Support and advocacy in times of need

Emma Gray, Editor, asked Gillian Guy, Chief Executive of Citizens Advice, about how she sees the organisation’s role in these difficult times. Marie O’Brien, an investigator in the Information Commissioner’s Office, Ireland, asked Tony McQuinn, Chief Executive of Ireland’s Citizens Information Board similar questions.

The Citizens Advice service, which celebrated its 70th anniversary last year, advises two million clients on seven million problems of all kinds every year from 3,500 locations. This includes 394 bureaux (CAB) across England and Wales. The volunteer-based charity involving 28,500 people has been used by almost half the population at some time in their lives.

What sorts of new challenges does the current economic climate present?

Since the start of the economic downturn, record numbers of people have been turning to CAB advisers for help with recession-linked problems of job loss and debt as well as benefit, employment and housing problems. The government’s spending review now points to hard times ahead for those that rely on public services, and deep cuts to some welfare benefits, local authority spending and legal aid will certainly have an adverse impact on our clients, and further increase demand for CAB help.

The Citizens Advice service itself also faces a challenging economic outlook. This year Citizens Advice suffered a significant reduction in the grant-in-aid it receives from the government. The lion’s share of core funding for bureaux comes from local councils, who have in the main been generous in their support over the years. But current cuts to local authority funding, and uncertainty surrounding other important funding streams bureaux rely on, mean that many now face the prospect of trying to meet growing advice needs on a shrinking budget.

At the same time, opportunities are emerging to expand our services and provide new ones.

Continued on page 10
NI Ombudsman Consultation
The Northern Ireland Assembly launched a public consultation in September on proposals to update legislation to reform the Office of the Northern Ireland Ombudsman, with a closing date for submissions of 17 December. The consultation covers a wide range of topics. Among other questions, it asks whether there should be a merger into a single office, a wider remit, changes to how complaints are received, and amendments to reporting and enforcement powers and the appointment process for the Ombudsman. See: http://www.niassembly.gov.uk/centre/2007mandate/centre_ni_ombudsman.htm

INFO10
The conference of the international network of financial ombudsmen was held in Cape Town, South Africa in September. This was attended by ombudsmen and their staff representing all sectors of the financial services industry, from 23 countries.

Unsurprisingly, there was a particular interest in dealing with matters arising from the global recession both in terms of the complaints themselves and of the efficient running of ombudsman offices. From long-established schemes to the very newest, all face the challenge of reducing costs but maintaining or improving customer service. Increasing numbers of complaints, the volatile workload and the need for increased efficiency and cost-effectiveness were the subject of a number of presentations and workshops with opportunities to share experiences and good practice.

Apart from the formal presentations there was plenty of informal networking encouraging the exchange of ideas.

Visit to the International Ombudsman Institute
The Executive Committee of BIOA, along with Tom Frawley, the IOI’s Vice-President (and Northern Ireland Ombudsman) is keen to forge closer links with the IOI, especially on the topic of case handler training.

To that end, the BIOA Secretary visited the IOI’s Secretariat in Vienna on 6 December. He met with

PHSO signs South Africa MoU
In mid August, Parliamentary and Health Service Ombudsman Ann Abraham met Public Protector of South Africa, Advocate Thuli Madonsela, in Pretoria, to sign a Memorandum of Understanding, formally committing the two Offices to co-operate and share best practice and experience.

An important element of the MoU is an exchange programme. At the end of October five Public Protector staff members visited the PHSO’s Office in London to see first hand the different challenges and approaches to investigating complaints, to understand how the Ombudsman secures redress for complainants and to share learning and experiences about good administration.
the IOI General Secretary, Dr Peter Kostelka, and with Christine Stockhammer, Head of the General Secretariat, to exchange details of current training initiatives and to discuss possible future joint ventures.

Peter Kostelka has been invited to attend the BIOA Executive Committee meeting to be held in Dublin on 14 April.

Visit to Gibraltar
The BIOA Secretary, Ian Pattison, visited the offices of the Gibraltar Public Services Ombudsman, Mario Hook, in September.

He was introduced to the Public Services Ombudsman's team and briefed on the type of complaints received at the Office and the workings of the Ombudsman in a small jurisdiction such as Gibraltar.

LGO’s new ‘self-funders’ scheme starts
The beginning of October marked a major change for the Local Government Ombudsman’s role when the new service for dealing with complaints from people who arrange and fund their own adult social care was launched.

It takes the LGO’s jurisdiction into a completely new area – dealing directly with private and not-for-profit providers of adult social care across England. This is in addition to complaints about care arranged and funded by local authorities, with which the LGO has dealt for more than 35 years.

The scale of the change is demonstrated by the size of the provider network – care is delivered at some 23,000 locations, managed by about 13,000 providers registered with the Care Quality Commission.

The Health Act 2009 amended the Local Government Act 1974 to extend the LGO’s powers. The new service gives people who have a private contract with their care provider the same access to an independent ombudsman service as those who have assistance from their council. Previously people who self-funded their personal care or purchased their care with a personalised budget had no other recourse than to the Courts.

The Ombudsman have specialist teams in each office that deal with all adult social care complaints. The combination of the new and existing powers enables them to deal effectively with complaints that involve the actions of both local authorities and care providers. As with the local government jurisdiction, in most cases the care provider has to be given a reasonable opportunity to deal with the situation first.

More information on the new service is on the LGO’s website at http://www.lgo.org.uk/adult-social-care

Principles laid before the Scottish Parliament
Following its Consultation, the Scottish Public Services Ombudsman laid a Statement of Complaints Handling Principles before the Parliament on 5 November. The principles require parliamentary approval and will form the basis of all public service complaints procedures. See www.valuingcomplaints.org.uk.

Former editor retires
Matt Merrigan, an investigator with the Office of the Ombudsman for Ireland and former editor of this magazine, retired in October. The current Editorial Board send Matt our very best wishes.

News from the BIOA Secretary

By Ian Pattison

New member – Legal Ombudsman
The Association is very pleased to welcome the new Legal Ombudsman, represented by Adam Sampson, Chief Ombudsman, as a (full) Member.

The Legal Ombudsman was set up by the Office for Legal Complaints (its Board and governing body) under the Legal Services Act 2007, to deal with service complaints about lawyers. It opened for business on 6 October this year.

The Legal Ombudsman has replaced the previous complaints organisations for the legal profession, including the Legal Complaints Service (for solicitors) and the Complaints Commissioner for the Bar Standards Board (for barristers).

BIOA Autumn Seminar
The BIOA Autumn Seminar was held on 15 November at the offices of Winckworth Sherwood, Solicitors in London. We are most grateful to Simon Randall (Consultant) and the partners of Winckworth Sherwood for the use of their premises, in an attractive location on the south bank of the Thames at Southwark Cathedral.

Around 80 people attended the Seminar, representing some 27 member schemes, as well as several individual members.

The two topics discussed, and the speakers involved, were:

The use of associates, contractors and shared services staff to undertake/assist with investigations

Chair
Peter Tyndall, Welsh Public Services Ombudsman (BIOA Chair)

Speakers
Nigel Karney, Secretary of the Commission for Local Administration in England
Chris Bottomley, Independent HR Consultant
Robbie Alcock, Senior Investigation Officer, Ombudsman Services
Sara Fenoughty, Head of Technical & Policy Support, Legal Complaints Service
Leslie Gunde, Head of Business Support Services, Legal Complaints Service
Matthew Dunne, Foot Anstey, Solicitors

Dealing with challenging, difficult or unreasonably persistent behaviour from complainants

Chair
Tony King, UK Pensions Ombudsman

Speakers
Alice Hanscomb, Independent Consultant (on behalf of The Helpelines Association)
Carolyn Hirst, Independent Consultant (formerly Deputy Secretary of the IOI)

Continued on page 4
Legal Interest Group
On 12 October at the offices in Fetter Lane, London of Beachcroft LLP, Solicitors, with Anne Whitehorn, Legal Advisor to the Local Government Ombudsman, as Chair. As well as overviews of Beachcroft (from Tony Child, Partner) and also the Independent Case Reviewer (from Sheryl Bates, Senior Investigation Officer), topics discussed included:
- Ombudsmen as ‘whistle blowers’
- Recovery of court costs following unsuccessful Judicial Reviews
- Is failure to comply with the law maladministration?
- Northern Ireland

Ombudsman’s recent formal oral hearing
- Update on BIOA matters
- Open forum – matters of interest or concern in member schemes

Communications Interest Group
On 19 October at the offices of the Local Government Ombudsman in London with Sue Fox, Corporate Affairs Director at the Information Commissioner’s Office, as Chair. As well as an overview of the LGO from Nigel Ellis, Deputy Local Government Ombudsman, topics discussed included:
- A presentation on ‘Digital Communications’ by Simon Sanett, Digital Account Manager at Grayling (the Public Relations, Public Affairs, Investor Relations and Events Consultancy)
- Impact of change in Government
- Media communications policies
- Update on BIOA matters
- Open forum – matters of interest or concern in member schemes

HR Interest Group
On 20 October at the offices of the Local Government Ombudsman in London with Niki Maclean, Director of Corporate Services at

Fair Premises
Looking out over Galway Bay
No. 13 in a series
By Damhnait Ó Mhaoldúin, Office of the Irish Language Commissioner

The Office of An Coimisinéir Teanga (Irish Language Commissioner) is situated on the outskirts of the small Irish-speaking village of An Spidéal, 12 miles west of Galway city. The contemporary glass and concrete structure has the Atlantic Ocean at its doorstep with stunning views across Galway Bay to the Aran islands, the north coast of County Clare and the spectacular Cliffs of Moher, Ireland’s contender for Ireland’s national language and an official language of the European Union, is undergoing a resurgence in popularity in recent years yet its future remains constantly under threat as it fights a long-term battle for survival.

While Irish and English are widely used and understood in An Spidéal as befits a popular tourist destination, Irish has remained the dominant language of the community and region (Connemara) for over 2,000 years, in common with other similar areas along the western seaboard. The village has schools, shops and restaurants as well as a wide range of tourist accommodation. It is also the home to the set of the Irish language TV service TG4’s biweekly soap opera ‘Ros na Rún’ (‘Headland of the Secrets’) – an imaginary village full of scandal and intrigue. Tourists searching for the perfect pint of Guinness by the fireside at a traditional music session in one of the local pubs are as likely to encounter a TV actor rehearsing lines as to meet the local community fishermen or farmers.

Nearby, Galway city is often regarded as Ireland’s unofficial capital of culture and boasts numerous annual festivals which celebrate theatre, film and the arts in general. The high point of the summer is the Galway Races – a week-long horse racing festival to rival Cheltenham or Aintree! Although Galway’s roots stretch back at least to medieval times, it is considered to be a young and vibrant city because of the high percentage of students attending its university and its institute of technology.

Attempting some key words or phrases in Irish may help endear you to the local community if you visit Connemara:

Fáilte (pron: Fawl’che) = Welcome
Le do thoil (pron: Lay doh hell) = Please
Go raibh maith agat (pron: Go riv mah ‘gut’) = Thank you
Sláinte (pron: Slawn’che) = Cheers
Slán (pron: Slawn) = Goodbye

The Office of An Coimisinéir Teanga
The Claddagh, Galway City
Tenth Anniversary of Northern Ireland Ombudsman – Dr Tom Frawley CBE

By Marie Anderson, Deputy Northern Ireland Ombudsman

On 1 September 2000 Tom Frawley became Assembly Ombudsman and Northern Ireland Commissioner for Complaints. Since 2001, Tom has also acted as Interim Commissioner for Standards and Privileges for the NI Assembly.

At age 11, he moved to Belfast from Limerick and in 1971 graduated from Trinity College, Dublin. His career in the Health Service began in 1973 as a graduate trainee. Tom was the youngest person in the UK to be appointed to the post of Chief Administrative Officer, when in 1985 he was appointed to the Western Board.

BIOA members will be aware of Tom’s significant contribution to the world of Ombudsmen. In 2004 Tom was elected by his fellow Ombudsmen in Europe to represent them as a Director of the European Region of the International Ombudsman Institute (IOI) and a member of the World Board that oversees the worldwide work of the Institute. In November 2006, Tom was elected as the Vice President of the IOI World Board and is currently Director of the IOI European Board.

Tom’s personality and sense of humour make him a very popular member of BIOA. Both he and his family live in Derry. Tom has a keen interest in public and current affairs and, as a former player, in rugby and Gaelic football. In recognition of his outstanding contribution to public service Tom was awarded the CBE in 2008. Tom reflects on the challenges of his role:

‘An interesting and very rewarding ten years, moving from direct rule to devolution, suspension and latterly a more stable Executive and Legislature in Northern Ireland. The privilege of being Ombudsman is matched by the challenge of demonstrating independence of those complained against and those making the complaint’.

Congratulations Tom, on your tenth anniversary!
Biennial Conference 2011

Ombudsmen in a climate of change

12/13 May
Burleigh Court Conference Centre
Loughborough University

Thursday, 12 May
BIOA Annual Meeting
Conference opening address:
Peter Tyndall Public Services Ombudsman for Wales Chair, British and Irish Ombudsman Association

Plenary session Challenges to decisions
Plenary session Ombudsmen: leaders or followers?

Friday, 13 May:
Plenary session International perspectives
Plenary session How to be an Ombudsman in a new climate

The following workshops will be run on both days:
- BIOA approved accredited training
- Managing complainant expectations
- Maintaining confidentiality in investigations in a climate of openness (including FOI)
- Maintaining objectivity in casework and avoiding ‘case hardening’
- Tools for wider learning (e.g. how to improve practice in bodies under jurisdiction)
- Communications and new media

12 May Registration and coffee from 10:00am
BIOA Annual Meeting commences at 12 noon
Conference commences at 1:45pm (lunch before the Conference is provided)

13 May Conference ends at 1:00pm (lunch is provided afterwards)

Registration: £380 (plus VAT) to include meals and overnight accommodation on 12 May

Contact Ian Pattison, Secretary, BIOA, PO Box 308, Twickenham TW1 9BE
020 8894 9272
secretary@bioa.org.uk
www.bioa.org.uk

Note: Further information and full booking details will be sent out in January 2011
Ombudsmen and the legacy of the Administrative Justice and Tribunals Council

By Nick O’Brien, Legal Policy Consultant

It will have come as little surprise to many that the Administrative Justice and Tribunals Council (AJTC) was among those public bodies ear-marked for abolition in the long-awaited ‘bonfire of the quangos’. With an annual budget of roughly £1 million, a staff complement of just 12 and a relatively low public profile, the AJTC no doubt represented a soft target in the scramble for sacrificial victims. With little ceremony, or indeed explanation, the Minister for the Cabinet Office duly administered the fatal blow in his statement of 14 October. By this time next year, the AJTC will be no more.

It would have been expecting too much to anticipate much in the way of public protest at the demise of a public body that has existed in its current guise since just November 2007 and whose new Chair, former Information Commissioner Richard Thomas, has had little more than a year to stamp his authority on his new charge. Those who stood to gain most from the AJTC have scarcely awoken to the fact of its existence, let alone its demise. Yet of all the public bodies to fall to the Cabinet Office axe, it is the AJTC that should be especially mourned by ombudsmen.

When Sir Andrew Leggatt reported on tribunal reform in 2001, he foresaw the AJTC as ‘the hub of the wheel of administrative justice’. Its remit, as eventually described by the Tribunals, Courts and Enforcement Act 2007, was to keep under review the administrative justice system as a whole. This broad objective set the AJTC apart from its predecessor body, the Council on Tribunals, whose narrower mandate reflected its own origins in the 1950s. After generations of circumspection, the creation of the AJTC appeared to have put the existence of ‘administrative justice’ firmly on the judicial map.

Just as importantly, this was a vision of administrative justice that was broad enough to find a place not just for the long-established administrative tribunals, but for ombudsmen, other providers of proportionate dispute resolution, and even first-instance decision-makers. Whilst the use of the expression ‘administrative justice system’ evoked a degree of coherence that had yet to be realised in practice, it nevertheless represented a realistic ambition and, for ombudsmen, a sense of identity within the judicial landscape that had otherwise proved elusive.

The emphasis on the primary role of the ‘users’ of the system, the assertion of an holistic approach that, potentially at least, placed ombudsmen on an equal footing with the courts and tribunals, and the inclusion among its membership of prominent former ombudsmen and of academics with a specialist interest in ombudsmen: all these aspects held out the promise that the AJTC would in time become an important agent in the development of public and private sector ombudsmen throughout Britain and, indirectly, Ireland.

One example of the tangible achievement of that holistic vision is the AJTC’s recently published Principles for Administrative Justice. Whilst acknowledging a debt to the Principles of Good Administration published by the UK Parliamentary Ombudsman, the AJTC’s Principles extend the potential reach of an integrated approach to good administration across the entire landscape of the administrative justice system. For the first time, they offer the prospect of a common culture and language for those engaged in the work of public administration, as well as for those who adjudicate upon it.

The piecemeal assumption by the Ministry of Justice of the AJTC’s functions is hardly much cause for confidence. At a time when administrative justice faces an unprecedented volume of business and reduction in resources, the preferred approach of Government is likely to be increases in fees and reduction in rights of appeal. At the same time, the Courts and Tribunals Integration Programme offers little to the users of the system and is patently a cost-cutting exercise, advancing even further the process of making tribunals indistinguishable from the courts.

The legacy of the AJTC is of an alternative approach, one that acknowledges the importance of administrative justice and that aspires to a more systematic ethos, directly in the interests of ‘users’. It is a vision of which ombudsmen might now find themselves sole custodians.
Administrative justice, human rights and dealing with corruption – in Ghana

By Joseph Whittal, Director, Legal & Investigations

I am currently a Commonwealth Professional Fellow on placement with the Scottish Public Services Ombudsman and the Northern Ireland Ombudsman. I am in the UK for a three month period under the auspices of the Commonwealth Scholarship Commission, the British Council and the LINKS programme of the VSO. Before the placement ends, I would like to place on record the immense experience and knowledge I have gained especially in the operation of ombudsman institutions, which will definitely have a catalytic effect on my work back in Ghana.

Being a two-way affair, I want to share a word about the ombudsman institution in Ghana. It is a hybrid institution under the Ghanaian Constitution with a broad remit that includes typical ombudsman functions and in addition:

- investigates complaints of human rights violations as well as human rights advocacy
- investigates suspicions and allegations of corruption and the misappropriation of public funds by public officials
- has responsibility for the enforcement of the code of conduct and ethics of public officials which includes allegations of contraventions or non-compliance with assets declarations and conflicts of interest by public officials
- has a continually growing remit as laws are passed by the Parliament.

This extensive remit may be due primarily to the credibility the Commission enjoys in the eyes of Ghanaians. The Commission has been accredited with category ‘A’ status on meeting the Paris Principles. I observe that the criteria set down by BIOA for full membership of the Association seem similar to these Principles.

The Commission is one of the Independent Governance Institutions established under the 1992 Constitution to promote and protect the fundamental human rights it guarantees.

Administrative justice and the principles that underpin it have been elevated to the status of a human right in the Constitution. The Commission is not under any control or direction other than the Constitution. It thus enjoys independence from the Executive and Parliament.

The Commissioner and his two Deputies are appointed by the President in consultation with the Council of State and with the prior approval of Parliament. Once appointed, they enjoy the same security of permanent tenure as judges of the Superior Courts of judicature, and can only be removed from office for stated misbehaviour and through a laborious procedure. They enjoy the same terms and conditions as Justices of the Appeal Court and High Court respectively.

The Commissioners have the power to appoint the staff of the Commission in consultation with the Public Services Commission. The Constitution directs that the Commission opens branches in all administrative regions and districts to ensure accessibility of its services to all persons. So far, the Commission has established offices in all ten regions and ninety-nine district offices throughout Ghana with a current staff strength of almost eight hundred permanent employees. By 2014, the Commission hopes to meet the constitutional requirement of having branches in all one hundred and seventy eight administrative districts if funds are made available by Parliament.

By its enabling legislation the Commission is not limited to specific bodies under its jurisdiction as I have found in the Great Britain Ombudsman Institutions. What confers jurisdiction on the Commission in relation to administrative justice complaints is whether or not the body complained against or its agent is a ‘public office’ or ‘public official’. This is defined in the Constitution as anyone whose salary and emoluments are paid directly from the Consolidated Fund or a statutory body established by law to render service to the public, other than one set up wholly for commercial purposes.

What perhaps sets Ghana’s Commission apart from its counterparts in Africa is the additional remit given to it under the Constitution and its establishment Act to investigate ‘own initiative’ allegations or suspicions of corruption and misappropriation of public funds by public officials and to take appropriate action arising from its findings. Since 1995, the Commission, based on persistent newspaper reports about corruption in the public service, has investigated several senior government officials including ministers of state and the Presidency. Recommendations it made have led to resignations and removals from office by some ministers of state and other high Government Functionaries as well as the refund of monies to Government Treasury. The Commission is, however, not satisfied that recommendations for the prosecution by the Attorney-General who doubles
The Furniture Ombudsman

Seventh in a series that illuminates member schemes

By Kevin Grix, Head of The Furniture Ombudsman

The Furniture Ombudsman (‘TFO’), previously known as Qualitas, was established in 1992 at the behest of the Office of Fair Trading and operates independently from the offices of the Furniture Industry Research Association in Hertfordshire. It is funded by its members who range in size from major high street names such as Marks & Spencer, House of Fraser and B&Q to small independent retailers.

TFO considers disputes against its full members relating to the purchase of household furniture, beds and home improvement installations (such as bedrooms, bathrooms and kitchens). Its dispute resolution service follows a process of conciliation and adjudication (which is binding on its members) and is administered by staff who are professionally qualified by The Chartered Institute of Arbitrators. TFO also provides a separate service to consumers and lawyers who require an independent inspection report in respect of a purchase made from a non-member, for use in litigation or dispute resolution elsewhere.

The Ombudsman has jurisdiction over approximately 2,000 stores across the United Kingdom and carries a case load of approximately 400-600 at any one time. It receives approximately 25,000 telephone calls from consumers each year and 70,000 page views on its website www.thefurnitureombudsman.org.

A cross section of the Ombudsman’s adjudication reports are reviewed periodically by an independent Standards Board whose role it is to ensure that decisions are both fair and reasonable. The Standards Board is chaired by Guy Pratt, Head of Hertfordshire Trading Standards, who sits alongside other individuals representing the interests of the consumer and the furniture industry. This year TFO introduced a new online Case Management System designed to increase efficiency and reduce its carbon footprint together with two new websites aimed at providing information and advice about the service to consumers and its members.

Kevin Grix was appointed Head of The Furniture Ombudsman in 2009. Kevin read law at university before taking his Bar exams at The Inner Temple School of Law in London. He was called to the Bar by the Inner Temple and is a member of the Bar Council and an Associate of The Chartered Institute of Arbitrators.

Kevin worked in finance, communications and retail management before turning to law and dispute resolution.

By the Minister of Justice of some of the officials before the Law Courts has largely gone unheeded. A number of memoranda have been presented to the Constitutional Review Constitution (CRC) to give powers to the Commission to enable it to act against public officials deserving of prosecution based on the Commission’s findings. The CRC is still collating memoranda and will present its report to the President and Parliament soon.

In addition to the usual powers of a High Court given to Ombudsmen and Commissions to subpoena documents and compel attendance of witnesses before them in the course of their investigations etc., the Commission has been given broad enforcement powers to bring proceedings before a court of competent jurisdiction to enforce any recommendations that are not complied with. Additionally, the Commission may institute action before any court and seek any remedy available to that court in the execution of its mandate. Indeed, under the Whistleblower Act, orders and directives of the Commission in respect of complaints of victimisation of whistleblowers (who are employees) by employers are deemed to be of the same force and effect as orders or judgements of the High Court with a right of appeal to the Court of Appeal. It must however, be stressed that the Commission’s recommendations are generally subject to judicial review. In my opinion, these residual enforcement powers, although not often invoked by the Commission, have contributed to the seriousness people attach to the Commission’s recommendations.

Annually, the Commission receives about fourteen thousand complaints and enquiries comprising a motley of human rights, administrative injustice, whistleblower and corruption complaints with human rights complaints topping the league table. The Commissioners and staff work under enormous stress and pressure to investigate and dispose of these complaints within acceptable timeframes in addition to other functions of educating the Ghanaian public on human rights.

For further information, email josephwhittal@yahoo.com or jwhittal@chrajghana.org.
Support and advocacy

Continued from page 1

For example, the government has announced that it would like the Citizens Advice service to take on new responsibilities from Consumer Direct, Consumer Focus and the Office of Fair Trading, which are due to be abolished as part of its review of the consumer landscape. All of this means that in the future we will need to be prepared to do things differently, and if money is going to be scarcer, we will need to be prepared to adapt to pursue new opportunities. We provide a vital public service – every community needs access to good, free, independent advice as well as preventative services that empower people to avoid money and legal problems before they arise. Citizens Advice plays an incredibly important advocacy function highlighting how business practices and government policy impact on our clients who are often among the poorest and most vulnerable in society and can find it difficult to make their voice heard. The next few years are going to be challenging but we must do everything we can to safeguard these services for the people who rely on them.

One area where we have an obvious role is in the emerging government plans for the 'Big Society'. As a service with over 21,500 volunteers, all committed to delivering services to their local communities, we are well placed to be central to plans to promote citizenship and volunteering.

It is a challenging time for our service but our advocacy role as well as our role providing support to people in times of need has never been more important. And I am optimistic that we have a strong future ahead of us.

Many Ombudsman offices experience seasonal changes in demand from members of the public – do you also experience these fluctuations?

Traditionally there has been a post-Christmas / New Year spike in enquiries to bureaux but since the onset of the recession our enquiries have been rising steadily quarter on quarter, particularly about debt and welfare benefits. This seems set to continue, and given the spending cuts and the economic climate we expect many more people to have urgent advice needs in the coming months and years.

Debt and benefit issues combined now account for over 60% of the CAB workload. CAB advisers currently deal with 9,500 new debt problems and 8,200 new benefit problems every working day. Fuelled by the impact of the recession, enquiries in these areas are currently growing at an annual rate of 24%, with CAB advisers handling 2.27 million debt problems and almost two million benefits problems in 2009. Employment is the third largest area of advice with just over half a million enquiries a year, and housing problems are not far behind at a little under half a million a year.

What campaigns are you currently highlighting?

Our Fair Welfare campaign is calling for a just, efficient welfare benefits and tax credits system. We are pleased to see that in proposals for welfare reform set out in its 21st Century Welfare paper, the government acknowledges that complexity is a key problem with the current system and says it is determined to deliver a simpler system. However, we are deeply concerned about many of the proposed changes to housing benefit, and entitlement to contribution-based Employment and Support Allowance. We will be campaigning to ensure that plans for welfare reform take into account all the issues people face, based on our experience of advising people about benefit, entitlements and helping them to navigate the system.

Citizens Advice is also supporting the Justice for All campaign – a coalition of legal and advice agencies, politicians and members of the public. Justice for All is campaigning to ensure that everyone is treated fairly under the law, no matter who they are, how much money they have or where they live. We believe free, independent advice and representation on legal matters is essential to achieve justice for all, but are concerned that, with a review of legal aid in the context of public sector cuts and local authority budgets being squeezed, people may struggle to find the help they need. For more information see: www.justice4all.org.uk

In what ways do you think we could strengthen the links between Citizens Advice and ombudsmen?

We already include details of all ombudsman schemes – both public and private sector schemes – within our public information website, www.adviceguide.org.uk and our more detailed, comprehensive in-house information system for advisers, Advisernet. These information sources
Q&A – Citizens Information Board, Ireland

Background

The Citizens Information Board comes under the remit of the Department of Social Protection and is funded by that department. It is the statutory body responsible for supporting the provision of information, advice (including money advice and budgeting) and advocacy services to members of the public on a wide range of public and social services. It does this through resourcing and supporting:

- the nationwide network of Citizens Information Services (CISs)
- the Citizens Information Phone Service (CIPS)
- the Money Advice and Budgeting Service (MABS)

and directly to the public through:

- the citizensinformation.ie website
- a range of publications

It also provides information through targeted microsites, losingyourjob.ie and keepingyourhome.ie. It is establishing a National Advocacy Service for people with disabilities in conjunction with the network of Citizens Information Services following a successful pilot phase.

What sorts of new challenges does the current economic climate present?

The past year has been difficult and challenging for many people – some newly unemployed, many struggling with debt and others finding it hard to make ends meet. It follows, therefore, that demand for all our services is greater than ever. So far this year more than four million people have visited our websites, over 700,000 people have used CISs and CIPs to get information on their rights and entitlements and 25,000 people have received help with their debt problems. With an ‘austerity’ Budget looming, the challenge for us is to continue to meet this public demand maintaining a quality service and remaining vibrant, responsive and innovative to the needs of the citizen on the ground.

Many Ombudsman offices experience seasonal changes in demand from members of the public – do you also experience these fluctuations?

Demand is high all year round but a ‘spike’ in queries often happens for both the Citizens Information Service and MABS in January with consumer related queries and debt issues being more prominent post Christmas. The national budget is announced in December and because this year’s will be particularly difficult we expect that this will lead to a huge demand for our information and advice services.

What campaigns are you currently highlighting?

Working with the Citizens Information Services to establish a new National Advocacy Service for people with disabilities will be a key service area for us in the coming year as will our commitment to support the work of MABS and the CISs. We are continuing to target people most directly affected by the economic downturn. The Government has decided to designate our website Keepingyourhome.ie as the main information portal for communications with borrowers and losingyourjob.ie continues to meet the needs of people who have lost their jobs or face reduced working hours.

In what ways do you think the links between the Citizens Information Board and the Ombudsman could be strengthened?

We have had many links with the office of the Ombudsman over the years, for instance providing office space in CISs for Ombudsman staff to provide clinics for the public, in training and in information dissemination. Currently we are developing a website as part of an initiative by the Office of the Ombudsman in relation to health service complaints. There is recognition by both bodies of the complementary nature of our roles and the value of working together in the interests of the citizen.
Back in spring 2008, two like-minded people got together at a housing conference to discuss the feasibility of giving social housing residents, stakeholders and staff easier access to Ombudsman decisions. Deputy Housing Ombudsman Rafael Runco and Knowledge Manager Rod Webb from HouseMark – the UK's leading social housing performance management company – recognised the greater significance complaints would play in the proposed new regulatory framework for English social housing providers. They proceeded to create a website – ‘Ombudsman Says’ – for reports of Ombudsman determinations of housing cases, initially from England, and later extended to Wales and Scotland.

Fast forward to summer 2010 and four major public services ombudsman are signed up to the innovative scheme. These are:

- Housing Ombudsman Service
- Local Government Ombudsman
- Public Services Ombudsman for Wales
- Scottish Public Services Ombudsman

The way it works is simple – the participating Ombudsmen have their relevant case digests freely available on a unique ‘social housing’ related website managed by HouseMark – www.ombudsmansays.info. The digests are also accessible through HouseMark's subscriber website where additional services are available for its members, such as complaints benchmarking, a discussion forum and best practice examples.

HouseMark and HOS aimed to create a simple, easy to navigate and searchable website for residents, stakeholders, and social housing providers. HouseMark's design agency developed a simple logo that includes the corporate colours of all the Ombudsmen. In April 2009, 'Ombudsman Says' was launched with over 50 case digests provided by the HOS.

Today, the homepage identifies the four participating Ombudsmen, and provides a search box with drop-down boxes to filter the results by Ombudsman, topic and tenure. The latest case digests are listed in date order. Each case digest listed has a unique reference number provided by each Ombudsman, the determination made (such as maladministration), the topic and tenure, and a sentence outlining what the case digest covers in order to aid the reader.

The case digest is in essence a summary of the main report. In keeping with other material on HouseMark's website – www.housemark.co.uk – a photograph or image is added for visual interest. The text is edited by HouseMark to make it easy to read, with short paragraphs, headings and bullet points. The articles include a link back to the full report published by the respective Ombudsman for readers who want more details.

To allow website users to share and comment on individual case digests HouseMark recently introduced a new feature. A 'share article' button now enables the person browsing the case digest to effortlessly email a link to a colleague.

The process for adding new material is managed by HouseMark. Anonymised case digest reports are provided quarterly by HOS, while the other Ombudsman reports are sourced directly from their respective websites. HouseMark monitors these websites and picks up any new content.

There are now over 160 case digests to read in 'Ombudsman Says'. Over the last 12 months the websites (public and subscriber) have had a total of nearly 3,000 unique hits, 592 of which were between July and September this year.

With the changing emphasis from the new UK government on transparency and resident scrutiny it is anticipated that the number of people using 'Ombudsman Says' will increase. HouseMark and its partners are committed to promoting this service to housing providers as a quick and easy means of accessing a wider range of case digests from across the UK. As we go to press, HouseMark is investigating the possibility of including the Northern Ireland Ombudsman.
A fond farewell

Tony Redmond, who retired in November 2010, reflects on his nine years as Local Government Ombudsman.

Nine years as a Local Government Ombudsman has been a wonderful experience. Those who have not had the privilege of working in such an environment may have little idea of the nature and breadth of a role which carries such a high degree of job satisfaction. To be able to remedy injustice suffered by citizens across the whole social spectrum adds value to society and places the Ombudsman in a somewhat unique position.

As Chairman of the Commission I have also had the good fortune to be part of the continuing development of the LGO service. The development of Annual Review letters for all local authorities, the issue of Special Subject Reports and the introduction of extensive training programmes for local authorities are some of the initiatives implemented over the last nine years. In addition, an entirely new process has been established for first contact for complainants through an Advice Service which has been achieved with impressive results. The Commission’s staff are to be commended for delivering these improvements without any additional resources. Those changes, some fundamental, have been expanded as we now take on the private and third sectors through our Adult Social Care jurisdiction representing a significant shift in the nature and volume of our work. This is a major undertaking which commenced in October of this year. From this year we also investigate complaints about the internal management of schools – this applies to about 10% of all maintained schools in England. Other changes are afoot arising from Coalition Government policies and those too will test the resilience of the Ombudsmen and their staff in effecting the changes to their jurisdiction.

These challenges are considerable and it is reassuring to have the Ombudsman community around us to offer what is great support in such situations. One of the comforts of having an association like BIOA in difficult times is that our knowledge and experience are enriched through engaging with our colleagues and friends in the Ombudsman community. BIOA is a first class Association where dialogue and debate are thoughtful, challenging and constructive. Many of us have derived considerable benefit from sharing issues and concerns with other BIOA members, as often examples of good practice flow from such conversations, which we unashamedly use in our own schemes! I am particularly pleased to have seen progress on training, governance and a positive review of the Association’s role as BIOA’s influence continues to make a telling contribution to debates around administrative justice. With the hard work done at BIOA Conferences we are also capable of enjoying ourselves in a social setting – the ABBA tribute band last year was something special!

I was fortunate, during my time as Chair, to visit the Australia and New Zealand Ombudsman Association (ANZOA) conference in Melbourne in 2008. Apart from being very well looked after by my Australian and New Zealand friends it was interesting to note how similar were many of the issues facing Ombudsmen on the other side of the world. It is encouraging to note that our relationships with ANZOA and many other countries’ Ombudsman schemes continue to prosper.

The growth of Ombudsman schemes is perhaps a testament to the very valuable service we perform. As a member of the BIOA Executive, including two years as Chair, I saw at first hand the gradual increase in the number of Ombudsman schemes, particularly in the private sector – a clear measure of success. The growth in Associate membership over recent years is another indicator of the health and strength of BIOA.

Retirement will, no doubt, have its own challenges for me including the growing number of grandchildren (up to five in the next few months) – baby sitting duties are apparently already booked! I plan to deal with my ineptitude at golf if at all possible but my main preoccupation will be studying wine hopefully to degree level. Those of you who know me well will realise this will be for purely academic reasons!

I will miss the camaraderie of the Association and my many friends and colleagues within BIOA and I wish you all well in the future.

Tony Redmond
Pauline McCabe
Prisoner Ombudsman for Northern Ireland

Pauline McCabe was appointed Prisoner Ombudsman in September 2008. She is responsible for carrying out fair, impartial investigation of prisoner and visitor complaints that have not been resolved internally. She also investigates all deaths in prison custody and her reports, as well as informing the family and responding to their questions and concerns, provide valuable learning for the Northern Ireland Prison Service. They are also used by the coroner when preparing for inquests.

Born in Sheffield, Pauline McCabe studied Psychology and Economics at the University of Leicester and completed an MSc in Personnel Management at the Aston University School of Management.

Pauline joined British Leyland in 1977, as a graduate trainee in Personnel Management. She went on to become Industrial Relations Manager for Land Rover UK and subsequently held senior Human Resources and Director of Operations posts in the National Health Service, Grand Metropolitan and Federal Express before starting a training company with her husband in 1988. The company achieved an annual turnover of £10 million and employed 200 staff by the time it was sold in 1995.

After moving to Northern Ireland, Pauline worked as an independent business consultant before becoming the European Head of HR and Planning for US company National Pen in 1997. During this period she also served as a non-executive Director for Newry and Mourne Health and Social Services Trust.

In November 2001, Pauline became one of only two female Independent Members of the Northern Ireland Policing Board. The Board was set up following the Good Friday peace agreement, to transform policing in Northern Ireland. Pauline was chair of the Board’s Human Resources Committee as well as a sub-group that managed to take the hugely significant step of unanimously agreeing a new emblem for the Police Service.

Over the last twenty years, Pauline has worked on a voluntary basis on training, planning and management development projects for charities in Kenya, Madagascar and Ghana. In 2005, she headed a reconciliation project which linked children in Northern Ireland schools with schools in Namibia.

Professor Derek Fraser
Independent Football Ombudsman

The unexpected and somewhat controversial appointment of Professor Derek Fraser as the Chairman of the newly established Independent Football Commission (IFC) in 2001 led directly to his current role as the Independent Football Ombudsman (IFO), investigating and adjudicating on supporters’ complaints. The IFC was the Blair government’s response to concerns about how football was run and a high profile metropolitan appointment was expected. So Derek Fraser, then Vice-Chancellor of the University of Teesside, was regarded as an outsider with no track record of involvement in football.

Derek sees an important parallel between his two fields of activity. Universities, like football, feared full state regulation and so set up their own quality inspection regime, just as football did with the IFC. Both systems are self-regulatory and funded internally. This gives rise to the regular criticism that Derek cannot be truly independent because he is funded by the very bodies he investigates. Derek robustly defends his track record of independent scrutiny totally unconstrained by any financial concerns. He brought to the IFC and the IFO the skills of impartial assessment honed by his experience as a historian and as a government inspector (HMI). A varied career has also involved time as a schoolteacher, senior civil servant, Deputy Director of Sheffield Polytechnic and many part time roles. He has been appointed Professor at three universities, Bradford, UCLA and Teesside.

Derek’s main field of historical research is British social and political history. Generations of teachers and students are familiar with his Evolution of the British Welfare State. First published in 1973, the 4th edition appeared in 2009, taking the story up to Gordon Brown’s premiership. He wonders what five years of attrition from the Coalition might do to the Welfare State, already different from the Beveridge model of the 1940s. ‘The Welfare State, Past and Present’ is one of the subjects on which Derek now lectures on cruise ships. Unlike university students who have to attend lectures, cruise passengers come along voluntarily and provide an interesting and challenging audience. ‘You never know who is in the auditorium, sometimes an expert who corrects your factual slips and always a source of valuable oral history testimony.’
John McNeill
Police Complaints Commissioner for Scotland

John McNeill was appointed to his current post just over one year ago and was awarded an honorary visiting professorship by Glasgow Caledonian University earlier this year.

Both of these would have seemed unlikely back in the late 1960s where, as an undergraduate at Queen’s University Belfast, he freely admits that his early academic career was unorthodox. As a student, he spent more time considering the potential implications of the nascent civil rights movement in Northern Ireland than he did salvaging his studies in British economic history.

However, the influence of this turbulent period in Irish history is undeniable: the realisation that you could challenge authority and hold the establishment to account is a theme that runs through his thirty plus year career in the criminal justice and security forces arena.

From being a Governor at The Maze in the 1980s at the height of the Troubles, to managing the risk of serious reoffending in his capacity as Chief Executive of SACRO in the 1990s, he has worked in (and against) some of the most hierarchical and rigid establishments in the UK.

Before retiring as a Governor from the Scottish Prison Service in 1995, he led a major multi-disciplinary review of the corporate risk of breaching the Human Rights Convention and other rights. This work paved the way for his appointment seven years later as one of Scotland’s first Human Rights Commissioners.

After prisons, there followed eleven years at the Scottish Association for the Care and Resettlement of Offenders. His time there was marked by the introduction of alternative dispute resolution through mediation. He also pioneered restorative justice and worked with a wide range of interests to safeguard vulnerable persons such as mentally disturbed offenders and women prisoners.

In 2008, he accepted an appointment to sit on the Service Complaints Panel where he acts as an independent member outside the chain of command to provide an external, independent view of complaints from servicemen and women.

As the Police Complaints Commissioner for Scotland he is currently championing a fundamental shift in the way that the police handle complaints. His aim is to create a system that embraces learning rather than blame.

Not bad for a man who was told by those in authority that he would have to work harder if he was to progress.

Three initiatives

By Alison Hoyland, Consumer and Parliamentary Liaison, Financial Ombudsman Service

Customer Insight

In the previous edition of The Ombudsman, Natalie Ceeney, chief executive and chief ombudsman of the Financial Ombudsman Service, mentioned a number of challenges facing the organisation of which changing customer expectations and needs are paramount.

In order to continue to provide an excellent customer service, the ombudsman service wanted to find out more about their customers; their motivations, attitudes, needs and behaviours. The service was also concerned that some consumers may not use the service when they had problems with their financial provider or that they start the complaints process and then drop out. The service thought it was important to understand what the barriers were for these consumers and what it could do to help overcome these.

To do this, the service has been working with Gemma Richardson – a customer insight and experience consultant – to look at the service’s customers and identify trends in attitudes and behaviours. The project predominantly looked at both consumers and businesses; a separate project is looking at intermediaries such as claims management companies and advisory bodies.

The results will provide a framework for ensuring that decisions on future processes and services are based on identified customer need – for example, this work has already informed projects on e-enabling the service and on reviewing the quality assurance framework.

Working with the Samaritans

As a public service provider and statutory body, the ombudsman service is fully committed to the fair and equal treatment of everyone it deals with. The service is for everyone and it aims to be accessible and to meet any particular needs its customers may have.

This includes providing information about the service in different languages and in different formats (such as large print, Braille, or audiotape). It also includes adapting the way the service communicates with individual consumers, depending on their needs.

Over the years, the ombudsman service’s jurisdiction has expanded and it now deals with a much wider range of financial services disputes. It also now deals with consumers from a wider variety of backgrounds and life experiences – some of whom are in dire financial or personal difficulties. Quite often consumers contact the ombudsman service in
Three initiatives
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great distress, angry about a particular situation – and at the extreme end – talk about ending their life.

To help handle these difficult situations – and also support the wellbeing of staff – the service asked the Samaritans to come and take a look at what it does and produce a training programme around its staff and customer needs.

Over the last few months Samaritans have provided a priority training programme for front-line call centre staff and management team – with future training planned for later in the year for adjudicators. The programme looks at:

- acknowledging difficult feelings and circumstances;
- showing that the service has listened and understood;
- using strategies to de-escalate emotional situations;
- making sensitive and effective referrals (to Samaritans) and ending contacts professionally; and
- supporting team members dealing with difficult contact situations. The training has proven to be extremely popular with ombudsman staff and has already helped in sensitively handling consumers in great emotional distress.

Employee Engagement

Employees want engaged employees because they deliver improved performance and are prepared to ‘go the extra mile’. Employees want jobs that are worthwhile, that inspire and develop them. It all sounds obvious and sensible in theory – but the service is trying to put the theory into practice and is taking a number of practical steps to create an engaged workforce.

Effective internal communication is more than one-way ‘traffic’ – it’s about dialogue, and the understanding that not everybody hears or responds to messages in the same way. The ombudsman service has always realised the importance of delivering key messages to its staff but it has recently appointed a staff engagement manager, Sarah Quigley, dedicated to this task. Sarah’s role is about changing the emphasis – it’s not enough to just ‘push’ information. By listening to people and demonstrating that the organisation values their ideas, we can help staff to feel connected to their colleagues and the overall aims of the service.

The service is now using a variety of tools to communicate and capture feedback – to encourage staff to share information that might otherwise be missed. It has a comprehensive intranet that delivers a daily mix of corporate and social news. And it has recently introduced a designated staff engagement section, providing weekly interviews and updates about various initiatives or significant pieces of work, all designed to keep all staff involved in what’s going on.

The ombudsman service also provides access to a variety of ways for staff to have their say, and to raise issues directly with relevant colleagues or put questions to members of the executive leadership. For example, all staff question-times, online forums and surveys, as well as a monthly staff magazine. Natalie Ceeney writes a weekly blog and encourages debate by inviting staff to comment, ask questions and give feedback.

In time, the service hopes to evolve its intranet to provide more of an online ‘community’ designed not only to inform colleagues and capture their feedback but to deliver more collaborative working and knowledge sharing. Supported by a range of face to face channels, it is hoped that improved communication and engagement helps all staff feel positive about the organisation, its work and the workplace.

Meeting the Judiciary

By Paul Kenny, from an address given to the Annual Meeting of Circuit Court Judges on 10 July 2010.

It is not often that an Ombudsman is asked to address a room full of Judges, but that was the result of a chance conversation with a colleague earlier this year. I had a meeting with P.J. Fitzpatrick, retired Chief Executive of the Irish Courts Service, who was then Interim Financial Services Ombudsman (between the resignation of Joe Meade and the arrival of Bill Prasifka). On learning that I had an increasing number of complaints relating to Pension Adjustment Orders – or more correctly, their absence or the fact that many of them are poorly drafted – he offered to arrange for me to address the annual meeting of the Circuit Court Judges. His view was that the judiciary would greatly welcome an informal presentation and discussion on the topic. As a result of that conversation, I received an invitation to address the Judges’ Annual Meeting.

Pension Adjustment Orders are the Irish equivalent of the Pension Sharing Orders in the United Kingdom and are provided for by the Family Law Act 1995 and the Family Law (Divorce) Act 1996. They enable the sharing of pensions in cases of divorce and legal separation. Recently, their availability has been extended by the Civil Partnership Act, which will now make such orders available to same sex couples and to cohabiting partners.

Our experience has been that orders may be badly drafted (often in a hurry, in the course of negotiations) and may be impossible for trustees to implement when they finally receive them. Sometimes they are not even served on the trustees of the schemes. At first, I received a small number of complaints about these, but the numbers have been increasing over the years and the situations that they give rise to can become quite complicated, particularly if one of the partners has died in the meantime.

I was pleased to be able to address the Circuit Court Judges, who take most of the divorce and separation cases in Ireland. As these cases are always heard in camera, there is not a whole lot of information available about them. My presentation was followed by a very lively question and answer session, at the end of which one of the Judges muttered darkly that he was ‘glad he had stuck to crime’.

At the suggestion of another Judge, I made contact with the Family Law Association, which represents the legal practitioners in this field. As a result, I am looking forward to addressing that Association’s annual meeting in the near future.
Health complaints – listening and learning

Priya Matadeen, Communications Assistant, reflects on the Health Service Ombudsman’s launch of the first NHS complaint handling performance report and explains how the upcoming regional conferences for NHS complaint handlers will help them improve their services.

On 18 October in the House of Commons, Health Service Ombudsman, Ann Abraham, launched the first in an annual series of reports examining NHS complaint handling performance in England.

Listening and Learning: the Ombudsman’s review of complaint handling by the NHS in England, provides a national picture, from the Ombudsman’s perspective, of what happens when mistakes occur and the NHS fails to put things right.

Ann Abraham used the report to warn that the NHS is failing to listen and learn from complaints and is missing a rich source of free and readily available information. Listening and learning also provides the Ombudsman’s assessment of NHS performance against the commitment outlined in the NHS constitution to acknowledge mistakes when they happen, apologise, explain what went wrong and put things right quickly and effectively.

The report includes previously unpublished data about every NHS trust and strategic health authority region in England. For each body, it shows the number and type of complaints received by the Ombudsman in 2009-10 and the outcomes of the complaints investigated. The online version of the report features a search tool that patients and others can use to look up information about NHS bodies in their local area.

As well as statistical information, the report includes patients’ stories from the Ombudsman’s case files. Many of these examples illustrate how poor complaint handling can make a difficult situation worse for patients and their families. The cases also highlight how poorly handled complaints can escalate, creating unnecessary demands on NHS resources.

In the report, Ann Abraham calls for clearer and more consistent reporting of complaint data across the NHS. She warns: ‘Poor quality or inconsistent information about complaints and their outcomes diminishes learning within the NHS and impedes access to choice for patients.’

The launch event brought together representatives from across government, public sector associations and the healthcare sector to reflect on complaint handling in different parts of the NHS and to discuss the value of complaints. Delegates included BIOA members and senior representatives from the NHS and Trusts, the Cabinet Office, the Department of Health, the NHS Litigation Authority, the Care Quality Commission, and patients’ advocacy organisations. A screening of a short film illustrating the experiences of two complainants

Key figures from the Listening and Learning report
- 15,579 health complaints were closed by the Ombudsman in 2009-10.
- More complaints were received about hospital, specialist and teaching trusts than any other group – 6,304 complaints (44%).
- 17% of complaints received (2,419) were about GPs, making this the second most complained about group.
- 346 complaints were accepted for a formal investigation and 180 investigation complaints were reported on.
- 63% of all complaints investigated were upheld or partly upheld. Of complaints about GPs, 56% were upheld or partly upheld and 80% of complaints about dentists were upheld or partly upheld.
- The two most common reasons for complainants to be dissatisfied with the NHS were failings in clinical care and treatment and the attitude of staff. A poor explanation or an incomplete response were the most common reasons given for dissatisfaction with NHS complaint handling.

The report can be accessed from http://nhsreport.ombudsman.org.uk

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Articles in the two previous issues outlined the background to the rejection by the Department of Agriculture, Fisheries and Food of a recommendation by the Ombudsman for Ireland following an investigation into the Lost at Sea Scheme which, in turn, led to the submission of a Special Report by the Ombudsman to the Houses of the Oireachtas. The remedy recommended by the Ombudsman was financial compensation amounting to €245,570 to be paid to the complainants, the Byrne family.

The Joint Oireachtas Committee on Agriculture, Fisheries and Food held a number of hearings on the matter and on 1 July 2010 the Committee wrote to the Ombudsman and the Department and asked them to engage in further dialogue and seek to agree a compromise position. The Committee indicated that in the event of no progress on a compromise being reached then both parties should provide a further written statement to the Committee summarising the rationale for their respective stances by 19 July 2010.

While there were contacts between the Department and the Office of the Ombudsman it emerged that the Department was not in a position to alter its position in that it was not prepared to accept the Ombudsman’s recommendation. As a result it was not possible to resolve the matter.

The Ombudsman wrote back to the Committee on 20 July 2010 and reiterated the reasons why she felt her recommendation should be implemented in full.

On 20 October 2010 the Committee met in private session to finalise its report on its deliberations. The Committee’s report, which recommended rejection of the Ombudsman’s Special Report, went to a vote with the nine Government aligned members voting in favour of rejecting the Ombudsman’s recommendation and the other seven members attending voting against a rejection. The report was laid in the library of the Houses of the Oireachtas on 20 October 2010.

On 21 October 2010 the Ombudsman issued a press release which was highly critical of the way the Committee had handled her Special Report. The Committee’s conclusions, as set out in its report, on the Special Report and the five separate public hearings of evidence held by the Committee ran to just five lines.

In her press release the Ombudsman commented on the outcome as follows:

‘I am very disappointed for the Byrne family. I have exhausted all the avenues open to me in my efforts to get their complaint satisfactorily resolved. I remain convinced as to the merits of the case and that the family deserved to be compensated as a result of the adverse effect they suffered from actions which, in my view, amounted to maladministration. Ultimately, the Ombudsman model in Ireland allows the Houses of the Oireachtas to be the final arbiter where a public body rejects an Ombudsman recommendation.’

In the press release the Ombudsman went on to express the view that the handling of this case should prompt a wider public and political debate on the relationship between the Ombudsman and parliament. She noted that the Ombudsman model in Ireland is predicated on parliament acting both critically and supportively. Where parliament decides to reject an Ombudsman recommendation, and
does so following a rational and objective engagement, an Ombudsman can have no cause for complaint. She pointed out that in a speech on 9 March 2010, at an Institute of Public Administration conference on Good Governance, she had spoken at length about how parliament and Ombudsman, ideally, should relate.

The Ombudsman noted that in its published decision on the Lost at Sea Special Report the Committee said it accepted that the way the Lost at Sea Scheme was advertised ‘...was not adequate, but not to the extent that it could be considered contrary to fair and sound administration...’. The Committee went on to conclude that it ‘...is not persuaded by the Ombudsman’s views in relation to the design of the scheme.’ In effect, the Committee has substituted its own judgement for the Ombudsman’s; its report contained no further analysis or stated rationale for its conclusions. Indeed, its entire analysis runs to a single paragraph. The Ombudsman stated that it appeared to her that the Committee had taken a view based not on an objective and critical analysis of the report, but on the basis of the party whip system. This did not constitute a rational and objective engagement on the particular case. She expressed the view that this pointed, yet again, to a fundamental weakness in the operation of parliament in Ireland where its role, in many instances, has been reduced to one of rubber-stamping decisions made elsewhere.

The application of the party whip within the Oireachtas Committee undermined what was intended to be one of the values of the committee system, that is, that partisan debate would be set aside in favour of a more open and objective approach to business. The implication of the Committee’s decision is that the Government is allowed to be the judge in its own case. Under the party whip system, the Government has effective control of the Dáil and Seanad; where it insists on using the whip in relation to an Ombudsman recommendation made, in part, against a former member of the Government, it is acting as the judge in its own case.

Commenting further in her press release on the outcome of this case the Ombudsman said:

‘The chain of independence envisaged by the Oireachtas when it enacted the Ombudsman Act 1980 has been broken in this case and that can only be to the detriment of members of the public who have received unfair treatment at the hands of public bodies and who rely on the Office of the Ombudsman to provide a remedy for their complaints in a fair, effective and independent manner.

In its acknowledgements, the Committee appears to suggest that its report should, in some sense, be disregarded because of ‘its particular facts’. That may be a reference to the fact that the actions of a former Government Minister were both scrutinised and criticised in the report, although I cannot be certain that this is the case.

The Committee goes on to compliment the work of my Office and adds that the ‘report casts no reflection on the integrity and effectiveness of the Office of the Ombudsman’. However, I would hope that, in making this comment, the Committee did so in the full knowledge that any reflection cast on this Office is ultimately damage done to the very people represented by the Oireachtas; the citizens and residents of the country.’

The Ombudsman’s Special Report and relevant press releases are available at www.ombudsman.ie. For the Parliamentary and Committee debates see www.oireachtas.ie

Wilma Jarvie
1954–2010

Wilma Jarvie, the Director of Corporate Services at the Housing Ombudsman Service, died on 10 October, leaving behind her partner Douglas and two sons, Douglas (15) and Alex (8). She had been diagnosed with cancer in the summer of 2009.

Wilma joined HOS in 1996 during the transition from its predecessor Ombudsman scheme, and was instrumental in shaping the Service’s financial, administrative and technical systems. As part of the senior management team, Wilma shared responsibilities for strategic policy decisions as well as managing a small team in support of the core casework functions. She was a valued and esteemed colleague and will be sadly missed by everyone at HOS and by many people in the Ombudsman family who knew her.
Support and advocacy

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forms, which the consumer/client can then check. This helps people access the service.

Through our journal for CAB advisers, The Adviser, we have included regular items drafted by ombudsman schemes to outline their work. We regularly mention outcomes from FOS actions in our bulletins for money advisers and would commend their ‘roadshow’ programme aimed at advisers. We are also always pleased to welcome representatives of ombudsman schemes to our national annual conference.

What steps are you taking to highlight the new Equality Act? Adviceguide, our public information website, has been updated to reflect the changes brought about by the Equality Act, as has Advisernet.

Training for advisers has also been updated, with particular emphasis on identifying discrimination issues. During the summer, the Citizens Advice equalities team began work on our campaign to raise public awareness of the Equality Act 2010 and the different forms of discrimination, to inform people of their rights, and to promote equality. Under the 'For Me. For You. For Everyone. The Equality Act 2010’ campaign banner, we have been informing the public of their new rights, including doing this via social networking sites. In addition, working in partnership with the government Equalities Office we have produced a series of quick start guides on the Act; produced a British Sign Language film (available online on Adviceguide and on Youtube) providing an overview of the new Act; and produced a media pack for bureaux to use with their local press.

The theme of our annual Advice Week this year was discrimination, to coincide with the introduction of parts of the Act. The aim was to highlight the fact that discrimination is not acceptable, with the slogan is ‘It’s not OK! Don’t put up with it – get advice’. For this we produced an Advicepod, (a Citizens Advice podcast) about hate crime (available from iTunes: itpc://advicepod. podomatic.com/rss2.xml) and a short film (available on YouTube) about how advice agencies have helped a range of clients who have experienced discrimination (see www.youtube.com/CitizensAdvice).

Health complaints – listening and learning

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brought home the impact on individuals when things go wrong.

Keen to share the learning from the report with frontline NHS complaint handlers, the Office is holding six conferences around the country from October 2010 to January 2011. Deputy Ombudsman Kathryn Hudson will lead the events which include seminars on complaint handling processes and provide an opportunity to discuss the challenges complaint handlers face in their own region.

In the coming months the Ombudsman’s Office will seek to extend its dialogue with NHS strategic management and individual trusts and bodies, using the knowledge from complaints to the Ombudsman to support their efforts for improvement. Throughout all this the Ombudsman’s commitment to the fair and independent resolution of complaints will continue.