



ANNUAL REPORT 2006



Mission Statement

To investigate and decide, in an independent and impartial manner, on complaints and disputes concerning occupational pension schemes and Personal Retirement Savings Accounts (PRSAs)

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Foreword



A Aire,

I am pleased to present my Annual Report for 2006, the third complete year of operation of the Office of the Pensions Ombudsman.

The work of the Office has continued to progress with an ever increasing volume of new cases received. Last year, I stated that I was concerned at the length of time it was taking to complete investigations and that any increase in caseload might result in my Office being unable to attend to other important matters. I regret to report that the situation has deteriorated since then. I encountered considerable difficulty in obtaining a replacement for one of my investigators who left in September and there has also been some turnover among the administrative staff. However, I am glad to be able to report that the investigator vacancy has recently been filled. Extra staff resources have also recently been promised, which should go a long way towards enabling my Office to deal with the increased workload and other matters which have, regrettably, been neglected thus far.

This year has also seen a couple of appeals to the High Court against my determinations, which clearly will involve us in considerable extra work.

I will comment later on the sources of the complaints we receive and on the lessons to be learned from them. The casework this year has again highlighted a couple of issues which have been referred to the Pensions Board, or to the Financial Regulator, as appropriate. I wish to record my own and my staff's appreciation of the ongoing co-operation that exists between us and the Board, the Regulator and the Financial Services Ombudsman and his staff, the objective of which is to ensure that users of financial services receive the best service we can give.

With this report I have, as in previous years, published a digest of cases. I hope that this will prove helpful to those involved in complaints handling as well as to those who may

be considering making a complaint and to those who advise them. As before, the identities of both the complainants and the respondents have been withheld, to protect privacy. Where public authorities are concerned, it is not always possible to conceal a respondent's identity, which may be obvious from the occupation of the complainant.

I wish to thank you, Minister, for your support for the work of this Office. I particularly value the help and support given to me by the staff of your Department – the Pensions Policy Unit, with which I have ongoing contact, and also Personnel, Accounts, IS Services and Facilities Management. I am also grateful for the help given to me during the course of investigations, particularly by Scope Section and Client Identity Services, all of which support is given in a spirit which completely respects the independence of my Office.

Again, I must record my thanks to the Pensions Board, whose staff have been most co-operative, for the access to its files which we are given in the course of investigations. A Memorandum of Understanding with the Board was signed in 2006, to complement that already in existence with the Financial Regulator and the Financial Services Ombudsman. I would also like to thank staff at the Office of the Ombudsman, the Financial Services Ombudsman's Bureau and the Financial Regulator, as there is some two-way traffic in complaints. All of us try to find a destination for complaints which are outside our own jurisdictions.

Finally, I thank my investigators and support staff, past and present, who have not been daunted by a combination of under-manning and an increased workload, and whose hard work and enthusiasm have kept this Office going under very trying circumstances.

Beir beannacht,

A handwritten signature in black ink, appearing to read 'Paul Kenny', written over a horizontal line that extends to the right and then curves downwards.

Paul Kenny

Section 1 – Introduction

The provision of adequate pensions for the population as a whole has become an increasingly topical issue in recent years. As life expectancy increases it is more important than ever for people to ensure that they have adequate pension provision. The Pensions Board has recently highlighted that a man retiring at 65 can expect to live to 85 and a woman retiring can expect to live to 88. Retirement is therefore likely to be a significant proportion of people's lives. In this context it is essential that people should ensure that their pensions are adequate to provide for them in their old age. However it is equally important that people should be satisfied that their pensions are being administered properly in accordance with the rules of the scheme and in accordance with pension's law generally. In this context my Office has an important role to play in providing this assurance by investigating complaints of maladministration and ensuring that adequate compensation is provided where necessary. In addition to this my Office has an equally important role to play in highlighting issues which have come to light through the investigation of complaints and which may apply generally across the pensions industry. If the Government is to achieve the target of 70% coverage through private pension provision it is essential that people have confidence in the pension schemes that they are investing their money in.

In this report I have highlighted a number of issues that have come to light in the last year which I think are important.

In last year's report I had occasion to refer to the delays which were occurring in relation to the issuing of Internal Disputes Resolution (IDR) determinations. Since then I am glad to say that there has been a change in the legislation which allows me to waive the need for IDR in appropriate circumstances. Unfortunately this does not apply in relation to Public Authority Schemes. I have come across certain areas in the public sector where timely completion of the IDR process simply is not occurring. I would again point out that failure to complete the IDR process within the prescribed time limits is a criminal offence under the Pensions Act and it may be that a few prosecutions under this heading are needed to concentrate people's minds on their obligations.

In previous reports I have called attention to the matter of poor communication in the pensions industry. Unfortunately I feel compelled to do so again this year. A significant number of complaints that I receive are purely down to poor communication. Sometimes this is by administrators of pension schemes who do not perfectly understand the rules of the scheme or the requirements of the law. The failure to issue annual benefit statements in defined contribution schemes has also led to all kinds of complications, where members did not know what was happening until it was too late to rectify matters. In some public sector bodies in particular, there does not seem to be a satisfactory method of communicating generally with scheme members. Again I have gone into this in greater detail in the body of the report.

Another issue which I have raised in previous reports concerns the delay in advising members of the cost of purchasing years of service in public sector schemes. These delays first came to my notice in relation to the purchase of added years on a voluntary basis but now relate mostly to the cost involved in paying for periods of service that have become reckonable due to the operation of employment rights legislation – in particular, the Part Time Work Act and the Fixed Term Work Act, both of which have their origins in EU Directives. The effect of these pieces of legislation was to take employees into pensionable employment who had previously been excluded as a matter of public policy. I have outlined later in this report how I feel some of the issues outlined should be dealt with and I am pleased to report that the rules of at least one scheme have been appropriately amended to deal with the problem.

These are some of the major issues that have come to my attention during the year. I have outlined in greater detail in Section 4 some other issues that have also been raised. While my role is obviously to investigate complaints I have to emphasise that on a general basis it is my opinion that the pensions industry in Ireland is both well regulated and well run and the public can rest assured that, what for many is the most valuable asset that they have, is being well looked after.

Section 2 – Summary of Activities in 2006

CASE MANAGEMENT

My Office received 439 new cases during 2006 and dealt with 3,088 telephone enquiries. This represents an increase of 13% and 30% respectively over 2005. We 'cleared' or closed 307 cases during the year. I am not happy with this figure, which represents a reduction of 20% over the number of files closed in 2005. I have already mentioned elsewhere in this report the problems that we had with the staff resources of the Office during 2005. The overall effect of this was that throughput in the Office was not as high as it should have been had the proper resources been in place. In this context the number of cases that were actually cleared during 2006 is testimony to the hard work of the staff of the Office.

While we entered 2006 with 291 complaint files still open we ended the year with 423 on hand. A detailed analysis of caseload and case management is dealt with in the next Section of this report. While the types of complaint we deal with are by nature quite complex, involving time-consuming exchange of information and clarification of documentation, I am again concerned about the increasing length of time it takes to process a complaint. The average processing times more than doubled in 2005 when compared with 2004 and they again increased significantly during 2006. I have already referred above to the staff changes in the Office during 2006. However, notwithstanding these changes it became increasingly apparent during 2006 that the approved staffing level for the office was not sufficient to deal with the increasing number of complaints and phone queries being received. In this regard I made a submission to the Minister requesting that extra staff be allocated to the Office and I am glad to be able to report that this has now been approved. It is envisaged that an extra investigator together with extra support staff will be allocated to the Office during 2007. I am hoping that this will enable the current backlog to be addressed and will also facilitate a quicker turnaround in dealing with complaint cases received.

CASE MANAGEMENT SYSTEMS

I referred in last year's report to the need for a new Case Management System for the Office which would automate the production of case management information statistics in a real time environment, and would also improve the ability of senior management to set targets and quality performance indicators and monitor performance against these targets. I had hoped to issue a Request for Tender for this system during 2006 with a view to having it in place by early 2007. Due to the staffing difficulties already referred to this was not possible. However, I am pleased to report that the tendering process has now started and it is intended that the new system will be in place at the beginning of 2008.

CASES BROUGHT TO FINAL DETERMINATION OR SETTLED BY MEDIATION

I issued 61 Final Determinations under Section 139 of the Pensions Act, 1990 (as amended) during 2006. Of these, 52% were upheld either in full or in part and the remaining 48% were disallowed. This is an interesting development insofar as it is the first time that more cases have been upheld than have been disallowed. A more detailed analysis of this is carried out in Section 3.

During the year, 117 cases were settled by mediation; 75% of these were settled with a result favourable to the complainant. This is an even better outcome than 2005 where 66% were settled with a result favourable to the complainant. The differences in what may be termed a positive outcome for the complainant between Final Determination and mediation can partly be accounted for by the fact that I cannot direct a rule change or override a discretionary power of the trustees in a Final Determination. A Final Determination is also binding on all parties, subject to appeal to the High Court, and the financial awards that I can make are limited to the loss of scheme benefit – i.e. I cannot take account of expenses incurred in fighting the case, or compensation for stress or worry, etc. Mediation,

on the other hand, allows for more flexibility and can very often provide a solution that could not be arrived at by a Final Determination.

I have adopted the position that I will normally issue a Preliminary Notice of Determination, in advance of a Final Determination, which sets out the main facts as established during the investigation and what my likely determination will be, based on these facts. This provides both the complainant and the respondent with an opportunity to clarify aspects of the investigation report and to present any further evidence or comments to me before I make my Final Determination. This process generally works well but adds considerably to the overall time to Final Determination. However, in cases where the facts of the case are clear and I am of the opinion that issuing a preliminary determination is not required I go straight to a Final Determination.

INFORMATION

My staff members spend considerable time in giving information to individual members of the public. People telephone the Office to discuss their problems – even to explore whether they have a genuine complaint, or whether the complaint that they have identified should be made to me at all. The volume of calls to the main Office number has increased substantially since last year, to a total of 3,088, a rise of 30%.

STATEMENT OF STRATEGY

In accordance with Part XI, Section 144(3) to (6) of the Pensions Act 1990 (as amended) I prepared and submitted to the Minister a Statement of Strategy for the period 2007 to 2009. This sets out the general objectives for the Office over the coming three years.

PROMOTIONAL ACTIVITIES

During our first three years of operation the number of formal complaints and informal queries that we have received has grown significantly each year. Nevertheless there is evidence to suggest that there are quite a few people with pension problems who may still not be aware of the existence of our Office and the services that we provide. During the last three years we have not been able

to devote as much time as we would have liked towards promoting the role of the Office and making people aware of our existence. The main reason for this, paradoxically, has been the increasing number of complaints and queries that we have received and because of this, a lack of time to do the promotional work that is needed. Over the next three years we need to spend more time on promotional activities so that the man and woman on the street are aware of our existence. We are already doing this through our website, www.pensionsombudsman.ie, by a small amount of advertising and by placing articles in various pension publications and other journals. A regular column is written for 'Irish Pensions News', the journal of the Irish Association of Pension Funds (IAPF). We also took out advertising features with a number of publications to further improve general public awareness of the role and remit of the Office. Details about the Office are included in the Institute of Public Administration and IAPF Yearbooks and on the Consumers' Association of Ireland wallplanner. Talks have been given to various professional and representative bodies, including the Life Insurance Association, the Irish Bank Officials Association, the Worker Directors of State-Sponsored Bodies, the Joint Chartered Accounting Bodies and the Chartered Accountants Junior Group. We also took part in the Over 50s Exhibition in the RDS in Dublin.

My investigators continued to build relationships within the pensions industry and attended a number of training courses during the year provided by the industry. I consider that attendance at these courses is very useful, both from a training and knowledge management perspective and also as a means of publicising the role of the Office.

With the additional staff resources promised to the Office it is intended in the future to devote more time to promoting the role of the Office.

CONTACTS WITH NATIONAL AND INTERNATIONAL ORGANISATIONS

As well as the contacts mentioned above, I have had ongoing discussions during the year with the Office of the Ombudsman and with the Financial Services Ombudsman. My Office has maintained contact with the Consumer Directorate of the Financial Regulator and with

the Department of Social and Family Affairs. Discussions have taken place with the Revenue Commissioners, the Pensions Board, the UK Pensions Ombudsman, the UK Pre-Retirement Association and the Pensions Management Institute. In the course of investigations my Office has also engaged with the Companies Registration Office and the Director of Corporate Enforcement. I would like to record my appreciation of the co-operation received from all of these organisations.

Contact has also been maintained with a number of Trades Unions, with the Construction Industry Monitoring Agency, and with EPACE, which monitor compliance with the Registered Employment Agreement for the Construction Industry, as well as with the Construction Workers' Pension Scheme itself.

I am a member of the British and Irish Ombudsman Association (BIOA), and members of my staff participate fully in its work, and sit on the various interest groups which deal with different aspects of an Ombudsman's work. I consider the work of this Association to be a valuable resource for the work of this Office. The main objectives of the BIOA include encouraging, developing and safeguarding the role and title of Ombudsmen; formulating and promoting standards of best practice to be met by Ombudsmen in the performance of their duties; holding meetings, conferences and seminars; publishing information and engaging in all such other activities as may improve public awareness of recognised Ombudsman schemes and encourage their efficiency and effectiveness.

LEGISLATIVE CHANGES

During the year there were a number of legislative changes which affected this Office. Section 131 of the Pensions Act was amended to allow me to bypass the Internal Disputes Resolution procedure in cases where there is clearly nothing to be gained from this process. This does not apply to either statutory or public authority schemes. In addition, there is now provision for the IDR process to be deemed to be exhausted within its terms if it has not been completed within the statutory period of three months, or such longer period as I deem appropriate.

Section 3 of the Act provides that where a person contravenes any provision of the Act or Regulations made under the Act, he or she shall be guilty of an offence and proceedings for a summary offence may be brought and prosecuted by the Pensions Board. The new section 3A provides for a "pay up and remedy regime" as an alternative to prosecution where the Pensions Board believes that a person has committed an offence under the Act which is subject to a summary prosecution. The details of this measure still have to be finalised.

These measures will provide for increased flexibility in investigating complaints and ensuring that appropriate remedies are applied in a timely manner.

A recent legislative change has extended my jurisdiction to Retirement Annuity Contracts held under trust, in cases where the financial instruments in which such assets are invested are not exclusively policies of assurance.

MEMORANDA OF UNDERSTANDING



During the year a Memorandum of Understanding was signed with the Pensions Board, the purpose of which was to set out the respective supervisory responsibilities of the Board and the Ombudsman so that the Memorandum can be used by staff of the Board to determine whether the matter they are investigating properly falls within the Ombudsman's remit and vice versa. It also sets out the arrangements for co-operation and exchange of information between the Parties within statutory limits. This will complement the memorandum already in existence with the Financial Regulator and the Financial Services Ombudsman.

In July 2006, a Memorandum of Understanding was signed with the UK Pensions Ombudsman, concerning the treatment of complaints and disputes relating to the Pension Scheme for the North-South Bodies established under the Good Friday Agreement. This was necessary, as the scheme is legally constituted on both sides of the Border.

PUBLIC ACCESS AND AWARENESS

My Office makes every effort to ensure that our services are as accessible as possible. During the year the Office of Public Works (OPW) commissioned an accessibility audit on the building. The ensuing report revealed that major renovation would be required to make the building fully accessible and the OPW is reviewing the recommendations in relation to these works. In the meantime we will continue our policy that where complainants have particular access problems to my Office we will arrange to visit them at an alternative suitable location, including their own homes.

RENOVATION OF OFFICE

During the year refurbishment work was carried out on the ground floor of our present location at 36 Upper Mount Street which involved the provision of a reception area and the re-location of the administrative staff area to the ground floor.

TRAINING & DEVELOPMENT

The process of personal training and development continued for all staff during 2006. This involved technical training in pension related areas; instruction in the different areas of information technology; and other training courses identified as part of each individual's participation in the Performance Management Development System.

STAFFING ISSUES

When the Office was established in 2003 a staffing complement was agreed with the Department of Finance of a Head of Investigations at Principal Officer grade, three investigators at Assistant Principal grade, an office manager at Higher Executive Officer grade and two administrative staff at Clerical Officer grade. It was accepted at that stage that it was difficult to estimate with any degree of accuracy the level of complaints that the Office would be required

to deal with and in this context it was agreed that the level of staffing for the Office would have to be reviewed in the light of experience. Even though I was appointed in April 2003 it was not until September 2004 that I finally had my agreed complement of staff in place. However, it quickly became apparent that the level of staffing agreed would not be sufficient in the longer term to deal with the increasing number of complaints and queries being received in the Office. Added to this problem was the fact that two of my original team left the Office for various reasons in 2006. One of my three investigators left the Office in September 2006 and was not replaced until June 2007. One of my Clerical Officers who was very experienced in dealing with phone queries also left the Office in 2006. Although both have now been replaced there was nevertheless a significant loss of corporate knowledge and experience in the Office.

The Management Services Unit of the Department of Social & Family Affairs carried out an independent review of the staffing requirements of the Office which concluded that there was a requirement for additional staff. Since then I have myself made a case to the Department for the allocation of extra staff and I am pleased to be able to report that there is agreement in principle for the allocation of an additional AP Investigator together with an Executive Officer in the near future. This should go a long way towards enabling the Office to deal with the increased workload in a timely manner.

Section 3 – Caseload Summary & Statistics 2006

This year has once again seen a significant increase in workload for the Office.

There were a total of 291 cases brought forward from 2005 and a further 439 new complaints received during 2006 giving a total of 730 complaints for the year. Of these, 307 cases were closed during the year, leaving 423 cases on hand at the end of the year. (See Figure 3.4)

The number of cases closed during the year is significantly down on last year's figure of 385 cases which is mainly attributable to the staff shortage mentioned previously in this report.

ANALYSIS OF CLOSED CASES

Mediated Cases

I am pleased to say that 117 cases were resolved by means of mediation during the year. Of these, 88 cases, that is, 29% of the 307 total cases closed for the year, were resolved to the complainant's satisfaction without recourse to the rigour of a full investigation. This is slightly up on last year's figure of 25%. The merits of resolving cases through the mediation process as opposed to cases requiring a full investigation are apparent when viewed, for example, in terms of the length of time taken to process a case from initial receipt of the complaint to closure. The average time taken to arrive at a satisfactory resolution through mediation was 33 weeks as compared to an average of 64 weeks to the issue of a Final Determination in which the complaint was upheld.

The remaining 29 cases which were resolved following mediation by my Office either did not materially alter the complainant's circumstances or did not resolve the issue in favour of the complainant.

Final Determinations

Final Determinations under Section 139 of the Pensions Act were made in 61 (20%) of closed cases. Of these, 32 complaints were upheld and 29 rejected.

When it becomes apparent, in the course of examining a complaint, that it will not be possible to resolve the issue through the mediation channel, the complainant is notified that a formal investigation resulting in the issue of a Final Determination is to commence. Our statistics show that the average length of time taken to process a case from initiation of a formal investigation to issue of a Final Determination was 57 weeks in 2006 compared to 33 weeks in 2005. I must stress, however, that this is just an average indication, as the length of time taken depends not only on the complexity of the case but also on the cooperation of all parties to the complaint in furnishing information requested in a timely manner, e.g. the maximum number of weeks to process a case from formal investigation to Final Determination in 2006 was 136 weeks while the minimum was one week.

In cases where a formal investigation is to take place I generally issue a preliminary view to all parties to the complaint prior to issuing the Final Determination. The preliminary view sets out the material facts of the case and gives an indication of the decision which will be contained in my Final Determination. The purpose of issuing a preliminary view is to give all parties to the complaint the opportunity to respond within a specified period with any additional evidence which may not have been considered during the original investigation and which I can then take into account in making my final determination. While this prolongs the duration of the investigation I believe it is beneficial and contributes to a fairer outcome for all concerned. However, in cases where the facts of the case are clear and I am of the opinion that issuing a preliminary determination is not required I go straight to a Final Determination.

Outside Terms of Reference

A total of 56 (18%) of closed cases were found to be outside my terms of reference for various reasons, for example, 24 cases came within the remit of another Ombudsman, Regulator or organisation, including complaints regarding

State Pensions, while 16 cases were found to be outside the time limits within which complaints can be investigated by my Office. The remaining 16 cases were outside my terms of reference for a variety of different reasons.

Miscellaneous Closure Reasons

Sixty-two (20%) of cases were closed following the provision of general advice which was sufficient to satisfy the complainant's enquiry. This is significantly up on last year's figure of 19 (5%) which is an indication that, not only are the public becoming more aware of the importance of understanding their pension entitlements and pre-empting any future anticipated problems which may arise but they are also more aware of the function of my Office and the service it can offer.

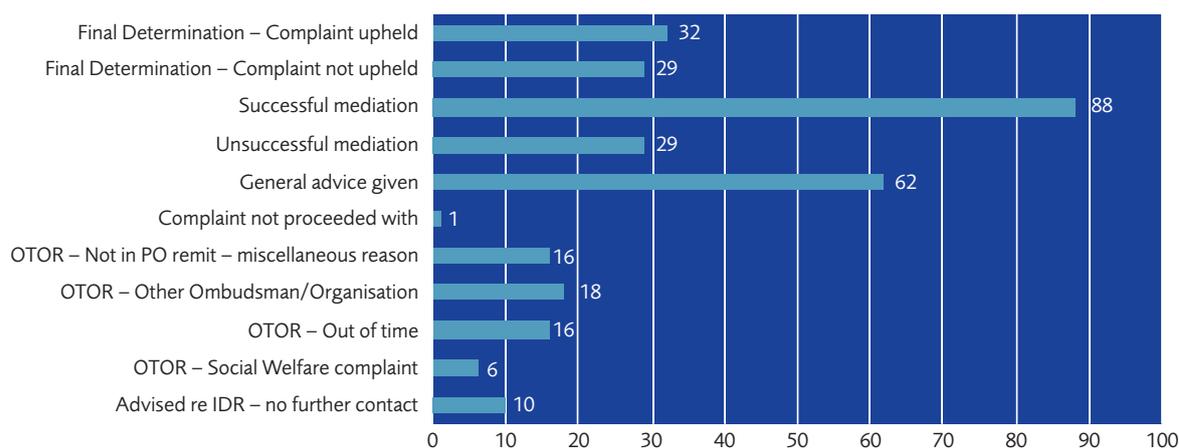
My Office cannot – with certain exceptions – investigate a complaint or dispute until the matter has been submitted to an Internal Disputes Resolution (IDR) procedure. Ten (3%) cases were closed as a result of the complaint not being proceeded with following advice to the complainant to submit to the IDR procedure and a further one case was closed as the complainant indicated a wish not to proceed with the complaint.

GENERAL STATISTICS

During 2006, 74% of complaints were brought by men as compared to 26% by women. The respective figures in 2005 were 79% and 21%. The small increase in complaints from women is in line with the increase in the number of women in the workforce with pension coverage, that is, 46% in 2005 rising to just over 50% in 2006. This increased interest by women in their pension rights was further borne out in March this year, at a seminar hosted by the Pensions Board and the National Women's Council of Ireland, when it was stated by a spokesperson from the Pensions Board, 'The encouraging thing is that we're finding more and more women contacting us to discuss their pension options' but went on to caution '...women still fall behind their male counterparts in terms of pension coverage at 50.6% compared to 58.3% of men. Furthermore, ...just over one in three PRSAs are being taken out by women'.

The breakdown of complaints received in 2006 classified by pension scheme type was – private occupational pension schemes 67%, public pension schemes 31% and complaints concerning Personal Retirement Savings Accounts (PRSAs) 2%.

FIGURE 3.1 – FILE CLOSURE BY REASON IN 2006



Note:

IDR – Internal Disputes Resolution

OTOR – Outside Terms of Reference

Unsuccessful mediation – The original issue raised by the complainant was not resolved to his/her satisfaction

Successful mediation – The original issue raised by the complainant was satisfactorily resolved

FIGURE 3.2 – COMPLAINTS RECEIVED FROM MEN AND WOMEN IN 2006

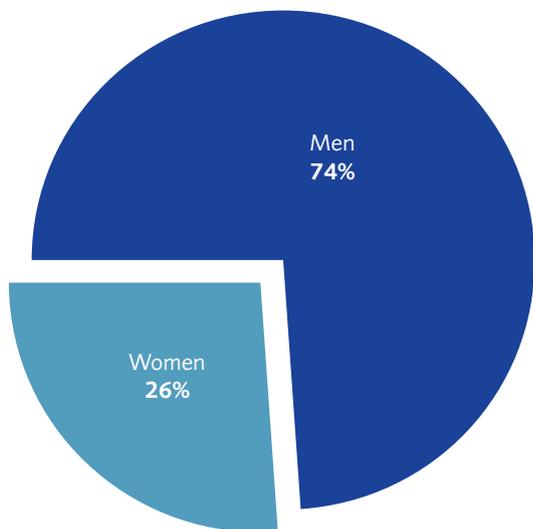


FIGURE 3.3 – COMPLAINTS BY SCHEME TYPE IN 2006

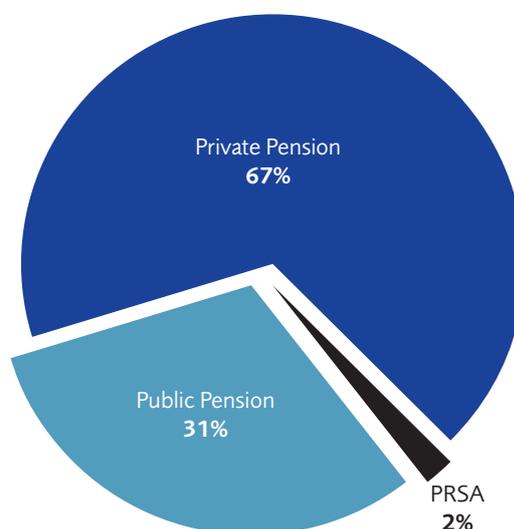
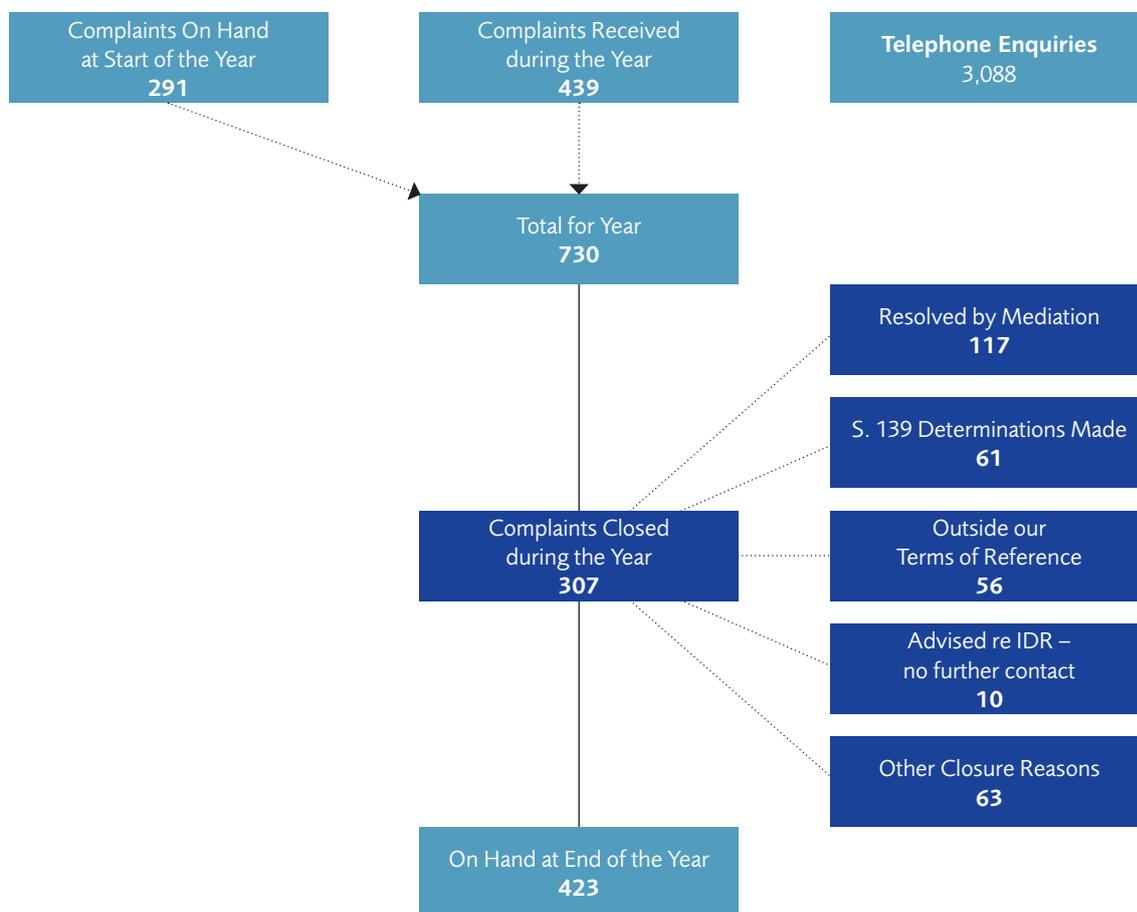


FIGURE 3.4 – WORKFLOW SUMMARY 2006



Section 4 – What we have Learned

As usual, I have tried to learn from the various complaints that have come to my office during the year, and I offer this report in the hope that it will assist those who are responsible for the administration of schemes to avoid some of the pitfalls that these complaints represent.

DELAYS IN ADVISING COST OF SERVICE

A recurring theme this year has been delay in advising members of the cost of purchasing years of service in Public Sector schemes. These delays first came to my notice in relation to the purchase of added years on a voluntary basis. However, they relate mostly now to the cost involved in paying for periods of service that have become reckonable due to the operation of employment rights legislation – in particular, the Part Time Work Act and the Fixed Term Work Act, both of which have their origins in EU Directives. The effect of these pieces of legislation was to take employees into pensionable employment who had previously been excluded, or who had periods of service which were non-pensionable, as a matter of public policy. In general, those affected were Class A PRSI payers, whose entry into full-time service took place after 5th April 1995.

However, in the majority of public sector schemes, this meant also that service which had previously been given by the employee, which was not reckonable for pension purposes, now had to be counted, and appropriate arrears of contributions paid by the member concerned.

In some cases the rules of schemes required that the contributions concerned must be calculated when payment of the contributions themselves begins. This is not a problem if payment commences promptly. However, when there are delays of several years involved in notifying members of their contribution liability, things quickly get out of hand. The member is asked to base contributions on salary at a current date – at very least, several points up an incremental scale or, worse still, following promotion or regrading. This increases substantially the cost to the member of purchasing the past service, and the differences can be very large indeed in some cases – for example, when the employee is quite close to pension age.

In cases where the delay was clearly attributable to the employer, I have ruled that the contribution to be paid by the member must be calculated as at a date that is reasonably close to when the service became pensionable. This followed a recommendation by the Ombudsman, Emily O'Reilly, who had reviewed a couple of such cases from the standpoint of administrative practice. She recommended that calculation should be made at a point no later than three months after the relevant date. I was happy to concur with this. It means that the difference between the contributions on a "current" basis and the correctly-calculated contributions must be paid by the employer – in effect, by the State.

Where it is not possible to arrive at an exact calculation within this deadline, I suggested that a "best estimate" figure was to be used, which could be refined when accurate information is available. I have, however, accepted the view of the Departments of Finance and Environment, Heritage and Local Government that such a practice might bring its own problems.

I am pleased to say that the rules of the Local Government Superannuation scheme are being amended to deal with the problem. Instructions will be given to local authorities to review previous cases and to refund overpayments where appropriate. **I expect any other scheme which adopted similar practices in the past to follow suit.**

WHY THE DELAY?

Investigation of these cases revealed that the delays in advising people of their liability for past contributions were mainly due to understaffed superannuation units. Superannuation is all too often left to the resourcefulness of hard-pressed Human Resources Managers, who cannot get authorisation to bring their units up to appropriate manning levels, or to appoint officers of appropriate seniority to head them up. No allowance had been made for the impact of changes in employment law on superannuation entitlements downstream. It should not be so. Superannuation is fundamental to the employment contracts of public service workers and should not be treated

as an afterthought. Failure to administer a scheme properly brings disorder, frustration and anger and can be a factor in lowering the morale of staff. The internal "customer" is not being cared for and feels rightly resentful.

Apart from this factor, our investigations also revealed mind-numbing calculations and checks to ensure that the precise number of days of previous service (less strike days, if appropriate!) is calculated and credited, often by reference to records which are by no means perfect. In some cases the records no longer exist (after all, there was previously no reason to keep them).

This all adds to the work and increases the delay. I wonder what good purpose is served by spending huge amounts of resources in making the sort of detailed checks that we sometimes see. I am fully conscious of the need to protect the taxpayers' interests, but I am not certain that these are best served by spending, for example, a thousand Euro worth of somebody's time in order to ensure that some individual doesn't get ten Euro more pension than his service, calculated in years and days, will justify.

I am pleased to say that there are managers in place in some areas who take a pragmatic approach and give the members the benefit of doubt, where doubt exists. This is a policy which generally informs the approach taken by the Local Government Superannuation Scheme at a central level. But there are still too many officers who seem unable to act until everything, however insignificant, has been ferretted out and worried to death – to the detriment of their fellow workers.

INTERNAL DISPUTES RESOLUTION – THE PUBLIC SERVICE

I am pleased to say that the Minister has granted my request of last year, by giving me the discretion to waive the requirement for internal disputes resolution (IDR) in appropriate circumstances. This does not extend to the Public Authority schemes, where an appeal lies with the relevant Minister, possibly also with the agreement of the Minister for Finance. He has also provided that the IDR process may be deemed to be exhausted if it has not been completed within the statutory period of three months, or any such longer time as I should consider appropriate.

I have made limited use of these concessions in circumstances where I deemed it right to do so. But I wish I had the right to waive the process in relation to certain public authority schemes! The message has apparently not penetrated to some Government Departments and particular Agencies that there is a statutory requirement to have the appeal process completed within three months from the date on which they have sufficient information to consider the complaint.

There are areas where timely completion is simply not happening. The Department of Education & Science, for example, is a black hole as far as appeals to the Minister are concerned. But it is not alone in this. As I write, I am looking at what is, in effect, a *draft* Determination from the Minister for Communications, Marine and Natural Resources, written just under **9 months** from the date of the complainant's appeal letter. It isn't even a final Determination – it sets out the Minister's position and offers the complainant an opportunity to propose amendments – following which it is proposed to send the whole thing to the Minister for Finance – within four weeks! This is said to be "in order to allow due process". *Due process* requires the final Determination to have been made months before.

I don't even think I would be able to bring a successful prosecution against the Minister for obstructing an investigation – there **is** no investigation, because the failure to complete IDR means I haven't been able to begin one. This kind of conduct is either monumental cynicism or monumental inefficiency. Neither is acceptable. Failure to complete IDR within the time limit is, of course, also a criminal offence under the Pensions Act, and it may be that a few prosecutions under this heading are needed to concentrate people's minds on their obligations. This could perhaps be facilitated by an explicit definition of "obstruction of an investigation" to include failure to complete the IDR process on time.

Those responsible should be warned that, when resources allow, I will begin investigations where I am permitted to do so, without further reference to the "relevant person" who has failed to meet the three-month deadline.

It is also the case that many scheme members and beneficiaries are not aware of the availability of an IDR process. See "Communication", below.

WHEN IDR DOESN'T DO WHAT IT SHOULD...

In one case the trustees of the scheme considered a complaint in which the complainant alleged that she had acted to her detriment on foot of an erroneous benefit quotation from an administrator, which had completely misstated her entitlements on early retirement. The trustees agreed with her, and found that the administrator was at fault. However, the administrator refused to implement the decision of the trustees, claiming that it was too generous (the cost would have fallen on the administrator, who was undoubtedly at fault). The complainant then had to reject the trustees' favourable determination, so that the complaint could go to this Office!

EMIGRANTS

I have mentioned on various occasions – including my Annual Report for 2005 – that our pensions system is not well adapted to those people who come to work here for a temporary period. Benefits are preserved after two years' membership of a scheme, and scheme membership is mandatory in the Public Service, as well as in certain other fields, such as the Construction Industry. Complaints have come mainly from those who joined service when the preservation period was five years, and who were not informed of the reduction to two years. However, I question whether it is right to oblige people to accept preservation when they are permanently emigrating from Ireland.

I believe it may not be possible to relax the rules within the EU, or possibly within the European Economic Area (EEA). But for those returning to countries outside the EEA, I would favour a regime that would allow the export of the capital they had built up as pension benefits, at least if service is less than five years. Appropriate tax arrangements would have to be put in place, but I believe this problem can be resolved by some creative thinking. I hope to discuss this further with the Department of Social and Family Affairs and with the Pensions Board.

For those within the EEA, what we need are simpler methods of facilitating transfers between countries. Differences in the way pensions are organised in various territories make this a more complex issue, but I believe it is a problem that can be addressed, and an area where perhaps Government and representative organisations could work together to solve problems.

COMMUNICATION

Temporary residents are not the only ones to be affected by the preservation requirements which equally apply to Irish people. The problem is, however, that they are often not properly informed of these requirements. Sometimes the poor communication is by administrators who do not properly understand the rules of the scheme or the requirements of the law. Typical of this category would be the case of a woman who was specifically offered a refund of her contributions on two separate occasions, to be finally told that the law had changed (a year before she left) and that her benefits must now be preserved.

In general a great many of the complaints we get arise from poor communication. Failure, for example, to issue annual benefit statements in defined contribution (DC) schemes (or DC elements of defined benefit schemes) has led to all kinds of complications, where members did not know what was happening to their funds until it was too late to rectify matters. At the same time, members cannot expect that trustees should be able to foresee and warn against every contingency that may happen in the future.

An example of this kind of expectation was where a member left service and was given the normal options that the Pensions Act requires – to defer his benefits, transfer them to a new scheme or to a buyout bond or PRSA, as appropriate. His pension explanatory booklet had told him that he could apply for early retirement in the future if he wished. But the trustees had failed to warn him that, if the scheme became insolvent in the future, they might be obliged – as in due course they were – to withhold consent to early retirement.

In another case, mentioned in my Digest of Cases, the complainant maintained that the trustees were under a duty to advise him of the fact that his benefit entitlement, if left in deferred form in the scheme, might not be guaranteed in the event of the future winding-up of the scheme. In that case I did not accept that he would necessarily have acted differently if this contingency had been pointed out, or that the trustees were bound to add such information to a leaving-service statement.

All too often, people think of defined benefit schemes as guaranteeing them a certain level of benefit. In reality, such benefits are only "guaranteed" for as long as the fund is still in existence – and solvent.

In some public sector bodies, there does not seem to be a satisfactory method of communicating generally with scheme members. Scheme booklets are seldom prepared, and members have to rely on a series of circulars to track changes that take place. Alterations that result from provisions of the Pensions Act are sometimes missed. There is evidence that the provision of scheme Annual Reports is not universal. We also receive a great many direct approaches from public servants, because the method of initiating a complaint is not always clear to them.

Statutory schemes contain references to a right of appeal to a Minister or Ministers, but never any clue as to how that right is to be exercised. The grounds of appeal may also be limited in the scheme rules. Because of this it is not apparent that, in order to present a complaint for investigation by this Office, the Minister is the person who must be applied to in the first place.

There have also been complaints in the private sector that IDR was denied to people. There have been cases where trustees did not understand what their own responsibilities were. Finally there are some instances where the IDR process is so complicated that there is no hope of completing it within the statutory period of three months.

In this regard I wish to draw attention to the requirements of the newest Disclosure of Information Regulations¹ which require that the Scheme Annual Report must include – unless already disclosed – *a statement explaining the procedures in place to comply with the requirements of the Pensions Ombudsman Regulations, 2003... with regard to the internal resolution of disputes.*

I would ask all scheme administrators and trustees to ensure that this is done. I would prefer that this be done through the inclusion of a simple statement in every scheme explanatory booklet, stating that there is an IDR procedure in place and where the information can be found about it. As an alternative this information could be set out in a special document separate from the booklet. However, if neither of these methods is feasible, the Scheme Annual Report **must** contain this information.

Another area where bad communication is causing problems is the failure to notify members properly of the

structure of the scheme and what it really means for them in the long term. When poor communication is coupled with bad scheme design, the results can be disastrous – see “Scheme Design”, below.

Other communications issues include the failure to explain properly how transfers-in are treated. We've had examples of members transferring assets to a defined benefits scheme and assuming – incorrectly, as it turned out – that they were used to purchase added years. In fact, they were invested within the scheme on a defined contribution basis.

Promises to augment benefits can often give rise to misunderstanding. An example of this is where a man with 30 years' potential service is promised 40/60ths at pension age, but doesn't understand that, if he retires or leaves before that age, the full value of the added service will not be available.

The operation of the Funding Standard under the Pensions Act can also give rise to misunderstanding. A scheme that is 100% funded according to the standard will not necessarily be able to underwrite the defined benefit expectations of active and deferred members if it is wound up – because it was never expected under the Act that there should be enough money in the fund to buy annuities for these categories of member. The Act provides for transfer values on an actuarial basis which can be a lot less than the cost of annuities. Again, proper communication can play a role here. It doesn't solve the problem, but could avoid misunderstanding and unrealistic expectations.

PENALTIES FOR BREACHES OF THE PENSIONS ACT

In my Annual Report for 2005 I welcomed the advent of civil penalties for breaches of the Act. There were some technical obstacles in the way of these, but I believe that these have been dealt with in the 2007 Social Welfare and Pensions Act. I also welcome the very substantial increase in the penalties that can be imposed by the Courts for offences committed under the Act.

INCOME CONTINUANCE PLANS

In last year's Report I also mentioned the unregulated area of employer-sponsored Income Continuance Plans. The area is still not regulated, and I consider that regulation must be

¹ Occupational Pension Schemes (Disclosure of Information) Regulations, 2005, SI no. 633 of 2005

put in place for the sake of good order. However, redress may be available to aggrieved members of such plans. Following receipt of legal advice, my colleague, the Financial Services Ombudsman, is happy that in many cases he will be able to receive and deal with such complaints.

PROPER INVESTMENT

In one of the cases quoted in this year's Digest, I found against the pensioner trustee of a small self-administered scheme for failure to invest "properly" the assets of the scheme, as is required by Section 59(b) of the Pensions Act, 1990. The assets were invested (by default) in a bank account, which was permissible under the trust deed, but this did not in my view constitute "proper" investment, taking the member's age and circumstances into account. The Investment Regulations² which came into force following implementation of the EU Pensions Directive in 2005 require scheme assets to be invested in a manner designed "to ensure the security, quality, liquidity and profitability" of the portfolio, "having regard to the nature and duration of the expected liabilities of the scheme". These Regulations specifically do not apply to one-member schemes. This is because, in most cases, the sole scheme member will be involved "hands on" in the investment of his own assets.

However, professional trustees must be aware that the disapplication of these regulations does not under any circumstances relieve them of their obligations under Section 59 of the Pensions Act, or of their general duty in trust law in relation to investment.

USE OF DISCRETIONARY POWERS

A number of the cases decided during the year related to the exercise of discretionary powers – or more specifically, to the failure of those who had them to exercise such powers in favour of complainants. In some cases, trustee discretions were limited to ratifying a decision of an employer – for example, to enhance the benefits of a particular member. Complainants felt unfairly treated because benefits had been augmented for some individuals, but not for them. If an employer, in the course of managing its business, chooses to increase the benefits of certain

employees, it is within its rights to do so, and it usually has the necessary power under pension scheme rules. Trustees are then confined to ensuring that the proper financial arrangements are in place for the augmentation, and that it does not result in any loss of entitlements to other members under the scheme rules.

On several occasions I have had to point out to complainants that I am not entitled to substitute my decisions for those of trustees or employers made using discretionary powers. I can do nothing about these, unless the decisions have been made in bad faith, or the powers have been exceeded or fraudulently used. If I am satisfied that a decision was made in good faith, but I believe that the trustees failed to take into account something that they should have, or that they have taken note of something they should not have, I will remit the decision back to them for reconsideration. But I cannot force them to change it.

FETTERING A DISCRETIONARY POWER

A discretionary power must be exercised in accordance with the terms under which is conferred. Trustees and administrators – or, in the case in our current Digest – a Minister acting through his/her Department, cannot decide in advance to place artificial limits on the circumstances in which the use of a power will even be considered. The case concerned the refusal of an application that abatement of pension should be waived in particular circumstances. The conditions for waiver were apparently all met, but the Department refused to consider using the power to waive abatement because it had a policy in place that only certain grades of staff would ever be considered. In this case it was clear from the legislation under which the discretionary power was given that each case had to be considered on its own merits, and there was no power to limit the exercise to a specified category of people. On that basis, I directed that the Circular which had been issued to personnel officers seeking to limit the scope of the discretionary power had no effect and should be withdrawn. I directed reconsideration of the application for waiver of abatement for the complainant.

As well as being a reminder of how discretionary powers should be used, this case also served to remind us – again – that administrative circulars cannot change the law.

² Occupational Pension Schemes (Investment) Regulations 2006, SI no. 294 of 2006

WINDING-UP

Complainants sometimes feel that, when a scheme is being wound up, there is an automatic duty upon trustees to use the total assets of the scheme for their benefit. This is not so. The scheme assets must be dealt with in accordance with the scheme's own winding-up rule, to the extent that that is not overridden by the statutory priorities set down in the Pensions Act.

In some cases the winding-up rule will direct the use of the assets for the sole benefit of the members; in others, it may direct payment of any surplus to the employer. In most cases, the trustees will have a discretionary power of augmentation, possibly to be used in consultation with the employer, if that body still exists. The fact that a power of augmentation is available does not mean that the trustees are always bound to augment.

One of our complaints this year was against the transfer of assets from one scheme to another of the same company, ultimately benefiting the sponsoring employer by lowering its future contributions (the trustees in this case did not have a bulk transfer power, and had to invoke Section 48(3) of the Pensions Act to achieve the transfer). It was clear that the great bulk of the surplus assets had in fact been used to augment members' benefits and the complaint was disallowed, because no obligation lay on the trustees to use the remainder for the members as well.

PENSION SCHEME DESIGN

Risk benefits as a first charge

I have received a number of complaints in relation to defined contribution pension schemes, in which the total employer contribution is stated, with the proviso that the cost of death-in-service benefit is a first charge against this contribution. Complaints have arisen mainly from failure of complainants to understand the implications of this, and from failure of employers to appreciate the effects of this type of design. In a case which appears in the Digest I did not uphold the complaint, as it was clear that the beneficiary should have known from benefit statements and other communications how the scheme was designed.

However, in a separate case which was the subject of mediation, the provider concerned made a monetary

concession to the complainant (who was a proprietary director of the employer) as it was clear that the implications of the design had not been clearly explained.

In the majority of pension schemes, the death benefits are paid for by recurring single premium term assurance contracts. These give a low cost at young ages, as against the alternative "annual premium" contracts, which anticipate the average cost of risk over the employee's future working lifetime. This makes financial sense – if the employee were to die, the risk has been paid for at minimum cost. There is, however, a downside. As the scheme member gets older, the cost of risk tends to escalate quite rapidly. Not only is the cost per cent increasing, but very probably the member's salary, on which death benefit is based, is also increasing, aggravating the effect.

To some extent this can be eased by taking into account the accumulated pension fund and reducing the sum at risk appropriately. However, unless the employer's contribution is very substantial, it is almost inevitable that a time will come when risk costs will absorb it completely. The next step is to take some of the risk cost from the member's own contributions; and eventually, it is in theory possible that the extra cost of risk will be taken by cashing in some of the accumulated pension fund.

There are quite a few schemes designed in this way. There are some which are even worse – where the cost of disability insurance is also a first charge against the contribution. In such cases, the journey to the erosion and eventual disappearance of the pension fund will be very rapid (although units in the pension fund cannot lawfully be encashed to provide disability cover, and I would have doubts about the legality of using employee contributions to finance this either).

These basic facts must be known to the people who design and sell these schemes. In fact, I have seen quotations where the long-term cost of the initial life cover is set down alongside the lower immediate cost, so the advisors are on notice from the insurance company about the long-term cost of cover.

There is no excuse for selling schemes designed in this way, unless the advisor is prepared to monitor carefully what is happening and advise members on the management of their

benefits in line with their needs (for example, higher death benefits may be appropriate while children are dependent; perhaps less so when they are not). There is even less excuse for failing properly to communicate with members so that they know what is in store for them if they live. I believe that intermediaries and employees of providers who allow problems to develop in schemes like these should not be authorised to work in financial services, as describing these arrangements as pension schemes is little short of a confidence trick.

"Target benefit" schemes

So-called Target Benefit schemes are also presenting problems. These probably arise mainly from failure of employers to meet commitments given when the schemes were commenced, and partly from failure to communicate properly what the schemes are designed to do.

A target benefit scheme is technically a defined contribution scheme, in which the contribution promised is designed to produce a benefit, the amount of which is stated to be a target rather than a promise or a guarantee. The initial contribution is fixed by the employer, often based on actuarial advice, and an undertaking is given to review the rate of contribution from time to time, to ensure that the aimed-for target is likely to be met. Frequently, these schemes replaced earlier defined benefit schemes, in circumstances where the employers concerned were uncertain of being able to support defined benefit promises indefinitely, or where a combination of the insurance contracts being used and the new regulation brought about by the Pensions Act had made the old schemes unsustainable. Frequently, employees do not understand – or are not properly told about – the implications of the change in the nature of the scheme.

Some of the complaints about these schemes arise from failure to keep targets and contributions under review. Employers don't like to review too often (and indeed, have been warned on occasion by providers that frequent review might be seen as giving the scheme the characteristics of a defined benefit arrangement). However, there have been cases where no review has ever taken place. A great many target benefit schemes were started when interest rates and annuity rates were much more favourable than they are

now, but the contribution rates have never been adjusted to take changes in circumstances into account.

Sometimes target benefits were set up in the wake of defined benefit schemes, with the employer undertaking to continue pay the same rate of contribution. Members then assumed – incorrectly – that this meant that they would get the same benefits.

In the vast majority of complaint cases, the one thing that is clear is that the exact nature of the scheme was not properly communicated to the members, who have built up all kinds of unrealisable expectations in their own minds. In many cases the quality of communication is so poor that my investigators find it very difficult to establish what exactly was promised in the first place. In one case I know that a complainant was definitely a member of a defined benefit scheme at a particular date. I know also that the scheme was defined contribution on another date, some years later. But what happened in between is still shrouded in mystery.

While it would clearly be impossible and probably undesirable to outlaw "Target Benefits" altogether, I would urge those employers who operate them to keep them under review; those intermediaries who are involved with them to press for their urgent review; and those members and employers who are not quite sure of what they actually have, to take steps to find out very quickly.

Section 5 – Conclusion

The content of this report is again mixed. It is clear that more people are aware of the Office with an increase in the number of complaints and telephone enquiries received in the office during the year. However, as I have outlined in the report I am concerned that there was a 20% drop in the number of cases that we cleared during 2006 compared to 2005. This inevitably has led to a backlog of cases and at the end of 2006 there were 423 cases on hand. The reason for this, as I have outlined several times already, has been the inadequate resources in the Office during 2006. This, unfortunately, has also extended into 2007 and it is only recently that we finally managed to replace an investigator who left in September 2006. However, I am glad to report that we have been promised new staff which should enable the current backlog to be addressed and will also facilitate a quicker turnaround in dealing with complaint cases received. I am also hoping to be able to address finally some of the plans that we have in mind – a Customer Charter, a revamped website and a new complaints tracking system among other things.

Section 6 – Financial Accounts

The Exchequer through the Department of Social and Family Affairs funds the Office of the Pensions Ombudsman.

The Office acknowledges the ongoing support of the Department of Social and Family Affairs in relation to its Accounts and Payroll obligations.

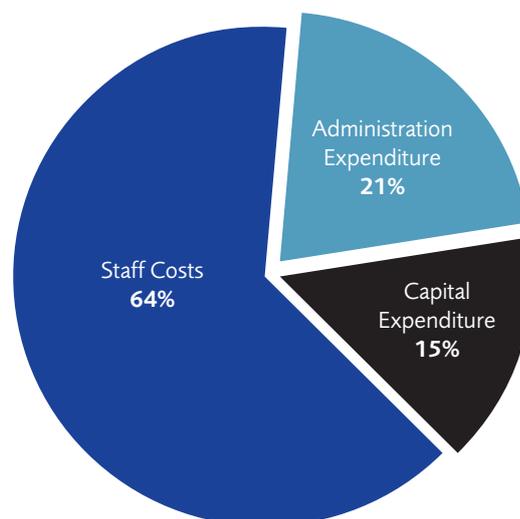
ANNUAL ACCOUNTS FOR 2006

The Financial Statements for 2006, including the report of the Comptroller and Auditor General, are set out in Appendix 6.

The costs of running the Office in 2006 are set out in Table 6.1.

Table 6.1 – Costs of Running the Office in 2006

	2006 €
Staff Costs	511,390
Administration Expenditure	163,439
Capital Expenditure	118,981
Total Running Costs	793,810





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APPENDICES

Appendix 1 – Office of the Pensions Ombudsman Staffing 2006

Paul Kenny
Pensions Ombudsman

Kevin Lonergan
Head of Investigations

Gerard Hughes
Investigator

*Position vacant from
September 2006 to June 2007
when filled by **Ciaran Creagh***

Joan Bray
Investigator

Caitriona Collins
Investigator

Jean O'Toole
Office Manager

Martina Brennan
Clerical Officer

Michelle O'Keeffe
Clerical Officer

*to November 2006
when replaced by
Stephen Burke*

Appendix 2 – Breakdown of Complaints by Location

Breakdown of Complaints 2005 & 2006 by Location

Location	2005	2006
Carlow	3	6
Cavan	2	1
Clare	6	9
Cork	53	63
Donegal	5	7
Dublin	130	167
Galway	22	15
Kerry	13	7
Kildare	18	21
Kilkenny	4	5
Laois	6	5
Leitrim	2	4
Limerick	21	28
Longford	1	3
Louth	7	7
Mayo	10	9
Meath	18	21
Monaghan	4	1
Offaly	1	5
Roscommon	1	2
Sligo	11	6
Tipperary	7	7
Waterford	8	11
Westmeath	7	1
Wexford	10	11
Wicklow	10	5
Australia	1	0
Belgium	0	1
France	0	1
New Zealand	0	0
Portugal	0	1
United Kingdom	7	9
United States	1	0
Overall Total	389	439

Appendix 3 – Nature of Complaints 2005 & 2006

Nature of Complaint 2005	Total	
Remittance of contributions	68	17%
Outside terms of reference	65	17%
General enquiry	31	8%
Membership/ entry conditions	30	8%
Post-retirement increases	26	7%
Calculation of benefits	25	6%
Failure of scheme to respond	23	6%
Incorrect info resulting in financial loss	18	4%
Transfers	18	4%
Incorrect / late / no payment	14	4%
Disclosure of information	11	3%
Calculation of service	9	2%
Spouses' and dependants' benefits	9	2%
Early retirement	7	2%
Additional voluntary contributions	6	2%
Ill health	6	2%
Preservation of benefits	6	2%
Augmentation/enhancement of benefits	5	1%
Winding up	4	1%
Contribution refunds	3	1%
Defined Benefit V Defined Contribution	3	1%
Equal Treatment Issue	1	0%
Mis-selling	1	0%
Total	389	100%

Nature of Complaint 2006	Total	
Membership/entry conditions	87	20%
Outside terms of reference	56	13%
Calculation of benefits	49	11%
Remittance of contributions	47	11%
Transfers	30	7%
General enquiry	20	5%
Post-retirement increases	19	4%
Calculation of service	18	4%
Spouses' and dependants' benefits	18	4%
Disclosure of information	15	3%
Failure of scheme to respond	14	3%
Winding up	12	3%
Incorrect info resulting in financial loss	10	2%
Additional voluntary contributions	8	2%
Early retirement	8	2%
Ill health	7	2%
Augmentation/enhancement of benefits	6	1%
Incorrect / late / no payment	5	1%
Contribution refunds	3	1%
Defined Benefit V Defined Contribution	2	0.5%
Preservation of benefits	2	0.5%
Commutation of pension	1	0%
Equal Treatment Issue	1	0%
Mis-selling	1	0%
Total	439	100%

Appendix 4 – Case Flow Summary and Analysis of File Closures

Case Flow Summary	2006
On hand at start of the year	291
Received during the year	439
Total for year	730
Closed during the year	307
On hand at end of the year	423

Summary of File Closures	
Number of files closed	307
Average weeks to closure	35.11
Longest weeks to closure	161.14
Shortest weeks to closure	0.00

Closures by Decision Reason	Number	% of Total
Successful mediation	88	29%
General advice given	62	20%
Final Determination – complaint upheld	32	10%
Final Determination – complaint not upheld	29	10%
Unsuccessful mediation	29	10%
OTOR – Other Ombudsman/ Regulator/Organisation *	18	6%
OTOR – Not in PO remit – miscellaneous reason	16	5%
OTOR – Out of time	16	5%
Advised re IDR – no further contact **	10	3%
OTOR – Social Welfare complaint	6	2%
Complaint not proceeded with	1	0%
Total	307	100%

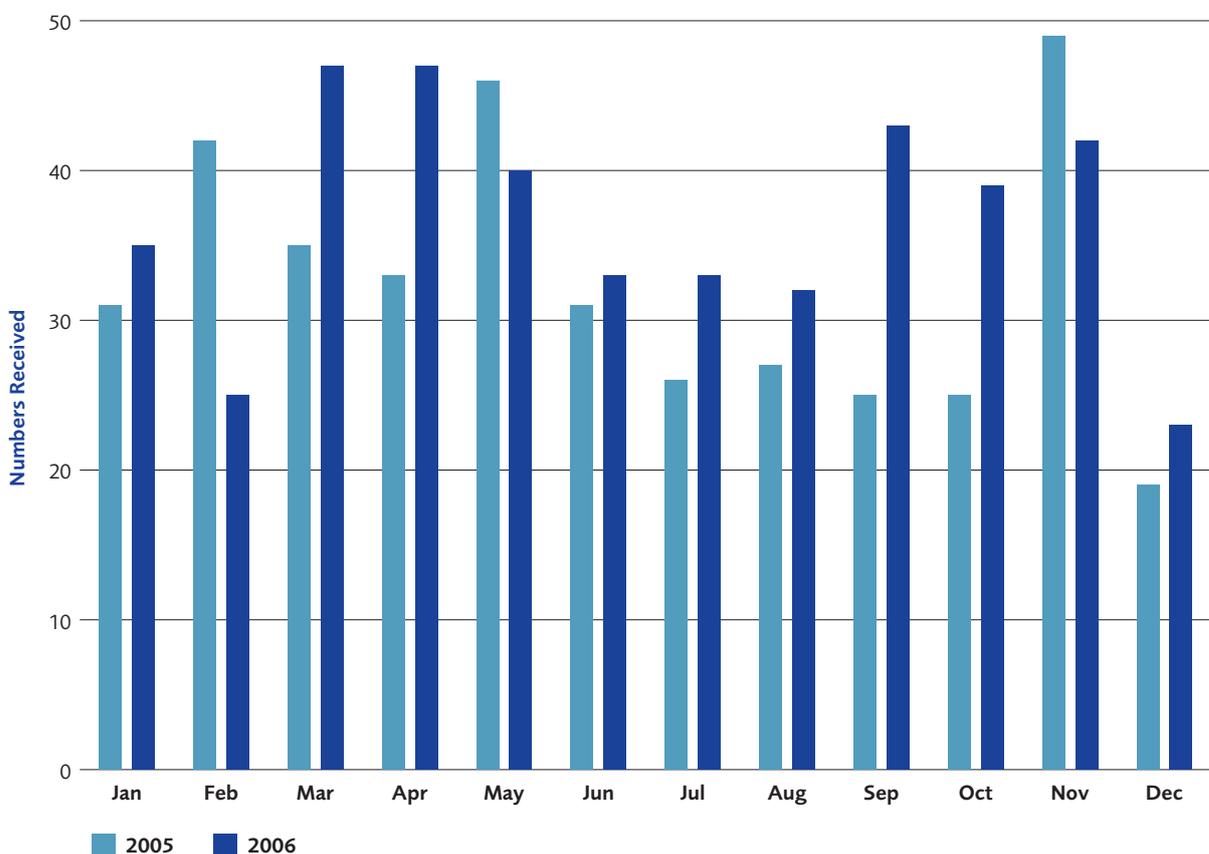
Number of Weeks to Closure		
Less than 5 weeks	74	24%
5 – 10 weeks	28	9%
10 – 15 weeks	32	10%
15 – 20 weeks	17	6%
20 – 25 weeks	17	6%
25 – 30 weeks	12	4%
30 – 35 weeks	13	4%
35 – 40 weeks	11	4%
40 – 45 weeks	8	2%
45 – 50 weeks	7	2%
Greater than 50 weeks	88	29%
Total	307	100%

* OTOR – Outside terms of reference of Pensions Ombudsman

** IDR – Internal Disputes Resolution procedure

Appendix 5 – Number of Complaints Received by Month 2005 & 2006

Month	2005	% of Total	2006	% of Total
January	31	8%	35	8%
February	42	11%	25	6%
March	35	9%	47	11%
April	33	8%	47	11%
May	46	12%	40	9%
June	31	8%	33	7%
July	26	7%	33	7%
August	27	7%	32	7%
September	25	6%	43	10%
October	25	6%	39	9%
November	49	13%	42	10%
December	19	5%	23	5%
Total	389	100%	439	100%





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APPENDIX 6 –

FINANCIAL STATEMENTS

FOR YEAR ENDED

31 DECEMBER 2006

Report of the Comptroller and Auditor General for presentation to the Houses of the Oireachtas

I have audited the financial statements of the Office of the Pensions Ombudsman for the year ended 31 December 2006 under Section 143 (2) of the Pensions Act, 1990 as amended.

The financial statements, which have been prepared under the accounting policies set out therein, comprise the Statement of Accounting Policies, the Income and Expenditure Account, the Balance Sheet and the related notes.

RESPECTIVE RESPONSIBILITIES OF THE PENSIONS OMBUDSMAN AND THE COMPTROLLER AND AUDITOR GENERAL

The Pensions Ombudsman is responsible for preparing the financial statements in accordance with Section 143 of the Pensions Act, 1990 as amended and for ensuring the regularity of transactions. The Pensions Ombudsman prepares the financial statements in accordance with Generally Accepted Accounting Practice in Ireland.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

I report my opinion as to whether the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland. I also report whether in my opinion proper books of account have been kept. In addition, I state whether the financial statements are in agreement with the books of account.

I report any material instance where moneys have not been applied for the purposes intended or where the transactions do not conform to the authorities governing them.

I also report if I have not obtained all the information and explanations necessary for the purposes of my audit.

BASIS OF AUDIT OPINION

In the exercise of my function as Comptroller and Auditor General, I conducted my audit of the financial statements in accordance with International Standards on Auditing

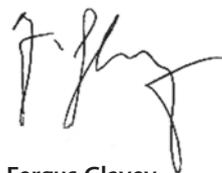
(UK and Ireland) issued by the Auditing Practices Board and by reference to the special considerations which attach to State bodies in relation to their management and operation. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures and regularity of the financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgments made in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Pensions Ombudsman's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations that I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements.

OPINION

In my opinion, the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of affairs of the Office of the Pensions Ombudsman at 31 December 2006 and of its income and expenditure for the year then ended.

In my opinion, proper books of account have been kept by the Pensions Ombudsman. The financial statements are in agreement with the books of account.



Fergus Glavey

For and on behalf of the Comptroller and Auditor General

28 June 2007

Statement on Internal Financial Control

RESPONSIBILITY FOR THE SYSTEM OF INTERNAL FINANCIAL CONTROL

The Office of the Pensions Ombudsman is a small Office in one unit. There is currently a total staff of 7, including the Ombudsman, a Head of Investigations, two investigators, an office manager and two further officials. The responsibility for ensuring that an effective system of internal controls is maintained and operated falls to myself, as Ombudsman.

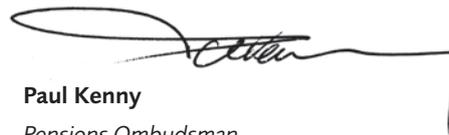
The system can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period.

The staff of this Office and I have taken steps to ensure that there is an effective system of financial control in place, by implementing a system of internal control based on regular information on expenditure being supplied to management, administrative procedures including segregation of duties, and a system of delegation of responsibility. This includes the following procedures:

- An annual estimate of financial requirements is provided to our parent Department, the Department of Social and Family Affairs.

- A twice yearly report is provided to the Department which compares estimated and actual expenditure.
- All expenditure by this Office is recorded on the Department's general ledger accounting system. A monthly expenditure report is prepared by the Department's Accounts branch. This is then checked by the office manager against the records held in the Office.
- The office manager prepares a monthly statement of expenditure which compares estimated and actual expenditure. This is circulated to all members of staff and is reviewed by myself.
- A segregation of duties exists between the preparation, authorisation and execution of payments.
- An internal audit function will be provided by the Department of Social and Family Affairs.

I confirm that I reviewed the Office's system of internal financial control during the year 2006.



Paul Kenny
Pensions Ombudsman

4 April 2007

Statement of Accounting Policies

1. BASIS OF PREPARATION

The financial statements are prepared on an accruals basis, except as outlined below, in accordance with generally accepted accounting principles under the historic cost convention and comply with applicable financial reporting standards and with the requirements of Section 143 of the Pensions Act 1990 (inserted by Section 5 of the Pensions (Amendment) Act 2002).

2. OIREACHTAS GRANT

Oireachtas Grant represents the total payments made by the Department of Social and Family Affairs on behalf of the Office in the year of account.

3. PENSIONS

The employees of the Office of the Pensions Ombudsman, being Civil Servants, are covered by Civil Service pension arrangements with the exception of the Pensions Ombudsman who is appointed by the Minister for Social and Family Affairs. A pension scheme for the Pension Ombudsman, agreed in October 2006, is currently being implemented. No formal valuation has been carried out of the pension liability of the Office of the Pensions Ombudsman in respect of this scheme.

4. TANGIBLE FIXED ASSETS

Tangible Fixed Assets are stated at cost or valuation less accumulated depreciation. Depreciation is provided on a straight line basis at rates which are estimated to reduce the assets to realisable values by the end of their expected useful lives as follows:

IT and Office Equipment	20% Straight Line
Furniture and Fittings	10% Straight Line

5. CAPITAL ACCOUNT

The Capital Account balance represents the unamortised value of income applied for capital expenditure.

6. CASH FLOW STATEMENT

No Cash Flow Statement is presented in line with the exemptions granted in FRS 1.

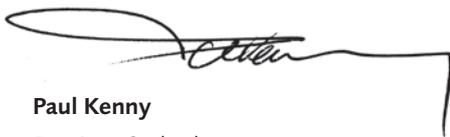
Income & Expenditure Account

FOR THE YEAR ENDING 1 JANUARY TO 31 DECEMBER 2006

	Notes	2006 €	2005 €
Income			
Oireachtas Grant	1	652,591	733,405
Transfer to Capital Account	5	(20,657)	11,729
Total Income		631,934	745,134
Expenditure			
Staff Costs	2	511,390	502,541
Administration	3	254,428	108,763
Depreciation	4	25,992	21,327
Audit Fee		2,000	2,000
Total Expenditure		793,810	634,631
Deficit for the year		(161,876)	110,503
Surplus at 1 January		106,023	(4,480)
Deficit at 31 December		(55,853)	106,023

The Office of the Pensions Ombudsman had no gains or losses in the financial year.

The Statement of Accounting Policies and Notes 1 to 6 form part of these financial statements.



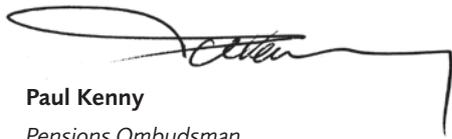
Paul Kenny
Pensions Ombudsman

Balance Sheet

AS AT 31 DECEMBER 2006

	Note	€	2006 €	€	2005 €
Fixed Assets					
Tangible Fixed Assets	4		120,462		99,805
Current Assets					
Prepayments		3,903		115,368	
Cash in Hand		181		101	
		4,084		115,469	
Current liabilities					
Accruals		59,937		9,446	
Net Current Liabilities					
			(55,853)		106,023
Total Assets Less current Liabilities					
			64,609		205,828
Financed By					
Capital Account	5		120,462		106,023
Income and Expenditure Account			(55,853)		99,805
			64,609		205,828

The Statement of Accounting Policies and Notes 1 to 6 form part of these financial statements.



Paul Kenny
Pensions Ombudsman

Notes to the Financial Statements

1 OIREACHTAS GRANT

Funding for the Office of the Pensions Ombudsman is provided by the Department of Social and Family Affairs which makes all payments on behalf of the Office. The total grant matches the sum charged to the Appropriation Account of the Department of Social and Family Affairs.

2 STAFF COSTS

These comprise:

	2006 €	2005 €
Wages & Salaries	505,872	494,848
Travel	5,518	7,693
Total	511,390	502,541

The number of staff employed by the Office in 2006 was 8, including the Ombudsman. One member of staff left in September and has not been replaced to date.

3 ADMINISTRATION COSTS

	2006 €	2005 €
Incidental Expenses	84,178	66,746
Postage and Telecommunications	7,158	3,355
Printing & Stationery	44,111	15,316
IT/Office Machinery	-	934
Maintenance	118,981	22,412
Total	254,428	108,763

4 FIXED ASSETS

	IT Hardware €	Furniture and Fittings €	Total €
Assets at Cost			
Balance at 1 January 2006	53,856	105,555	159,411
Additions	-	46,649	46,649
Balance at 31 December 2006	53,856	152,204	206,060
Depreciation			
Balance at 1 January 2006	(30,795)	(28,811)	(59,606)
Charge for the year	(10,772)	(15,220)	(25,992)
Balance at 31 December 2006	(41,567)	(44,031)	(85,598)
Net Book Value			
Balance at 1 January 2006	23,061	76,745	99,805
Balance at 31 December 2006	12,289	108,173	120,462

5 CAPITAL ACCOUNT

	€	€
Balance at 1 January 2006		99,805
Purchase of Fixed Asset	46,649	
Amortisation in Line with Depreciation	(25,992)	
Transfer from Income & Expenditure Account		20,657
Balance at 31 December 2006		120,462

6 PREMISES

The accommodation occupied by the Office of the Pensions Ombudsman at 36 Upper Mount Street, Dublin 2 is leased and paid for by the Office of Public Works. There is no charge to the Office of the Pensions Ombudsman in respect of the accommodation. Expenditure on premises incurred by the Office of Public Works in 2006 on behalf of the Pensions Ombudsman amounted to €172,500.

Appendix 7 – Governing Legislation

Pensions Act, 1990

Pensions (Amendment) Act, 2002

Social Welfare (Miscellaneous Provisions) Act, 2003

Statutory Instrument No. 119 of 2003

Statutory Instrument No. 397 of 2003

Statutory Instrument No. 398 of 2003

Statutory Instrument No. 399 of 2003

Public Service Superannuation (Miscellaneous Provisions)
Act, 2004

Social Welfare (Miscellaneous Provisions) Act, 2004

Social Welfare Law Reform and Pensions Act, 2006

Social Welfare and Pensions Act 2007

Statutory Instrument No. 181 of 2007

Statutory Instrument No. 183 of 2007

Appendix 8 – Publications of the Office

- What can the Pensions Ombudsman do for you?
- Disputes Resolution Procedures –
Guidance Notes for Trustees and Administrators
- Instructions and Guidance for Respondents
- Statement of Strategy 2007 – 2009
- Understanding Pensions –
The Friendly Guide to Pensions³

All publications are available free of charge on request to the Office

³ Understanding Pensions was written by Paul Kenny in a private capacity and publication was sponsored in 2004 by the Department of Social and Family Affairs. Copyright is by the Retirement Planning Council of Ireland and the Irish Association of Pensions Funds.



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This publication is available in large print format on request