 Complaints were received

Galway CIC in 2017 - 64 Complaints were received

Cork CIC in 2017 - 58 Complaints were received

Our visits to the CICs also gave us the opportunity to provide assistance to nearly 177 other people whose complaints were not within our remit, or where they had not taken up the matter with the public service provider in the first instance.

Participation at Exhibitions

50PlusExpo shows in Dublin and Galway

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

5.3 Extension of the Ombudsman's Jurisdiction: Prisons

I indicated in my 2016 Annual Report (pages 40-41) that it is anticipated that my Office may be granted an extension of remit to take complaints about the Irish Prison Service. Ultimately this will be decided by the Minister for Public Expenditure and Reform, following a consultation process.

In 2017 my Office continued to assist the Irish Prison Service (IPS) and the Department of Justice and Equality in a major revamp of the complaint handling system within the IPS. The IPS is also working on the installation of a new computer system for complaint handling. During the year my Office also facilitated a visit by an official from the IPS to the Office of the Prisoner Ombudsman for Northern Ireland. The main purpose of the visit was to get an overview of how the local complaints systems within the Northern Ireland Prison Service interfaces with the Office of the Prisoner Ombudsman.

5.4 The International Ombudsman Institute

The International Ombudsman Institute (IOI) is the only global organisation for the cooperation of more than 180 independent Ombudsman institutions from more than 90 countries worldwide. In its effort to focus on good governance and capacity building, the IOI directly supports its members in a threefold way: training, research and regional subsidies for projects. In 2016 I was honoured to be appointed IOI President. During 2017 my Office led the IOI work in producing a best practice paper - *Securing Effective Change* - which draws on the experience of IOI members from across the world in ensuring that their recommendations are accepted and, more importantly, fully implemented. In 2017, work on the next paper in this best practice series also began. This work is being co-ordinated by my Office and the Office of the Ontario Ombudsman. This paper will consider best practice around conducting "own initiative" investigations and will be published in 2018.

CHAPTER 06



Chapter 6: Improving Public Services by improving our service

6.1 Strategic Plan and Values 2016-2018

My Office has achieved significant progress in respect of the goals set out in the 2016 – 2018 Statement of Strategy:

- We will drive improvements in the wider public service
- We will deliver a customer focused service that reflects our core values and those we can be proud of
- We will develop and enhance our management and administrative frameworks to enable and underpin our objectives of improving the wider public service and delivering an excellent customer focused service

Organisational values continue to be at the forefront of how we function and are embedded in our practices and systems. Over the course of the Strategic Statement my Office has worked in partnership with public service providers in order to raise standards of service generally. My Office invested considerable resources in preparing for the extension of remit to Direct Provision complaints. A dedicated project team attended interagency meetings, held information sessions and carried out site visits to meet with staff and residents alike to get a better understanding of the type of issues that are likely to arise.



"I do thank you sincerely for your kindness on my behalf and for all the good work you done for me. I appreciate your kindness more than I can say"

The new document management system, which was a challenging undertaking, is now in place and work on the updated Office website and case management system is at an advanced stage.

In 2018 I look forward to:

- continuing to work in partnership with bodies under remit to ensure effective complaints systems are in place
- realising the benefits of enhanced management information in order to support business decisions and trend analysis

6.2 Delivering our services efficiently

My Office is committed to ensuring that we successfully harness new technologies to deliver better customer service and knowledge management. They will also provide enhanced facilities to identify learning from complaints which can drive improvements in public services. In 2017 we implemented an extensive ICT renewal and improvement plan to replace outdated ICT infrastructure to handle complaints and relationships with customers and stakeholders.

An intranet facility within my Office has already provided a useful platform for the team to share learning internally and enhance communication across the organisation.

In 2017, we rolled out a new document management system to manage non-case related records. Our new case management system will be implemented in the office early in 2018. Both of these new systems will facilitate the digitalisation of services where appropriate and the further automation of routine tasks that will support the delivery of a more effective and efficient service.

In 2018 we will also launch our new website. The site will provide enhanced online services for both members of the public and other stakeholders. In developing our new website, we were very aware that citizens have an expectation to have a similar user experience in dealing with the public service as they would have in dealing other services such as the retail sector. Consequently, we have focused on delivering a website that is secure, reliable and easy to use. The site includes an online portal offering a fast and efficient facility to submit applications for review online. It also provides a quick and secure facility to transfer data and documents to us. It is a useful resource for both complainants and public service providers. We will engage with our stakeholders to ensure that our online facilities continue to meet their needs.



“Thank you for the great work on my case. The Ombudsman should be proud of his workers.”

6.3 Quality Assessment and review process

As part of our strategic plan we are continuously improving the level of services we provide and ensuring that our systems and processes allow us to deliver on our strategic objectives. To ensure the quality of our case handling we introduced quality standards which set objectives for delivery of our services in the areas of procedures, timeliness, communications and accuracy.

To ensure we meet our quality standards we have a Quality Assessment process in place. Every month our QA Team examines 15% of cases closed in the previous month and:

- assesses cases against our quality standards
- identifies and suggests solutions to any process issues arising from monthly quality audits
- provides feedback to caseworkers on individual cases.

During 2017 we also participated in the development of a Service Standards Framework for use by all members of the Ombudsman Association. The Ombudsman Association is a network of Irish and British Ombudsman offices. Following public consultation the Framework was published in May 2017. Our quality standards are consistent with the Service Standards Framework.

Review Process

There is no statutory appeal of an Ombudsman decision. In certain circumstances we may review how we examined a complaint. This review is carried out by a more senior official than the one who examined the complaint and one who has had no involvement in the original decision. A request for a review must be sent to us within one month of receiving our decision.

In 2017 we received 154 requests for a review, this represents 5% of all cases we dealt with. Of these 154 requests 14 were upheld and were subject to further examination. We report on reviews internally and we use learning from reviews to improve the delivery of our service.

6.4 Positive duty to have regard to human rights and equality issues

The Irish Human Rights and Equality Commission Act 2014 introduces a positive duty on public bodies to have due regard to human rights and equality issues. My Office has adopted a proactive approach to implementing this duty. We have set up a staff working group, which has held a workshop on human rights and equality and met with the Irish Human Rights and Equality Commission. The working group is in the process of identifying all of my Office's functions and assessing what human rights and equality issues arise in relation to those functions. It will also identify the policies and procedures which are in place to address those issues. It will then propose an action plan for implementing the duty. I am keen to ensure that the public sector duty becomes an integral part of how my Office works.

My Office is committed to providing a service to all clients that respects their human rights and their right to equal treatment. This is equally applicable to how we interact with our own staff as it is essential in fostering a healthy work environment that promotes engagement, openness and dignity in the workplace. Our approach is underlined by our core organisational values of independence, customer focus and fairness, which are evident in both the culture of our Office and our internal policies and procedures. We have also been proactive in providing training to our staff on human rights and equality, which encourages them to bring a human rights perspective to their consideration of cases.

6.5 Memorandum of Understanding with the Medical Council



The signing of a Memorandum of Understanding with the Medical Council:
Left to right: Bill Prasifka Chief Executive / Registrar, Professor Freddie Wood President, Peter Tyndall Ombudsman and Jacqui McCrum Director General.

On 23 March 2017, on behalf of my Office I signed a Memorandum of Understanding (MoU) with the Medical Council that will allow for the exchange of information and complaints between both offices. The MoU will benefit both the public and health services. The agreement will also establish procedures to assist members of the public in accessing the services of both organisations.

.....

Several specific actions are covered by the agreement. These include:

- The Medical Council referring complainants directly to the Ombudsman where appropriate.
- The Ombudsman referring relevant complaints to the Medical Council with the consent of the complainant.
- Joint initiatives such as projects and research on improving the quality and safety of patient care.

In August 2017 staff from my Office met with staff from the Medical Council to discuss a range of issues of common interest. It is planned that in 2018 the Medical Council will give a presentation on its work to Ombudsman Office staff.



*“Thankfully you agreed to represent ***’s case and the outcome resulted in *** being awarded a place in his first choice CAO course. I wanted to inform you that *** has graduated with an honours degree in ----- and has been accepted into a sponsored PHD programme. As the family celebrate today it would be remiss of me not to thank you again most sincerely for your assistance and the assistance of the Ombudsman’s Office.”*

APPENDIX 01

Appendix 1: Statistics

TABLE 1 - Totals

Complaints Carried Forward from 2016	648
Complaints Received in 2017 (service providers within jurisdiction)	3021
Complaints Completed in 2017	3060
Complaints carried forward to 2018	609
Enquiries 2017	1675
Complaints against bodies outside jurisdiction (for example banks, private companies) received in 2017	850

TABLE 2 - Complaints Received by Sector

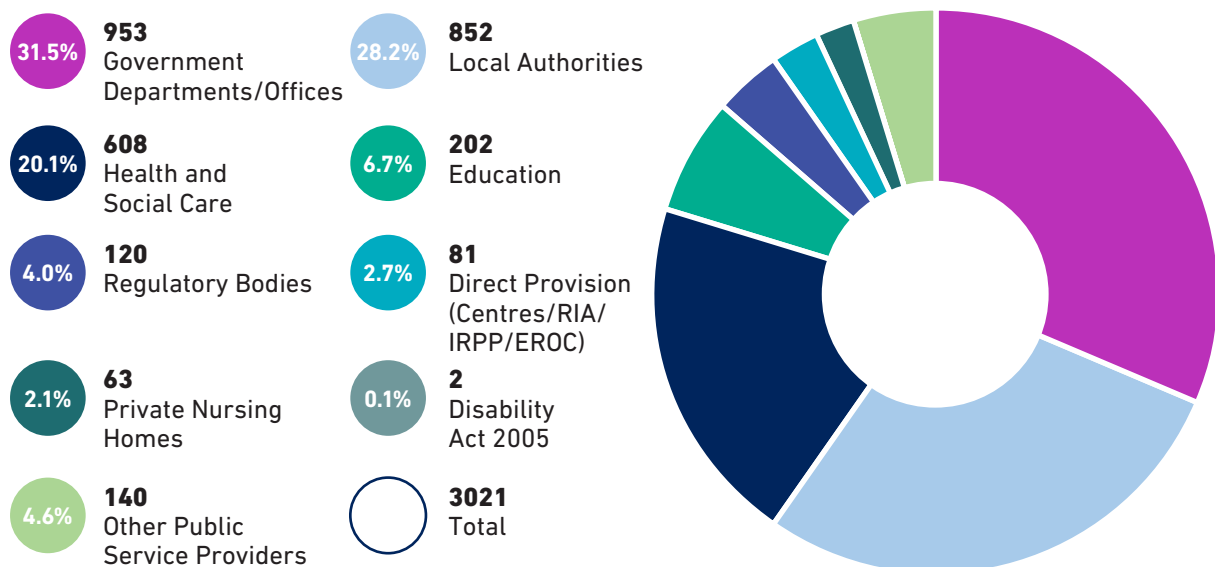


TABLE 3 - Complaints Completed by Outcome

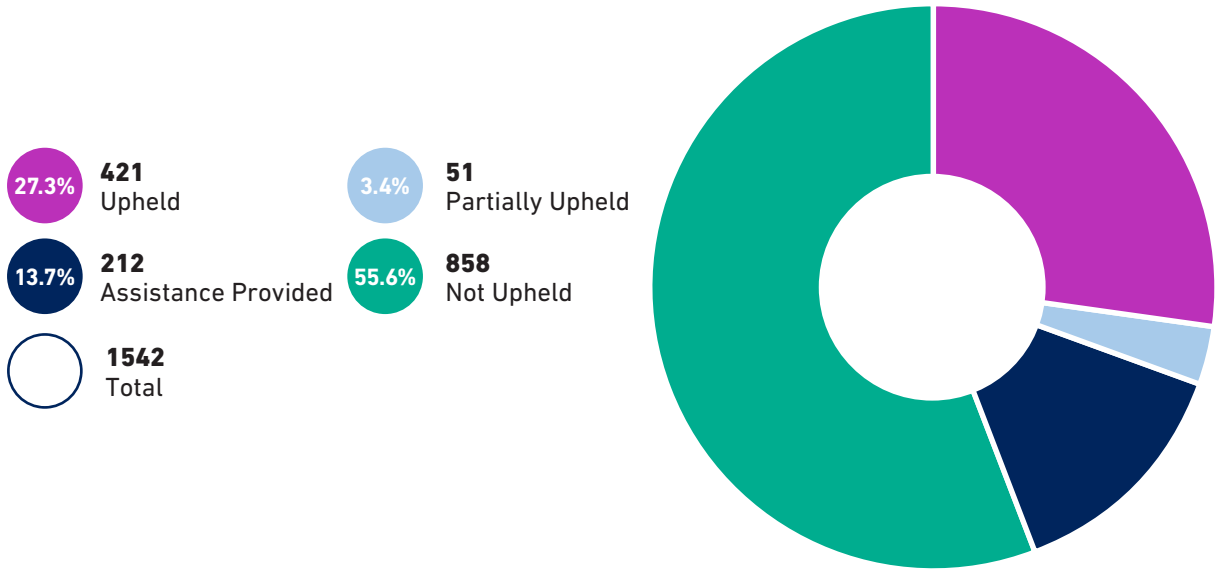


TABLE 4 - 10 Year Trend of Complaints Received

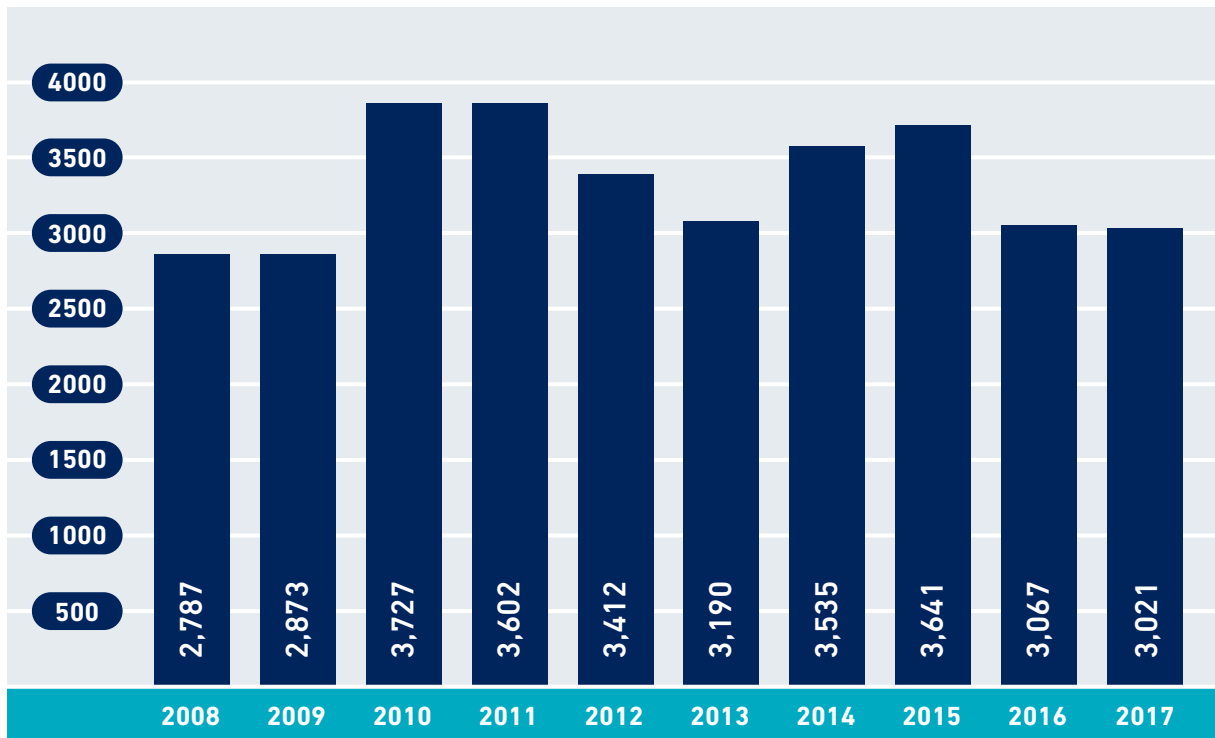


TABLE 5 - Complaints Received by County

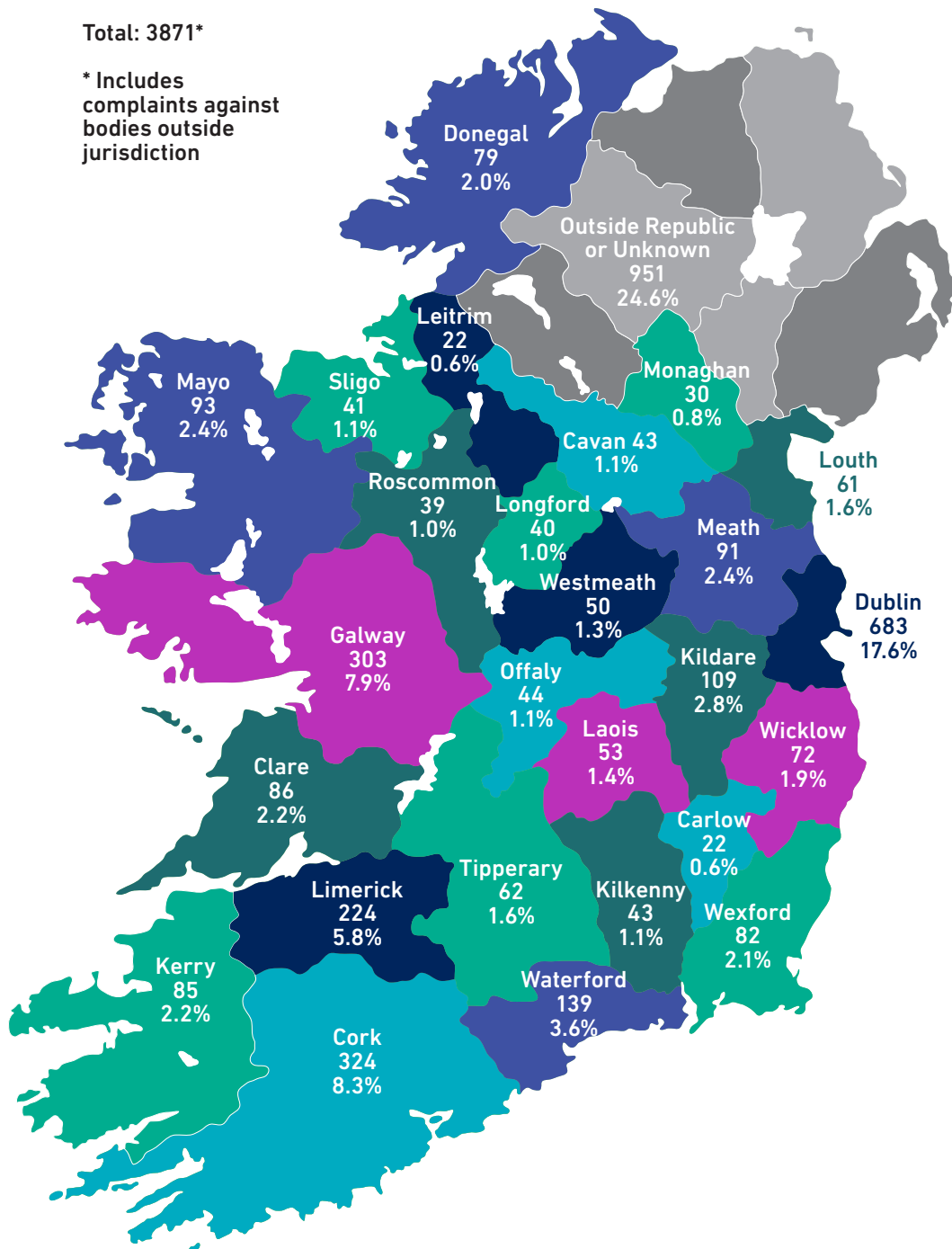


TABLE 6 - Government Departments/Offices

Complaints Received and Completed in 2017									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued /Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Social Protection	655	79	1	43	68	262	206	14	673
Agriculture, Food & the Marine	87	12		4	19	11	55	4	105
Revenue Commissioners	65	3	1	2	7	29	14	10	66
Justice & Equality	32	6						27	33
Education & Skills	24	1			2	2	2	18	25
Foreign Affairs & Trade	23	8		1	1	7	2	2	21
Property Registration Authority	15	6			1	2	6		15
Public Expenditure & Reform	11						1	7	8
Housing, Planning, Community & Local Government	7	5			1	1	3	2	12
Health	6	2			1		2		5
Office of the Registrar General	5	1		1		1	1		4
Arts, Heritage & the Gaeltacht	3				1		3		4
Transport, Tourism & Sport	3	1			1	1	2		5
Office of Public Works	2				1		1	1	3
Other Government Departments/Offices	15	2			1		5	4	12
Total	953	126	2	51	104	316	303	89	991

**TABLE 6(a) - Department of Social Protection -
Complaints Received in 2017**

Unemployment Payments	125
Supplementary Welfare Allowance	112
Disability, Invalidity and Maternity Payments	85
Old Age & Retirement Pensions	76
Carer's Payments	37
Back to Work / Education Schemes	25
Widows and One Parent Family Payment	24
Family Income Supplement	23
Fuel Allowance and Free Schemes	18
PRSI	17
Training/Employment Schemes	17
Child Benefit	15
Occupational Injury Benefit	11
Miscellaneous & Other Payments	70
Total	655

TABLE 6(b) - Department of Agriculture, Food and the Marine - Complaints Received in 2017

Agri-Environment Options Scheme (AEOS)	12
Basic Payment Scheme	10
R.E.P. Scheme	8
Single Farm Payment	7
Forest Premium Scheme	7
National Reserve	2
Sea Fishing & Aquaculture Licensing	2
Disease Erad. Scheme	1
Area Aid	1
Land Parcel Identification Scheme	1
Marine/Foreshore Licences	1
Farm Development/Improvement Scheme	1
Leader	1
Miscellaneous	33
Total	87

TABLE 6(c) - Office of the Revenue Commissioners - Complaints Received in 2017

Income Tax	15
Vehicle Registration Tax	6
Local Property Tax	5
Customs & Excise	4
Vehicle/Property Seizure	3
Capital Acquisitions Tax	2
Capital Gains Tax	1
Miscellaneous	29
Total	65

TABLE 7 - Local Authority

Complaints Received and Completed in 2017									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued /Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Carlow County Council	3				1	2	1		4
Cavan County Council	9	1			5	2	2		10
Clare County Council	18	4		1	2	10	7		24
Cork City Council	66	13		7	10	21	12	4	67
Cork County Council	72	13	3	1	8	25	17	5	72
Donegal County Council	39	8		2	3	6	13	3	35
Dublin City Council	109	11	1	6	18	40	35	11	122
Dún Laoghaire-Rathdown County Council	25	7		2		6	10	1	26
Fingal County Council	20	2		2	1	5	13	2	25
Galway City Council	48	12	1	2	8	13	11	2	49
Galway County Council	46	7		4	3	14	9	8	45
Kerry County Council	20	2	1	7		5	12	4	31
Kildare County Council	28	5	2	2	6	2	4	4	25
Kilkenny County Council	15	2			2	4	4	1	13
Laois County Council	23	3		1	6	4	6	1	21
Leitrim County Council	7				3	2	3		8
Limerick City & County	59	19	1	7	5	18	9	2	61
Longford County Council	7			1		2	1	1	5
Louth County Council	15	3			4	4	7	1	19
Mayo County Council	20	3		1	3	3	5		15
Meath County Council	31	10		1	4	6	8		29
Monaghan County Council	4	2				1		2	5
Offaly County Council	14	1		1	1	5	1	2	11
Roscommon County Council	8	1	1	1		2	3	1	9
Sligo County Council	4					3	2		5
South Dublin County Council	29	6	1	2	1	7	9	3	29
Tipperary County Council	24	4	1	5	5	5	10	1	31
Waterford City & County	31	6		2	3	9	5	3	28
Westmeath County Council	5	4		1	1				6
Wexford County Council	28	4		2	5	10	9	3	33
Wicklow County Council	25	2		3	3	7	3	2	20
Total	852	155	12	64	111	243	231	67	883

TABLE 7(a)- Local Authority - Complaints Received in 2017

Housing		379
<i>Allocations and Transfers</i>	166	
<i>Repairs</i>	87	
<i>Housing General</i>	25	
<i>Anti-Social Behaviour</i>	24	
<i>Loans and Grants</i>	23	
<i>Housing Assistance Payment (HAP)</i>	18	
<i>Rents</i>	12	
<i>Housing Assessment</i>	10	
<i>Sales</i>	8	
<i>Rent Assistance Scheme (RAS)</i>	6	
Planning		153
<i>Enforcement</i>	114	
<i>Administration</i>	39	
Roads/Traffic		60
NPPR		53
Traffic/Parking Fines		27
Pollution		18
Parks/Open Spaces		14
Housing Aid for the Elderly		11
Burial Grounds		10
Sewerage & Drainage		8
Motor Tax		7
Waste Disposal		5
Water Supply		4
Derelict Sites		3
Environmental Health Services		3
Rates		3
Acquisition of land/rights		2
Estate Management		2
Other		90
Total		852

TABLE 8 - Health and Social Care Sector

Complaints Received and Completed in 2017									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued /Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Health Service Executive									
Medical & GP Card	59	6	1	7	8	24	11		57
Nursing Home Support Scheme	29		1	1	4	4	16	1	27
Long Term Illness Card	5	10		1	1				12
Drugs Payment Scheme	3	2				1	1		4
Ambulance Service	2				1	1	1	1	4
Other	38				6	11	11	11	39
Health & Social Care									
Hospitals - General	246	37	17	31	33	48	34	48	248
Primary & Community Care	55	10	1	7	6	11	7	10	52
Hospitals - Psychiatric	20			1	7	5	2	4	19
Disability Services	17	3		5	4	3	3	1	19
Cross Border Directive	12	1			2		6	1	10
Social Work Services	9	1	1		3	1	1		7
Dental Services	7			2	1			2	5
Treatment Abroad Scheme	5	2		1		1			4
Public Nursing Homes	1			1					1
Other	30	3		4	3	6	6	11	33
TUSLA - Child & Family Agency	70	5	4	2	7	25	4	16	63
Total	608	80	25	63	86	141	103	106	604

TABLE 9 - Education Sector

Complaints Received and Completed in 2017									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued /Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Dublin & Dun Laoghaire Education and Training Board	2					1	1		2
Dublin City University	9					4	4		8
Dublin Institute of Technology	7	1		1	1	4	2	1	10
HEAR/ DARE	24			2	8		13	1	24
Institute of Technology Carlow	4				1	3			4
Institute of Technology Sligo	6		1	1	1	1	1		5
Institute of Technology Tallaght	4					3	2		5
Limerick & Clare Education & Training Board	3					1			1
Limerick Institute of Technology	2				1		2		3
Louth/Meath Education Training Board	2				1	1			2
National College of Ireland	3						2		2
National University of Ireland Galway	5	1			2	1		1	5
National University of Ireland Maynooth	4	1				1		1	3
State Examinations Commission	14		2	1	2		9	1	15
Student Universal Support Ireland (SUSI)	72	3	1	3	11	13	45		76
Trinity College Dublin	9	4			2		3		9
University College Cork	5	1		1	2	1		1	6
University College Dublin	9	1				4	5		10
University of Limerick	2						8		8
Other	16			1	3	4	6	2	16
Total	202	12	4	10	35	42	103	8	214

TABLE 10 - Regulatory Bodies

Complaints Received and Completed in 2017									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued /Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Adoption Authority	0	1							1
CORU - Health and Social Care Professionals Council	1							1	1
Health and Safety Authority (*CF)	2						1	1	2
Health Information and Quality Authority (HIQA)	1					1			1
Health Products Regulatory Authority	2					2			2
Inland Fisheries Ireland	2					1	1		2
Law Society of Ireland	35	1		1		5	7	4	18
Medical Council (*CF)	11					4	3	5	12
National Transport Authority	9				1	2	4		7
Nursing and Midwifery Board of Ireland	5	4		1		1			6
Pharmaceutical Society of Ireland (*CF)	1							1	1
Pre-Hospital Emergency Care Council (*CF)	1				1				1
Property Services Regulatory Authority (*CF)	2				1		1		2
Road Safety Authority	44	2	2		11	16	19	1	51
Royal Institute of Architects of Ireland	1					1			1
Teaching Council	2				1		2		3
Veterinary Council of Ireland (*CF)	1	1							1
Total	120	9	2	2	15	33	38	13	112

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

TABLE 11 - Other Public Service Providers

Complaints Received and Completed in 2017									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued /Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Arts Council	1				1				1
Caranua	10	2	2		3	6	1		14
Cork City Local Enterprise Board	0			1					1
Credit Review Office	1								0
Courts Service (*CF)	12	1			1		2	8	12
Disabled Drivers Medical Board of Appeal	70	11			5	3	42	8	69
Irish Blood Transfusion Service	1	1		1					2
Irish Red Cross	1							1	1
Legal Aid Board	14	2	1	2	3	4	4		16
Personal Injuries Assessment Board (*CF)	3							3	3
Pyrite Resolution Board	1						1		1
Residential Tenancies Board (*CF)	7	2					1	4	7
Solas	1							1	1
Sustainable Energy Authority Ireland	10	2			2	1	7		12
Tax Appeals Commisisoners	3	2				1			3
Teagasc	2	1						1	2
Transport Infrastructure Ireland	2					1		1	2
Údarás na Gaeltachta	1							1	1
Total	140	24	3	4	15	16	58	28	148

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

TABLE 12 - Private Nursing Homes

Complaints Received and Completed in 2017									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued /Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Care and Treatment	21	1	2		4	6	1	3	17
Non-Reply to Correspondence/Failure to provide information	14	5		1	2	2	2		12
Nursing Home Charges	6			1	1	1	1		4
Complaint Handling	5	1			1				2
Admission/Discharge	3	1			2				3
Other	14		1		2	4		2	9
Total	63	8	3	2	12	13	4	5	47

TABLE 13 - Complaints from asylum seekers/refugees in 'Accommodation Centres' April - December 2017

Complaints from Asylum Seekers/Refugees in 'Accommodation Centres' April - December 2017						
Body Complained Against	No. of Complaints Received	Upheld	Not Upheld	Assistance Provided	Discontinued, Withdrawn, Outside Remit	Completed
Reception & Integration Agency						
Transfers	38	2	13	7	4	26
Letters re. Deportation Orders	3	3	0	0	0	3
Other	3	1	0	0	1	2
Asylum Seeker/Refugee Accommodation Centres						
Accommodation	13	0	1	6	4	11
Food	7	0	2	0	3	5
Facilities	3	0	1	0	1	2
Complaint about a Staff Member	3	0	0	0	3	3
Other	4	0	0	3	1	4
Irish Refugee Protection Programme						
Complaint about a Staff Member	2	0	0	0	0	0
Other	2	0	0	0	0	0
Emergency Reception & Orientation Centres						
Accommodation	1	0	0	0	0	0
Food	1	0	0	0	0	0
Other	1	0	0	0	0	0
Total	81	6	17	16	17	56
Department of Employment Affairs & Social Protection						
Exceptional Needs Payment	10	1	3	2	3	9
Other	10	1	3	1	1	6
Health						
Various	10	1	2	6	1	10
Legal Aid Board						
Various	3	0	0	1	2	3
Local Authorities						
Various	1	0	0	0	0	0
Total	34	3	8	10	7	28
Overall Total	115	9	25	26	24	84

Note: These figures include 34 complaints made by those living in refugee/asylum seeker Accommodation Centres against Dept. of Social Protection, Health Sector, Legal Aid Board and Local Authorities

TABLE 14 - Disability Act

Complaints Received and Completed in 2017									
	Received	Completed							
		Upheld	Partially Upheld	Assistance Provided	Discontinued /Withdrawn	Discontinued Premature	Not Upheld	Outside Remit	Total
Complaints Handling (S.38 to S.39)	1	1							1
Access to Services (S.26)	1						1		1
Total	2	1	0	0	0	0	1	0	2

