

The Adjudicator's Office

Annual Report 2004



THE
ADJUDICATOR'S
OFFICE

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Foreword

by the Adjudicator Dame Barbara Mills DBE QC



I am pleased to present my Annual Report for the year to 31st March 2004. This is the fifth report covering my work as the Adjudicator, and the eleventh covering the work of the office.

This year has seen an improvement across the Inland Revenue as a whole, where the proportion of upheld complaints, which had increased for each of the last three years, has dropped from 45% to 35%.

However, this has been overshadowed by a significant increase in tax credits complaints following the introduction of Working Tax Credit and Child Tax Credit - so called "new tax credits". I concluded last year's foreword by voicing fears that we anticipated such an increase, but hoped that those concerns would be misplaced, particularly because many recipients of the credits could find themselves in real financial difficulty if problems arose. In the event, the year proved to be very difficult for many claimants and, in fairness, also for staff in the Inland Revenue and my office as well, who were faced with people anxious to get their claims sorted out.

In the year to 31st March 2003, we investigated only nine complaints about tax credits. In the year covered by this report the number almost tripled to 24, of which 75% have been upheld. We took on 66 complaints about tax credits and, as we move into the year to 31st March 2005, almost one third of all the complaints in my office, which deals with four separate organisations, are about new tax credits.

The tax credits cases we have seen, some of which are detailed in this report, reflect recurring issues. Incorrect and unclear award notices; multiple award notices; unexplained changes to awards; delay; lack of response to correspondence; inability to make telephone contact. The Inland Revenue struggled to cope with the volumes of callers and, with claimants exploring alternative ways of making contact, my office experienced a significant upturn in telephone and email traffic early in the year.

Quite properly, the department's focus was on trying as quickly as possible to stabilise the system and to get money to those in most need. Inevitably, staff were distracted from handling the many complaints, which were not dealt with as quickly as we would have liked and which have led to the increase in complaints about tax credits reaching my office.

In many respects the new tax credits are quite different to those they replaced - they are calculated differently and are available to a significantly broader sector of the population. It is particularly important, therefore, that guidance to staff and customers keeps pace with such change.

The Inland Revenue issued its Code of Practice 26: 'What happens if we have paid you too much tax credit?' in November 2003.

But guidance on how to apply the code in some circumstances was not available until May 2004 - after the end of the first year in which new tax credits were operating. That sort of delay cannot be desirable and meant that answers to some important questions about its application to cases where payments were adjusted in-year were unavailable. I am though, pleased that the guidance now issued, following detailed consultation with my office, reflects what I consider to be a fair and proper approach to the sensitive issue of overpayments and their recovery.

Apart from general delays in dealing with tax credits complaints, I have also been concerned that complainants have not always found the complaints system to be as accessible as I have come to expect from the Inland Revenue. I expect people who wish to complain to be told clearly how to go about it; to have explained where they are in the process and where and to whom they may escalate their complaint if they remain unhappy; and, importantly from my perspective, to be in no doubt when they are in a position to bring their complaint to the attention of my office. These features have not always been apparent in cases I have seen.

It is now critical, if the integrity of the new tax credits system is to be established and maintained, that the end of year reconciliation process runs smoothly, that claimants do not see their payments terminated inappropriately, and that residual overpayments from 2003/2004 are handled properly. I can say that, as this report is being finalised, it does seem that the lessons learned first time around are being put to good use and as yet there are no signs of a repeat of events last year.

What of the other organisations about whom we investigate complaints?

This year saw a small increase in complaints about the Valuation Office Agency and a marked downturn in complaints upheld - just over 27% compared with over 50% last year.

The year also saw an upturn in complaints about Customs and Excise of around 13%. It also saw complaints about VAT related issues outnumber those about customs or excise activity which, as I have previously reported, had generated much dissatisfaction, particularly in the cross-Channel context. There was, though, a drop in the proportion of cases in which the complaint was upheld, from almost 48% last year to just under 35% this year. And perhaps most pleasingly, we resolved over 30% of complaints about Customs and Excise by agreement, compared with less than 22% last year, just short of the 35% achieved with the Inland Revenue.

Although complaints about the seizure of goods, and vehicles used for 'smuggling', have continued to decline, I remain concerned that the main guidance available to travellers who find themselves in that situation, Notice 12A, is misleading. Whilst I acknowledge that the legal position is constantly evolving, the guidance has now for some time not properly reflected a person's options if they wish to challenge Customs' actions. I am assured that accurate guidance is imminent.

It is now three years since we took on complaints about the Public Guardianship Office (PGO). This year we investigated 17 complaints about them, almost twice the number last year, in part, no doubt, due to an increased awareness of my role. Complaints about the PGO are some of the most difficult with which I, and my staff, wrestle. They will sometimes feature bitter family disputes in what will often be unfortunate circumstances with the affairs of an incapacitated person at their heart.

I observed last year that the PGO had made significant inroads into their backlog. That continued and they have, for some time, been on an even keel. I expressed the hope last year that they had 'turned the corner' and that this would result in a reduction from the 67% of complaints upheld. I am pleased that has been achieved with some 47% of complaints upheld this year. I am pleased also that in these difficult cases we have managed to resolve almost 30% of complaints by agreement.

"I congratulate staff in my office, and in the respective organisations, for recognising the value in a mediated outcome and responding positively and flexibly to achieve this."

It remains early days with The Insolvency Service, though it is already clear from the cases we have seen and which feature in this report, that their work brings with it some interesting issues, and there will be implications for them arising from the Enterprise Act. Notwithstanding the small number of their cases I have seen, I remain impressed by their enthusiasm to work with us in informing their thinking on issues that affect their customers.

The time we take to investigate complaints is rightly of huge concern to those who bring their complaint to me. That is why I have always made it a priority to aim for a realistic timescale. I was disappointed last year that we achieved an average time to investigate complaints of 23 weeks. I remain of the view that, notwithstanding increasing complexity in many of the cases we see, 20 weeks should be achievable. This year, at 20.34 weeks, we are very close to what I hope will become the norm. Once again we had no cases more than 12 months old at the year-end, with just under 99% of cases closed within a year.

We place huge emphasis on resolving complaints by agreement. I strongly believe that, whilst it is inevitable that a complaint will generate ill-feeling, the best possible chance for stabilising a relationship between the complainant and the organisation about whom they complain - which is so important when ongoing business dealings are inescapable - is to seek to resolve a complaint by mutual consent. It is for that reason that our achievement this year in mediating over one third of complaints is particularly noteworthy. I congratulate staff in my office, and in the respective organisations, for recognising the value in a mediated outcome and responding positively and flexibly to achieve this.

Over the years since my office was set up in 1993, there is no doubt that the complaint handling of each of the organisations with which we work has improved dramatically.

The future is one of massive change and uncertainty for two of the main departments, with the Budget announcement of the merger of the Inland Revenue and Customs and Excise following recommendations in the O'Donnell review. Given our work with those organisations, it was perhaps not surprising that we were asked to contribute to that review. I described the revenue departments' complaints handling as 'cutting edge', but there is no room for complacency. Whilst the complaints handling within bespoke departmental teams is often exemplary, more can be done to engender those same skills in front line staff who are best placed to prevent complaints from escalating. More can also be done to build on existing structures to maximise the scope for learning lessons from complaints.

The merger brings with it an opportunity to ensure that good complaints handling continues to be seen as a central plank within the new organisation's customer service strategy. At the same time, the transition to one new body brings with it the risk of an increase in complaints, which such upheaval might generate. Our overarching perspective gives us unique insight into this aspect of the departments' business and I welcome the opportunity to work with them in fashioning the future of complaints handling within the new organisation.

I conclude, as ever, by expressing my gratitude to staff in the Adjudicator's Office. Like others, they are not impervious to the distressing nature of some of our work, particularly this year. They have throughout remained cheerful and resolute and their achievements, to which I have referred, speak for themselves. I know they will rise to whatever challenges lie ahead and I thank them for continuing to make my time as Adjudicator so enjoyable and rewarding. I am delighted to say, as this year's report is finalised, that our re-accreditation as an Investor in People has been confirmed, reflecting the office's, and my personal, commitment to staff here.



Dame Barbara Mills DBE QC
The Adjudicator

"I am delighted to say, as this year's report is finalised, that our re-accreditation as an Investor in People has been confirmed, reflecting the office's, and my personal, commitment to staff here."

Role of the Adjudicator's Office

We investigate complaints from the public about the following organisations, where they have been unable to resolve matters themselves: Inland Revenue, Customs and Excise, Public Guardianship Office, The Insolvency Service and Valuation Office Agency.

Our aim is to deliver an excellent service that is:

- **Efficient** (thorough and quick)
- **Objective** (fair, impartial and independent)
- **Accessible** (free to the public).

Before we take on a complaint for investigation, we expect the organisation concerned to have had an opportunity to resolve matters at a senior level. Where this has not happened, we refer the complaint back to the organisation. The complainant is invited to come back to us, if they remain dissatisfied with the final outcome reached by the organisation.

We measure complaints about the organisations against their own published standards and Codes of Practice. We look to ensure that these have been followed correctly. While there are some areas that we cannot consider, such as disputes about aspects of departmental policy and matters of law, we do investigate complaints about:

- mistakes
- delays
- poor/misleading advice
- staff behaviour
- the use of discretion
- access to information under Open Government.



How we work

Assistance work

When members of the public contact us to complain about the organisations, our Assistance Team is usually their first point of contact.

The Assistance Team's main roles are to:

- decide if the complaint concerns a matter within our remit for investigation
- ensure that the organisation has had the opportunity to consider the complaint fully.

They will then ask the relevant organisation for a full report about the complaint, together with their files and papers. When we have received this information, the case is passed to an Adjudication Officer to start their investigation.

Our contact details appear prominently in many of the leaflets and publications produced by the organisations. This means that the Assistance Team often receives general enquiries from members of the public. This year, for example, we experienced an unprecedented increase in the number of enquiries resulting from the difficulties that people experienced trying to contact the Inland Revenue's tax credits helpline.

Unfortunately, we do not have the resources to provide general advice to people about their particular circumstances. We do, however, try to provide people with contact details for the appropriate area of the organisation that can deal with their enquiry.

Investigation work

An Adjudication Officer will carry out a thorough examination of the evidence relevant to the complaint.

We resolve complaints by one of two methods:

- mediation
- recommendation letter from the Adjudicator.

We attempt to resolve complaints by mediation. This is because we believe that the mediation process, involving full discussion of the issues behind the complaint with both parties, offers the greatest value to all concerned. Our experience in this field also enables us to judge offers of redress, whether in the form of apology or compensation, realistically and sensibly.

It is not always possible, however, for us to match a complainant's expectations with the organisation's offer of redress. Where this happens, the Adjudicator will look at the case in detail and reach a decision on how the complaint should be resolved.

Once she has reached her decision, the Adjudicator sets out her views in a formal letter, which is sent to the complainant and copied to the organisation. We call these letters 'Recommendation' letters because they set out what, if anything, the Adjudicator 'recommends' the organisation should do to resolve matters.

Although we cannot enforce them, to date, the organisations have accepted all of the Adjudicator's recommendations.

Working with the organisations

A key aspect of our work is helping the organisations to improve their service to the public. To ensure that mistakes are not repeated and that lessons are learned, we monitor our results, identifying trends and particular areas of concern. We feed this information back to the organisations, prompting them to make improvements to their service.

We are often invited by the organisations to comment on draft leaflets and instructions. We also host visits from staff who work in the organisations' complaints teams to share best practice and improve working relationships.

This year, we have developed new methods for monitoring the organisations' views about the service that we provide. For more, see the 'Customer feedback' section of this report.

Customer feedback

We see our customers as falling into two distinct groups:

- members of the public, or their appointed representatives, who wish to complain to us about the service that they have received from the organisations that we work with
- the organisations themselves, for whom we help resolve complaints and ensure that lessons are learned wherever possible to improve their customer service generally.

This year, as foreshadowed in last year's report, we have adopted new methods across the board for measuring customers' satisfaction.

The public

We asked the British Market Research Bureau (BMRB) to conduct satisfaction surveys, by telephone, with a sample of customers whose complaints we had investigated. We felt that the paper questionnaires we previously sent to complainants did not provide us with enough information to identify areas for improvement.

Now, when we close an investigation, if a complainant is willing, we pass their contact details to BMRB, who telephone the complainant on our behalf.

BMRB ask a range of questions about our service, presenting us with monthly results which we use to:

- review the quality of our leaflets and information
- identify new methods for promoting the role of this office
- identify training needs for our staff
- review the processes and procedures that we follow when investigating complaints.

Outcomes

So, who is the typical complainant? What do they think of the service that we provide? Are we communicating with them in a satisfactory manner? Do they think that we are fair and impartial?

In previous reports, we referred to the inevitable link that exists between overall customer satisfaction and the outcome of complaints. Not surprisingly, complainants tend to be most satisfied with our service if we uphold their complaint.

This year, for example, we did not uphold **65%** of the complaints that we investigated about the Inland Revenue. When asked, **64%** of complainants said they were not satisfied with the outcome of their complaint.

On a more positive note, **68%** of complainants interviewed believed that we had explained the reasons for our decision fully, even if they did not necessarily agree with that decision. **62%** said that they were generally happy with the service that we provided, irrespective of outcome. **61%** believed that we investigated their complaint thoroughly and **59%** said that they would be willing to recommend the service that we provide to others.

Communication

We have recently revised some of the main leaflets that we produce to make them easier to understand. We consulted with representative bodies, such as Taxaid, during these revisions and took into account our customers' comments.

We now also produce shortened versions of our main leaflets – *The Adjudicator's Office for complaints about the Inland Revenue/Customs and Excise*. These provide a brief introduction to our work without going into the detail of the main leaflets, which we issue to complainants when we take their case on for investigation.

It is very encouraging to see that **75%** of complainants feel that our leaflets are easy to understand and **74%** consider that they are useful. This year, we will update our leaflets about the Public Guardianship Office and The Insolvency Service to bring them into line.

Equally pleasing are the ratings given to our written and telephone communication, with **79%** and **65%** of complainants respectively rating the standard as 'good', 'very good' or 'excellent'.

We take considerable pride in the quality of our written correspondence. All staff are given training in effective writing skills by representatives from the Plain English Campaign. We strive to ensure that, when dealing with often complicated technical issues in correspondence, we do so with the minimum of jargon and in a style that is clear and straightforward.

We recognise also that our customers are making increasing use of technology and visiting our website. **82%** of complainants who had used it found it useful and we plan to improve it with more regular updating of the case summaries that we publish.

Customer profile

Perhaps some of the most interesting results from the surveys are those about our customer profile. We want to ensure that our service is widely used and adequately publicised. But:

- **79%** of complainants are male
- their average age is **52**
- **96%** describe their ethnicity as **white**
- **39%** are in full-time employment, **17%** are self-employed and **15%** are retired.

We clearly need to identify ways in which we might encourage a more diverse range of customers and will look at how we can work with the organisations and other representative bodies to broaden awareness of our service.

Summary of feedback

	2003/04 Aim	2003/04 Result	2004/05 Aim
Overall satisfaction rating from complainants in assistance cases about how we handled their complaint	80%	68%	80%
Overall satisfaction from complainants about our service in investigation cases	70%	62%	70%

The organisations

This year, we have introduced more comprehensive arrangements for obtaining feedback on our service from the organisations. We have designed a twice-yearly survey, which asks the organisations to rate the service that we provide.

We ask a range of questions, focussing on various aspects of our working relationship, such as:

- the quality of our communications, including the feedback that we provide at the end of our investigation
- our administrative procedures and the methods that we use to seek the organisations' opinions about a complaint.

Inevitably, given that we may be critical of what a department has done, there will sometimes be tensions. Working in a complaints environment can be stressful and demanding for all concerned.

We are aware of the pressures that the staff in the organisations contend with and we are anxious to ensure that our investigations, and the manner in which they are conducted, do not add unduly to these pressures. Nonetheless, we have a duty to the public to ensure that our investigations are thorough, fair and impartial.

We are pleased to see that, by and large, the organisations are satisfied with the quality of the feedback that we provide when we conclude an investigation. **91%** of the business areas that responded said that they were either 'satisfied' or 'very satisfied' with the feedback that we provide.

Some areas commented favourably about visits made by their complaints teams to our office. We always welcome these visits as they enable staff from the organisations to see how we work as well as giving them an opportunity to draw concerns that they might have to our attention.

Generally, the organisations are satisfied with our procedures for keeping them informed about the progress of a complaint and with our communications.

There is a suggestion however that, because we place such emphasis on seeking a mediated resolution, staff can sometimes feel under pressure to accept an outcome with which they are uncomfortable.

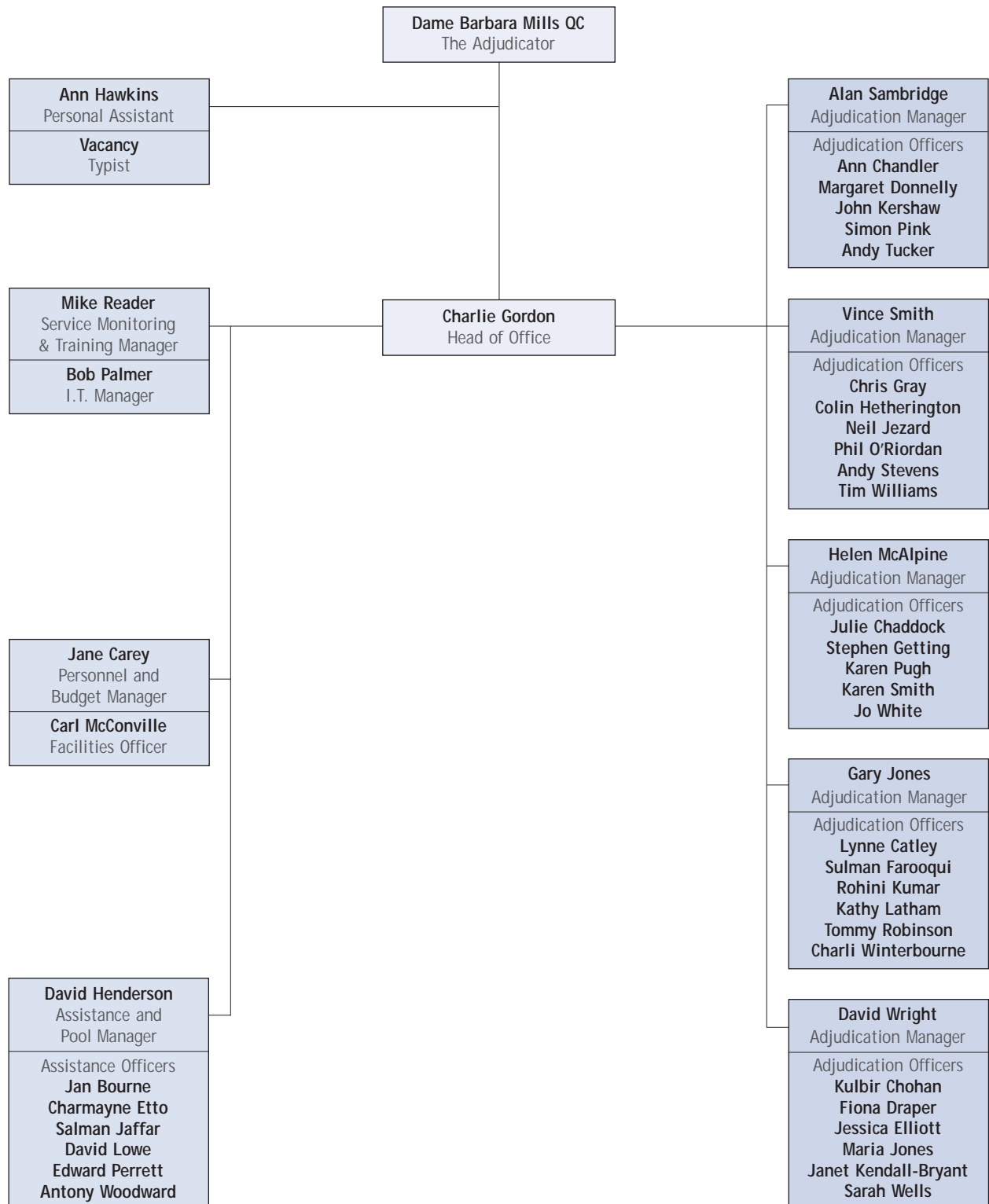
Mediation may involve one party accepting a conclusion that, perhaps, they had hoped to be different. However, if either party were very unhappy with the outcome, we would not see that as achieving our aim of resolving the complaint in a manner which helps to move things forward on a positive footing. It is certainly not our intention, therefore, to bring undue pressure to bear, but we will continue to encourage flexibility, both on the part of the organisations and complainants, to accept an outcome that we consider to be reasonable.

We have also received a number of helpful suggestions about how we might further improve some of our processes and procedures. We will be reviewing our systems in light of these comments, as we strive to deal with complaints as quickly as possible with minimum scope for confusion.

Summary of feedback

	2003/04 Aim	2003/04 Result	2004/05 Aim
Overall satisfaction rating from organisations' senior management about our methods for referring complaints to them	95%	95%	95%
Satisfaction rating from organisations about the quality and value of feedback in our quarterly reports	85%	100%	n/a
Satisfaction rating from organisations' senior management about the quality and fairness of the information that we provide to them about investigation cases	85%	90%	90%

Staff Chart as at 31 March 2004



Inland Revenue

The Inland Revenue are responsible for calculating and collecting direct taxes such as Income Tax, Corporation Tax, Capital Gains Tax and Inheritance Tax, and for the collection and recording of National Insurance contributions. They also administer the Tax Credits system and Child Benefit and have responsibility for enforcing certain aspects of the National Minimum Wage on behalf of the Department of Trade and Industry. In addition, they are responsible for collecting the majority of income contingent Student Loans.



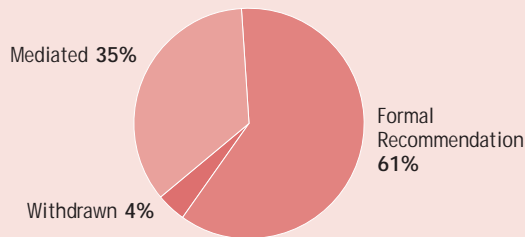
In our tenth annual report, published last year, we noted that, over the last two years, the number of cases coming to this office had decreased while the proportion that were either wholly or partially upheld had increased.

This trend has not continued into the 2003/2004 year, where we have experienced a 3% increase in the number of cases taken on for investigation, alongside a 10% reduction in the number of complaints that we upheld.

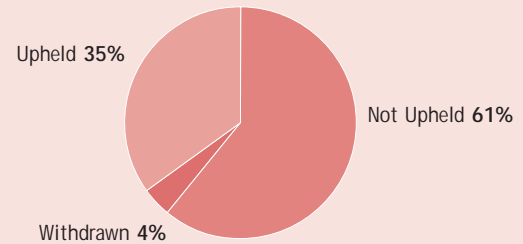
We successfully mediated the outcome of 35% of the cases that we investigated, slightly less than last year.

The difficulties experienced by the Inland Revenue in administering the tax credits system have had a significant impact on the work of this office. Like the Inland Revenue, we also have to adapt to the needs and expectations of a much broader customer base. We remain confident, however, that the lessons that we have learned from dealing with tax credits complaints over the past twelve months will enable us to provide an improving service that reflects the evolving needs of our customers.

How investigation cases were completed



Result of completed investigation cases



Codes of Practice

We continue to investigate complaints about the Inland Revenue with reference to the instructions available to their staff and their published Codes of Practice.

For complaints, Code of Practice 1 (COP1) *Putting things right*, which was revised in June 2003, explains the Inland Revenue's policy and procedures.

Of the Inland Revenue's other Codes of Practice, one warrants specific mention. Code of Practice 26 (COP26), *What happens if we have paid you too much tax credit?* was issued late last year.

As the title suggests, COP26 explains what happens if the Inland Revenue have paid an individual too much tax credit. It sets out what to do if the reduction in an individual's tax credits award, as an overpayment is recovered, causes hardship and explains the circumstances in which the Inland Revenue will consider using their discretion to write-off overpayments.

We were disappointed that there was not greater consultation before the Code was published, and that guidance to staff on its application was not available until many months later. The recovery of overpayments of tax credits, particularly where they result from a departmental mistake, is an obvious potential source of complaint and therefore of particular concern to us. It is vital that staff and claimants alike are fully aware of how the Code should be applied in practice.

We are pleased that we have now had the opportunity to discuss the application of the Code with the Inland Revenue and that they have recognised and responded positively to our concerns.

We have seen that they have developed a 'flyer' leaflet, which, since mid-February, has been issued with every amended award notice, alerting claimants to the action that they should take if a reduction in their award results in financial hardship. The flyer refers specifically to COP26 and says how it may be obtained. We are increasingly confident that claimants, faced with the prospect of an overpayment being clawed back, will be made aware of the terms of the Code and how it may affect them. This is something we will be watching particularly closely as the payments for 2003/2004 are reconciled after the year-end.

National Services

As part of the ongoing and wide-ranging agenda for modernisation of the Inland Revenue, the following key areas of the department's work were brought together under the umbrella title of National Services.

- **Tax Credit Office (TCO)** is responsible for delivering and administering Child Tax Credit and Working Tax Credit
- **Child Benefit Office (CBO)** manages the delivery of Child Benefit and Guardian's Allowance
- **Inland Revenue Contact Centres**, located throughout the United Kingdom, provide telephone helpline services
- **Receivables Management Service (RMS)** provides a streamlined specialist business service for the banking of and accounting for payments. It is also responsible for the recovery of debt and the pursuit of overdue returns
- **National Insurance Contributions Office (the Office)** is responsible for maintaining and safeguarding accurate National Insurance accounts.

The following sections illustrate the sorts of complaints that we have investigated about these different offices.

Tax Credit Office

This has clearly been a very difficult year for the Tax Credit Office (TCO). As mentioned in the foreword to this report, 75% of the complaints that we investigated about the TCO have been upheld and we have experienced an unprecedented increase in the number of complaints made about the TCO.

This contrasts with the very positive comments that we made about the TCO in our 2002 Annual Report, where we noted the encouraging steps that they were taking to improve customer service. In our 2003 Annual Report, we noted that there had been a reduction in the number of complaints that we upheld and commended the TCO for 'their receptive approach to making service improvements'.

However, the introduction of the 'new' Working Tax Credit and Child Tax Credit has had a huge impact on the Inland Revenue's and, in particular, the TCO's ability to maintain the 'commitment and effort being put into their customer service approach', that was noted in our 2002 report.

In the complaints that we have investigated, delays, incorrect and duplicated award notices and the failure of dedicated helplines to cope with the volume of callers have all been recurrent features. The following case studies provide examples of these and other issues that we have seen in the last twelve months.



Case Study

'Multiple confusion'

Ms A submitted a claim for the 'new' tax credits in November 2002, receiving an award notice in the following February. Following this, she notified the tax credits helpline that she had taken a part-time job.

In April 2003, seemingly in response to her notification, Ms A received five different award notices, between them showing three different levels of award for Working Tax Credit ranging from £4.83 to £9.97 a day.

Confused, Ms A asked the TCO to tell her which of the awards was the correct one. Unfortunately, the TCO told her that the wrong award was the correct one and Ms A was overpaid Working Tax Credit.

In August 2003, the TCO realised their mistake. To recover the overpaid amount, the TCO adjusted Ms A's award from £134.24 a fortnight to £4.76 per week. Although Ms A continued to receive £38.05 Child Tax Credit per week, she suffered considerable financial hardship. Ms A was understandably distressed, especially as she had made efforts to advise the TCO of her change in circumstances to ensure that she received the correct amount of tax credits.

We upheld this complaint.

The Inland Revenue's Code of Practice 26 - *What happens if we have paid you too much tax credit?* [COP26], states that, in some circumstances, where an overpayment of tax credits is the direct result of their mistake, the Inland Revenue will not seek to recover it. In this case, however, most of the overpayment had already been recovered by reducing Ms A's award.

The TCO accepted that, in accordance with COP26, they should not have recovered the overpaid tax credits. They agreed therefore to reimburse the overpayment that they should not have recovered from Ms A.

During our discussions with Ms A, we established that she was suffering considerable financial hardship, although she had not taken up the TCO's offer to make additional payments. We encouraged the TCO to make an interim payment to her while they calculated the total sum to reimburse, which amounted to almost £1,000.

We concluded that the TCO handled Ms A's case very badly. We were particularly concerned that it took seven weeks for them to provide us with a report about the case, which added to Ms A's worry and distress, as it delayed the start of our investigation.

We acknowledged, however, that, when the TCO did finally provide us with a report, they accepted that the conditions of COP26 applied. In recognition of their poor handling of this case, the TCO agreed to pay Ms A £100 for the worry and distress caused by their actions, £40 for their delays and £10 for her direct costs. In the circumstances, we considered that this was reasonable.



Case Study

'Brief encounter'

Mr B complained that the actions of the TCO resulted in him being subjected to a physical and verbal assault by Mr C, a complete stranger.

The TCO mistakenly told Mr C that Mr B's employer had received Mr C's tax credits allowance and was responsible for making the payments to him. This was not the case and, as Mr C had never worked for Mr B's employer, there was no reason for them to have received the tax credits allowance on his behalf.

Mr B's employer had received correspondence from the TCO and had replied, pointing out that Mr C had never worked for them.

The TCO provided Mr C with the address of Mr B's employer. Mr C visited the premises, where he confronted Mr B, one of the only staff present. An argument ensued, during which Mr B tried to explain the situation to Mr C. Mr B claimed that he was injured in the course of a struggle and that some property was damaged. Mr B was, understandably, traumatised as a result of this incident and had to take some time off work, which he claimed led to a loss of income.

Mr B complained to the TCO, who immediately accepted that they had provided Mr C with incorrect information but could not explain how this had happened. They did not however offer to pay Mr B any compensation for the obvious distress that he experienced, which prompted his complaint to the Adjudicator.

We upheld this complaint.

In their report to this office, the TCO accepted full responsibility for providing Mr C with the incorrect information and suggested that a payment of £200 should be made to Mr B in recognition of the resulting upset he had been caused.

The TCO did not, however, accept that they could be held responsible for the extreme actions of Mr C when he visited Mr B's employer's premises. On that basis, they were not prepared to compensate Mr B for the effects of the alleged assault, or the costs that arose as a result.

The Inland Revenue's Code of Practice 1 clearly states that they will only pay compensation, or reimburse costs, that arise as a direct result of their mistakes. We agreed with the TCO that, although they obviously made a mistake when they gave Mr C details of Mr B's employer, they could not be held responsible for Mr C's behaviour when he visited their premises.

We explained to Mr B that redress paid by the Inland Revenue is intended to be tangible recognition of a mistake, but there is no statutory basis for the payment. It is not the same as damages that are awarded by a Court of Law.

We concluded that the amount of compensation eventually offered by the TCO was reasonable and, after further consideration, Mr B accepted the TCO's offer in settlement of his complaint.



Case Study

'Don't bank on it!'

Mr and Mrs D lodged their claim for 'new' tax credits online in August 2002. They asked for their Child Tax Credit to be paid into bank account A and their Working Tax Credit into bank account B.

In November 2002, in the absence of any acknowledgement from the TCO that their claim had been received, Mr D telephoned the tax credits helpline. He was told that the claim had not been received and was advised to make another.

Mr D completed a new claim, this time requesting that both tax credits be paid into bank account A. This claim, however, was subsequently rejected and the TCO found and processed his original claim instead. However, between August 2002 and November 2002, Mr and Mrs D's financial situation had deteriorated. In fact, bank account B was so overdrawn that the bank passed recovery to a private collection company.

Between January and April 2003, Mr D made numerous telephone calls to the tax credits helpline to check the status of his claim and to amend the award to reflect a fall in income. Throughout this period, Mr D believed that the TCO was processing his second claim and was therefore unaware that the Working Tax Credit would actually be paid into the overdrawn account. He did not find this out until he telephoned the helpline in late April 2003, by which time the first payment had already been made into the overdrawn account. The bank used the payment to reduce the overdraft. Mr D additionally claimed that the helpline operator that he spoke to swore at him.

In an effort to understand how this situation had arisen, Mr D made a request under the Data Protection Act (DPA) for details of information held by the TCO. When they responded, they failed to acknowledge the existence of his original claim. Mr D also wrote two letters of complaint in April 2003 but did not receive a reply until July 2003, which still failed to acknowledge that his original application had been received.

No consideration was given to compensation for the poor handling of his affairs, prompting Mr D to complain to the Adjudicator in August 2003.

We upheld this complaint.

During our investigation, we were able to listen to recordings of a number of telephone conversations between Mr D and the TCO helpline, including the one during which he alleged that the operator swore at him. We found no evidence to suggest that the member of staff that he spoke to was anything other than professional.

We also explained to Mr D that his concerns about his request under the DPA were matters for the Information Commissioner, so we could not look into them.

The TCO accepted that Mr D's frustration was a direct result of their failure to advise him that his original claim had in fact been received and that his Working Tax Credit would therefore be paid into the overdrawn bank account.

We concluded, however, that Mr D had not suffered a financial loss from this mistake. He had not 'lost' the money as a result of it being paid into an overdrawn account. Nonetheless, the TCO accepted that they had caused Mr D worry and distress and offered him £100 in recognition of this. They also offered him £20 for his direct costs and a further £50 because of a three-month delay in supplying this office with a report, which delayed the resolution of Mr D's complaint.



Case Study

'Shoppers' nightmare'

Mr and Ms E complained to the TCO about the lengthy delays that they experienced before they received any tax credits payments, and the resulting financial hardship.

Mr and Ms E eventually received notification from the TCO that their tax credits were being paid directly into their bank account. Mr and Ms E only realised that the payment had not been made to their account when they tried to buy some groceries and their debit card was refused because there were insufficient funds in their account.

Although they subsequently received an award notice, advising them that they had already received about £200, Mr and Ms E continued to receive no payments. They complained repeatedly, but finally had to borrow money from relatives.

The TCO eventually discovered that they had made an administrative error and that all of the payments that should have been issued to Mr and Ms E had actually been sent to a completely wrong address. The occupant at that address had returned the envelopes unopened, but the TCO had failed to take any further action.

When Mr and Ms E discovered what had happened they were, understandably, very upset. They felt that, if the TCO had dealt with their complaint properly in the first place, the error would have been identified sooner, the delays would not have been so lengthy and they would not have experienced so much upset and financial hardship.

The TCO accepted that they handled the couple's case very badly and offered to pay them £75 in recognition of the distress caused and £5 for direct costs. Mr and Ms E did not feel that this redress was adequate and they complained to the Adjudicator.

We partially upheld this complaint.

As with many other complaints that we have investigated about the TCO, there was a considerable delay before we received their report and papers. This is very frustrating for the complainant and we have been critical of the TCO in this regard.

In their report, the TCO acknowledged that Mr and Ms E's experience was unacceptable. It was recognised that Mr and Ms E had suffered particularly badly as a result of mistakes and had experienced unreasonable delays before they received their money. Their complaints had gone unanswered and they had also suffered the embarrassment of having insufficient funds when trying to pay for shopping.

In recognition of this, the TCO offered to pay a further £50 to Mr and Ms E. We did not think this was enough and, following further negotiations, the TCO agreed to increase the payment to £100, which Mr and Ms E accepted.



Case Study

'Missing children'

Mrs F's tax credits claim was put into payment in April 2003. The claim was cancelled seven days later and Mrs F received a notice which, incorrectly, stated that she had no qualifying children. Mrs F contacted the TCO and informed them of their mistake. Unfortunately, it took them until late August 2003 to correct the award. In the meantime, Mrs F had to collect interim tax credits payments from her local Inland Revenue Enquiry Centre.

Mrs F complained to the TCO about the way in which her claim was handled. They apologised and paid her £5 for the additional costs she incurred travelling to the Enquiry Centre and £25 for the worry and distress that she experienced.

Mrs F remained dissatisfied and also complained to the Adjudicator about the difficulties that she had experienced getting through to the tax credits helpline.

We upheld this complaint.

In their report to this office, the TCO acknowledged that they had handled Mrs F's complaint badly and that the redress they had offered for her additional costs was inadequate. They proposed increasing the payment for Mrs F's costs by £15 and to pay £75 for poor complaint handling.

We considered this to be fair and in keeping with sums paid in comparable circumstances. Mrs F accepted the increased offer in settlement of her complaint.



Case Study

'Slow progress'

Mr and Mrs G lodged their claim for 'new' tax credits in October 2002. In November 2002 the TCO acknowledged their claim and confirmed that award notices would be issued from the beginning of January 2003.

During March 2003, Mr G contacted both the tax credits helpline and his local Inland Revenue office about the progress of his claim.

The well-publicised problems that the TCO were experiencing at that time were explained to him.

Mr G told the helpline adviser that his daughter would be staying in full-time education beyond her 16th birthday, up until the summer of 2005. He had previously provided the Child Benefit Office with the same information in September 2002. The award notice issued in April 2003, however, did not reflect this information. It only granted an award up to the end of August 2003, the month in which his daughter turned 16.

Mr G wrote to his MP and the Chancellor of the Exchequer to complain about the level of service that he had received. The TCO assured him that the award would be corrected.

When he heard nothing more, Mr G wrote letters to this office, as well as to the Director of the TCO, and the Paymaster General. He finally received a response from the TCO in late August 2003.

Mr G remained dissatisfied and he wrote again to the Adjudicator. He complained about the TCO's delays in responding to his letters, and indicated that they had caused him considerable worry and distress. He also pointed out that he had expected the information that he had given to the Child Benefit Office, about his daughter staying on in full-time education, to have been passed to the TCO.

Mr G also suggested that the design of the tax credits claim form should be revised, as there was no question on the form allowing a claimant with a 15-year-old child to confirm that the child would be remaining in full-time education beyond their 16th birthday.

We upheld this complaint.

We concluded that the TCO failed to keep Mr G informed of progress during their review of his claim. We also felt that they handled his complaints poorly.

Following discussions with this office, the TCO agreed to apologise to Mr G and to pay him £100 for their poor complaint handling and a further £75 for the worry and distress that he experienced.

This included £50 in recognition of the three-month delay in supplying this office with a report, which had prevented earlier resolution of the complaint.

During our investigation, we explained to Mr G that, in September 2002, the Child Benefit Office was part of the Department for Work and Pensions. This area of work did not transfer to the Inland Revenue until April 2003. There was no mechanism in place for the general exchange of information between the Inland Revenue and the Department for Work and Pensions.

This meant that the information that Mr G sent to the Child Benefit Office in September 2002 was not passed to the TCO.

We were pleased to note from their report to us that the TCO agreed to review the format of the claim form to recognise situations where a child is shortly to turn 16 and remain in full-time education.

Mr G was satisfied with the compensation eventually offered by the TCO in recognition of their poor handling of his affairs.

Child Benefit Office

We completed two investigations about the Child Benefit Office (CBO) in the last year.

Much of the work of the CBO is non-contentious. The following case summary illustrates one aspect where we do feel that there is the potential for complaints to be generated. It concerns the issue of 'shared care'. This typically occurs where parents have separated or divorced but share responsibility for the care of a child.

It is not possible to split the Child Benefit paid in respect of a child so, when considering such cases, the CBO must decide which parent is to receive the benefit.



Case Study

'Competing claims'

Miss H's former partner claimed Child Benefit for their eldest child. The benefit had previously been paid to Miss H, who submitted a competing claim for the same child. Miss H also asked the CBO how many days per week her child would need to stay with her in order for her claim to be successful.

The CBO turned down Miss H's claim on the basis that her former partner had the child to stay with him for three nights each week.

Miss H subsequently made a fresh claim. She stated that the CBO had told her over the telephone that the child had to stay with her for five nights each week in order for her claim to be successful, and that this arrangement was now in place.

Although the CBO had no record of Miss H's telephone call, they accepted that she had been misled. The CBO's instructions clearly show that there is no set guideline for the number of days or nights that a claimant must have care of a child in order to receive Child Benefit.

Miss H complained to the Adjudicator. She said that the CBO failed to keep her informed about the progress of her claim in spite of her having sent them several letters. She also complained that she had been misled about the criteria for awarding Child Benefit and that there had been delays in finalising her claim.

We upheld this complaint.

During our investigation, we found that the CBO had indeed failed to keep Miss H informed about the progress of her claim. In their report to this office, the CBO acknowledged that they had failed to answer Miss H's queries, had given misleading advice and had handled both her claim and subsequent complaint poorly.

In recognition of this, the CBO offered to pay her £100 for the distress caused and £20 for her costs. We asked the CBO to look again at the distress that Miss H experienced. Having reconsidered, the CBO agreed to increase the total payment to £220. We considered that this was a more reasonable amount and Miss H accepted the payment.

Inland Revenue Contact Centres

Inland Revenue Contact Centres and Helplines are the first point of contact for calls made to the Inland Revenue. They aim to provide a speedy, accurate and professional service to all callers, with staff able to provide help and assistance on Taxes, National Insurance, Child Benefit and Tax Credit matters. Contact Centres and Helplines are continually adapting to the changing face of Inland Revenue business, whilst still fulfilling the needs and expectations of their customers.

In the past, it has often been a challenge to establish what was actually said and discussed during a particular telephone call. However, Inland Revenue Contact Centres record all of their calls for training and quality control purposes, with some calls being retrieved during complaint investigation. A recording will often enable us to resolve such complaints conclusively and amicably.



Case Study

'At cross-purposes'

Mr I telephoned an Inland Revenue Contact Centre for advice. He wanted to know whether a 20% deduction from his cash lump sum pension, which he understood to be tax, could be refunded to him. In the tax year in question, Mr I had no liability to pay income tax.

Mr I was not aware that the 20% tax liability was actually charged to his pension provider, rather than to him personally. The pension provider was entitled to deduct the charge from the lump sum in line with legislation governing lump sum pension payments. The adviser who Mr I spoke to on the telephone, however, told him that she thought that he would be able to apply for a repayment.

Mr I subsequently contacted the Inland Revenue and asked for a refund. He was dismayed to find that he would not get the £500 refund he had been expecting.

The Inland Revenue accepted that the advice given was incorrect in Mr I's circumstances. They apologised and offered him a small payment to cover his costs.

Mr I was not satisfied with this, and complained to the Adjudicator.

We did not uphold this complaint.

As part of our investigation, we listened to the recording of Mr I's telephone conversation with the adviser at the Contact Centre.

It was clear from the conversation that both parties were talking at cross-purposes. It was apparent that neither Mr I, nor the adviser, were aware that the 20% tax charge was levied on the pension provider rather than Mr I himself. It seemed to us that the adviser was under the impression that Mr I's pension had been taxed at source and, from the information she was given, had thought that he would be able to apply for a refund.

When Mr I asked us to consider his complaint, the Inland Revenue immediately recognised that their actions had resulted in Mr I experiencing considerable worry and distress. They offered to pay him £75 in recognition of this and a further £20 in costs. Mr I was not satisfied with this offer as he felt that the Inland Revenue should pay him the £500 that he had expected.

Whilst we were sympathetic to Mr I's situation and could understand his disappointment, we concluded that the amount offered was reasonable. In the circumstances, we could not conclude that the adviser misled Mr I based on her understanding of what was being asked. We could not therefore recommend the Inland Revenue pay the £500 to him because the charge was not a direct result of any mistake on their part.

Receivables Management Service

The Receivables Management Service (RMS) was formed in April 2001, providing a streamlined specialist business service embracing the Inland Revenue's payment handling, accounting and debt and return management.

As well as the recovery of debts and outstanding tax returns, RMS plays an important role in encouraging taxpayers to comply with their statutory obligations. In addition, it has a key role in contributing to 'joined up' debt management services across Government.

The main areas that were amalgamated under the 'umbrella' of RMS were:

- the Accounts Offices in Shipley and Cumbernauld
- Enforcement Office in Worthing and the enforcement sections in Belfast and Edinburgh
- the Receivables Telephone Centre in East Kilbride
- 149 individual local Recovery Offices and 10 group offices (which were previously part of the Taxes Network).

At the same time, RMS took on responsibility for providing specialist insolvency services for Customs and Excise as part of a new RMS Voluntary Arrangement Service. In October 2001, the National Insurance Contributions Office's receivables management group joined these offices. Subsequently, in April 2003, RMS took responsibility for the recovery of both Child Benefit and Tax Credits overpayments.

Inevitably, enforcing collection of taxes can generate complaints. But this is a vital part of the department's work. In considering how things have been handled, we will want to be satisfied that the steps taken were reasonable in all the circumstances and in accordance with the department's own guidance to staff.

The following case studies illustrate how important it is to manage this activity properly.



Case Study

'See you in Court'

Ms J had to give up her business because of ill health. At that time, she owed the Inland Revenue over £10,000 in income tax, which she had been paying in instalments. Although her illness prevented her from working, she continued to make nominal monthly payments against her debt with the Inland Revenue's approval.

A couple of years later, Ms J began working again. She was still experiencing financial difficulties and was only able to increase slightly her payments to the Inland Revenue. With interest charges, however, the debt was increasing in spite of her payments.

The Inland Revenue advised Ms J that, if she did not significantly increase her monthly payments, they would seek a County Court Judgment against her. Ms J indicated that she could not increase her payments, so the Inland Revenue obtained a Judgment, advising her that, as she was a homeowner, they could either petition for her bankruptcy or place a charging order on her home. Ms J took independent advice on how best to settle the matter as a result of which she informed the Inland Revenue that she would sell her house to clear the debt.

Ms J subsequently complained to us about the Inland Revenue's handling of her case. She complained that they had forced her into selling her home, resulting in her and her daughter being made homeless.

We partially upheld this complaint.

Although we sympathised with Ms J's unfortunate position, we concluded that the Inland Revenue's decision to try to recover her substantial debt was not unreasonable.

We noted that Ms J's decision to sell her house came about after she had sought independent advice. We could not, therefore, conclude that the Inland Revenue forced Ms J into selling her home. Furthermore, the Inland Revenue had already agreed to support Ms J in her application to have the County Court Judgment set aside.

We did, however, conclude that the Inland Revenue could have done more to explore alternative methods for Ms J to clear her debt before they took legal action. During our investigation, we found instances where the Inland Revenue had missed opportunities to discuss matters with Ms J. They had not sought up to date information about her income, expenditure and assets, nor had they fully considered other options with her to clear the debt.

We asked the Inland Revenue to apologise to Ms J for their poor handling of matters. We felt though that the offer to support an application to have the Judgment set aside was appropriate in the circumstances.



Case Study

'Whose failure?'

Mr K changed employment in April 2000. He did not give his employer a P45, nor did he sign a form P46. As a result, a Basic Rate (BR) tax code was applied to Mr K's salary. Mr K was, however, liable to pay income tax at the higher rate, so a BR code was not appropriate. Unfortunately, it remained in force for almost two tax years, resulting in a significant underpayment of tax. Mr K's agent identified the problem and told the Inland Revenue about the substantial arrears.

The Inland Revenue's RMS considered whether there were grounds for collecting Mr K's underpayment from his employer. Mr K had not signed the form P46 and it appeared that his employer had not sent it to the Inland Revenue. The Inland Revenue reached the conclusion, however, that the employer took reasonable care in the operation of the PAYE system and on that basis there were insufficient grounds to ask them to settle the underpayment on Mr K's behalf.

Mr K complained to the Adjudicator about the Inland Revenue's decision to pursue him for the arrears.

We upheld this complaint.

Before preparing a report to this office, the Inland Revenue sought advice from specialists at their Head Office. The advice they received was that there was insufficient evidence to support the conclusion that the employer had taken reasonable care to operate PAYE properly. The specialist was also concerned that, in considering whether the employer had properly operated PAYE, the Inland Revenue had inappropriately considered Mr K's actions. In the circumstances, the advice was that it was not appropriate to ask Mr K to pay the tax.

We were very concerned to see that, despite this advice, RMS had maintained their original decision. We agreed that, in considering how the employer had operated PAYE, the Inland Revenue should have disregarded the way in which Mr K had acted. We asked the Inland Revenue to review their decision. They accepted that it was not reasonable to conclude that the employer had taken reasonable care to operate PAYE properly and that it was inappropriate to ask Mr K to pay the tax which they agreed to waive.

We felt that the Inland Revenue had made a mistake when they asked Mr K to pay the tax and they agreed to reimburse any additional costs that he incurred as a direct result of that mistake.



Case Study

'An interesting arrangement'

L Ltd agreed a 'time to pay' arrangement with the Inland Revenue for their outstanding PAYE and NI liabilities. The question of interest on these liabilities was not mentioned at the meeting when the agreement was made, or in the letter that the Inland Revenue sent to the company's agents to confirm the arrangement.

When the company had made the last payment under the arrangement, the Inland Revenue raised, for the first time, the issue of interest.

The company complained that they had been led to believe that the arrangement covered their total liability to the Inland Revenue. They said that they had been 'duped' into an agreement and that the Inland Revenue had knowingly withheld information about the further liability. They explained that two of the directors had raised funds against their house to pay a large lump sum at the start of the arrangement and that there had never been any question of more funds being available. They said that, if there had been any indication of a further liability, the company would have been liquidated.

The Inland Revenue accepted that they should have explained the interest position in their letter confirming the agreement and that, because they had not done so, the company was misled into believing that interest was not due. They therefore agreed to give up interest that accrued after the date of that letter. They would not, however, give up the interest that had accrued before that time.

We upheld this complaint.

We found that the Inland Revenue's instructions stress the importance of ensuring that letters confirming time to pay arrangements include all of the details of the agreement. This includes a statement of the interest accrued to date and a warning of accruing interest. That did not happen in this case.

We considered that it was reasonable for L Ltd to expect that the Inland Revenue had taken the full extent of the company's liability into account when agreeing to the arrangement. Given the amounts involved, further interest would have been an important factor for the company in deciding whether to enter into a time to pay arrangement in the first place.

We took the view that the company had been misled into believing that no interest would be payable at all. The Inland Revenue agreed to give up all of the remaining interest, amounting to almost £5,000, and we were able to settle the complaint by mediation.

National Insurance Contributions Office

During the last 12 months, we have seen a reduction in the number of complaints made about the National Insurance Contributions Office (the Office) with only 27 cases taken up for investigation compared with 55 last year. Whereas last year we upheld 54% of complaints that we investigated about the Office, this year the comparable figure fell to 37%.

These results are encouraging and reflect the efforts that the Office have made to improve upon previous years' results. We continue to develop a good working relationship with them, including providing formal workshop training to help staff resolve complaints.

Deficiency Notices

If an individual has paid insufficient National Insurance contributions in a tax year, this can have a significant effect on their entitlement to long-term State Benefits, such as Retirement Pension, which are calculated by reference to the number of 'qualifying years' recorded on their National Insurance account. Any shortfall can be remedied by the payment of voluntary National Insurance contributions, but these must be paid within six years of the tax year that is deficient in order for them to make the year a qualifying year.

There has been considerable publicity around the decision not to issue 'deficiency notices' - reminders that insufficient contributions have been paid for a particular year - for the tax-years 1996/97 to 2001/02 inclusive. But we have seen little evidence to suggest that this has led to complaints. This may well reflect the fact that the time limit for making voluntary contributions for these years has been extended to 5 April 2008.

The following case summaries illustrate some of the issues which have generated complaints this year.



Case Study

'Double edged election'

The majority of self-employed people are liable to pay Class 2 National Insurance contributions. These are payable at a flat weekly rate by either direct debit or quarterly bill. Some people, however, are exempt from payment. These include people whose earnings are very low, or those married women who elected to pay reduced rate National Insurance contributions.

Mrs M had been self-employed since the 1970s but had never paid Class 2 National Insurance

contributions. When she received a bill for substantial arrears, she queried this with the Inland Revenue. She said that she had made a Married Women's Reduced Rate election when she commenced self-employment and, therefore, had no liability to pay Class 2 contributions.

When the Inland Revenue looked at Mrs M's National Insurance records, they could find no trace of her having made such an election. The Office eventually decided to give Mrs M the benefit of the doubt and accepted that she had made an election many years earlier. At around the same time, Mrs M received a Retirement Pension forecast from the Department for Work and Pensions. The forecast showed that she would probably get a good rate of basic pension on retirement.

The Department for Work and Pensions' calculations, however, were based on her entitlement to receive Home Responsibilities Protection (HRP) credits for a long period when she had been the main recipient of Child Benefit.

HRP safeguards the pension rights of people who are unable to work because they are needed at home to care for, typically, a child or other relative. It works by reducing the number of qualifying years an individual needs for a full basic Retirement Pension by the number of complete years of HRP. HRP is not, however, available to married women who elected to pay reduced rate National Insurance contributions.

The Department for Work and Pensions subsequently told Mrs M that her actual pension entitlement would only be about half that shown in the forecast. This was because, once the Office had amended Mrs M's account to reflect a Married Women's Reduced Rate election, her underlying entitlement to HRP was removed.

Mrs M complained to the Office. She said that she had based her retirement plans on the forecast from the Department for Work and Pensions. She considered that the Office had misled her about her Married Women's Reduced Rate election and she was financially disadvantaged as a result. Although the Office offered her compensation of £150 in recognition of their poor handling of her case, Mrs M felt that this was inadequate and complained to the Adjudicator.

We did not uphold this complaint.

When we investigated Mrs M's complaint, we were concerned to see that the Office did not fully explain to Mrs M the implications of revising her National Insurance record to show a Married Women's Reduced Rate election. Whilst this did have the effect of removing her liability to pay Class 2 contributions, it meant that the HRP recorded on her National Insurance account over

many years was removed, resulting in a 50% reduction in her Retirement Pension entitlement.

Whilst we were critical of the Office for failing to explain this to Mrs M, we did see that they had sent her a leaflet, which explained how HRP works in some detail. We also felt that the amount of compensation offered in this case was reasonable and in keeping with amounts paid in comparable circumstances.



Case Study

'Confused identity'

Mr N is elderly and English is not his first language. Over a period of time, the Office confused Mr N's National Insurance account with one belonging to somebody else. This meant that another person's contributions were recorded on Mr N's National Insurance account.

Due to his language difficulties, Mr N approached his local advice centre for help. Even with their intervention, it took over a year for the Office and the Department for Work and Pensions to correct Mr N's records.

During this time, Mr N experienced considerable worry and distress. He knew that he was receiving a pension that he was not entitled to. Furthermore, his claims to Income Support, Housing and Council Tax Benefit were all affected by the problems with his National Insurance record and he had to appeal before these benefits were reinstated.

The Office recognised that they had not handled matters well. They acknowledged their unacceptable delays in sorting matters out and their failure to keep Mr N, or his advisers, informed. In recognition of this, they offered to pay Mr N £150, followed by a further £75 when we took up the case for investigation.

We partially upheld this complaint.

Whilst we accept that cases involving confused National Insurance accounts often take some time to resolve, we felt that the Office handled this case particularly poorly.

We were especially critical of their failure to keep all of the parties informed and the lack of consideration for the effects that their delays undoubtedly had on Mr N. Furthermore, we saw that there had been a serious lack of communication between the Office and the Department for Work and Pensions over this matter.

The Office accepted our findings and made further apologies to Mr N. They also increased their offer of compensation to £250 for the worry and distress that they caused and a further £100 for poor complaint handling.

Local Services

The organisation of the Inland Revenue's network of offices has, in recent years, undergone significant change. For example, there are now seven geographical regions covering England, Wales, Scotland and Northern Ireland, whereas previously there were ten. Within these seven regions, there are 71 Areas covering a number of local offices, which are managed collectively by Area Directors.

The Inland Revenue resolve many complaints informally at a local level, and our experience over the past 11 years suggests that they have got far better at resolving complaints when they do escalate to regional level. We certainly see fewer straightforward and routine cases being referred to us for investigation, which reflects very positively on the Inland Revenue's own complaints handling.

The following case studies illustrate four particular aspects of the Inland Revenue's work that often raise contentious issues so that cases do still escalate to the Adjudicator's Office.

Extra Statutory Concession A19 (ESC A19)

Over the years, this office has investigated many complaints about the Inland Revenue's application of ESC A19. This year has been no exception.

ESC A19 gives the Inland Revenue discretion to give up arrears of tax where they have delayed informing somebody of a tax liability because of a failure to make timely use of information received. There are, however, strict conditions that must be met before the concession can be applied. Usually, the concession will only apply where a taxpayer:

- was notified of their tax arrears more than 12 months after the end of the tax year in which the Inland Revenue received the information showing that more tax was due.

There are, however, exceptions to this rule and arrears of tax notified 12 months or less after the end of the relevant tax year may be given up if the Inland Revenue have:

- failed more than once to make proper use of the information they hold, or
- allowed the arrears to build up over two whole tax years in succession by failing to make proper and timely use of the information.

But the concession can only apply where the taxpayer could reasonably have believed that their tax affairs were in order. This difficult test is often the deciding factor in determining whether or not the Inland Revenue have applied their discretion fairly and properly.



Case Study

'What a relief!'

In 1994 Mr O, a company director, took early retirement. In 1996, he claimed Retirement Relief when disposing of some of his company shares. The Inland Revenue accepted his claim to relief. This had the effect of reducing the Capital Gains Tax liability on the share disposal from over £157,000 to nil.

In addition, the Inland Revenue wrote to Mr O, telling him that, as he had not received the maximum relief that was due to him, he could make further claims in the event of future disposals of the shares.

This advice was incorrect. Mr O was not entitled to Retirement Relief because he did not satisfy the requirement that the company should employ him in the six months preceding the disposal of his shares. Mr O disposed of more shares in 1998 and 1999 in the belief that he would be entitled to the relief.

Mr O completed Self Assessment tax returns covering the 1998/99 and 1999/00 tax years. These detailed the gains that he made from the disposal of his shares and included claims to Retirement Relief. The Inland Revenue opened enquiries into the returns, eventually concluding that he was not entitled to Retirement Relief and, therefore, that he owed a considerable amount of tax and interest.

The Inland Revenue accepted that they had incorrectly granted the relief in 1996 and agreed not to pursue the £157,000 that was due following the first disposal of the shares. However, they refused to give up the tax and interest payable for the later years.

Mr O said that the Inland Revenue should give up the tax and interest because he had relied on the misleading advice given in 1996. He also complained about the attitude of the Inspector who opened the enquiries into his returns and the delays and mistakes that occurred during those enquiries.

We partially upheld this complaint.

We could not be sufficiently sure that Mr O would not have disposed of the shares even if he had not believed he would be entitled to Retirement Relief, so we could not ask the Inland Revenue simply to stand by the advice they had given him.

We considered, though, whether the Inland Revenue should have applied ESC A19 and waived Mr O's Capital Gains Tax liabilities for the 1998/99 and 1999/00 tax years.

The Inland Revenue had already given up some of the interest charged in those years to take account of unacceptable delays during their enquiries. They did not, however, agree that Mr O satisfied the relevant criteria for the tax to be waived under the provisions of ESC A19.

With regard to the 1998/99 tax year:

- we felt that the Inland Revenue had failed to make timely use of the information they held, clearly indicating that Mr O was not entitled to retirement relief
- normally, ESC A19 may apply where the failure to make timely use of information means that a person is not told of their additional liability until more than 12 months after the end of the year in which the Inland Revenue received the information. In this case the Inland Revenue had received Mr O's 1998/99 tax return on 3 July 1999 and, for ESC A19 purposes, had until 5 April 2001 to advise him of any underpayment. Mr O was not, however, notified of his arrears until June 2001. This was more than 12 months after the end of the tax year in which the Inland Revenue had received the return
- we also felt that, because of the written advice that Mr O received from the Inland Revenue in 1996, it was reasonable for him to have assumed that his Capital Gains Tax affairs were in order.

We concluded that, for 1998/99, all of the criteria for ESC A19 to apply were met and recommended the Inland Revenue give up the tax, amounting to over £70,000.

The Inland Revenue received Mr O's 1999/00 tax return on 4 August 2000. This meant that they had until 5 April 2002 to advise him of any additional tax that was due for that year.

We saw that the Inland Revenue advised Mr O that he could not claim Retirement Relief for that year, notifying him of the additional tax due on 20 June 2001. This meant that the concession could not apply to the arrears that arose in 1999/00.

In addition to the tax that was given up for 1998/99, the Inland Revenue agreed to waive interest amounting to over £10,000 in recognition of unacceptable delays during their enquiries. We also recommended that they pay Mr O £250 for the worry and distress caused.

In comparison with other ESC A19 cases that we have investigated, Mr O's case was unusual. In the majority of cases, the 'mistake' that results in tax being given up occurs during the tax year in which the arrears have arisen. In this case, the incorrect award of Retirement Relief and incorrect advice that it could be claimed again in the future, took place some years before the arrears arose.



Case Study

'Who's paying the bill?'

Mr P worked for a multinational company. He left the UK in 1993 to work for the US arm of the business. When he returned to Britain in April 1998, he took up employment with a subsidiary of the parent company and completed a form P86, notifying the Inland Revenue of his return to the UK. Mr P subsequently changed employment again at the end of July 1998.

In August 1998, Mr P started to receive a substantial pension from his original employer, who operated an 'NT' (No Tax) code because they believed that he was still resident in the US. In November 1998, the pension provider amended the code to 'BR' (Basic Rate) when they became aware of Mr P's return to the UK. They continued to operate the BR code until the Inland Revenue amended it in February 2002.

The Inland Revenue had actually issued an amended code in May 2000, but the pension provider said that they had not received it. There was no evidence to doubt what they said, nor was any evidence available to show if a form P46 had been completed at the time the pension commenced, which the Inland Revenue would have needed to establish a correct code number.

Mr P's accountants complained on his behalf about underpayments of tax that arose in the 1998/99 to 2001/02 tax years as a result of the incorrect code number being used. They either wanted the Inland Revenue to reclaim the underpayments from Mr P's employer, or to apply ESC A19.

We did not uphold this complaint.

We explained that the Inland Revenue could direct an employee to pay the tax that an employer, including a pension provider, has failed to deduct, if they are satisfied that the employer took reasonable care to operate PAYE correctly and the under-deduction was made in good faith. We felt that, in the circumstances, the Inland Revenue acted reasonably in deciding to collect the underpayment from Mr P, rather than from his employer.

Mr P was a higher rate taxpayer. As such, we felt that he could not have reasonably believed that his tax affairs were in order. We felt that he should have realised that a BR tax code was incorrect, given the size of his pension. We concluded that, on this basis, the Inland Revenue had acted reasonably in refusing to apply ESC A19.

The Inland Revenue accepted that they caused delays and offered £50 to Mr P in recognition of their poor handling of his complaint. We also felt that the Inland Revenue had added to Mr P's confusion unnecessarily and they agreed to pay a further £50 in recognition of this.



Case Study

'Double-trouble'

Mr Q was made redundant in 1999. From the date of the redundancy, his former employer began paying him a pension. After some months, Mr Q found another job and began earning wages as well as receiving the pension.

Between 1999 and 2001 Mr Q changed employer twice. He gave each new employer a copy of the form P45 from his original employment. His pension provider also continued to use the original tax code. This meant that Mr Q's employers and his pension provider operated codes giving Mr Q his full personal allowances, resulting in an underpayment of tax. The Inland Revenue were aware that Mr Q had changed employment a number of times, but did not carry out a review of his code numbers, which would have alerted them to the situation.

The Inland Revenue accepted that this amounted to a failure to use information in a timely fashion. However, they said Mr Q should have known that he ought to have different tax codes for each source of income and could not therefore reasonably have believed that his affairs were in order. On this basis, they said that they could not apply ESC A19 to waive the underpayment.

We upheld this complaint.

We felt that, in refusing to apply ESC A19 on the grounds of reasonable belief, the Inland Revenue were expecting too much in terms of Mr Q's understanding of how tax codes operate. After he was made redundant, Mr Q did not receive notices of coding for his new employment, and he had never previously received income from more than one source. On that basis, we felt that it was reasonable for him to have assumed that his affairs were in order and that the Inland Revenue should have given him the benefit of any doubt in this regard.

We put this to the Inland Revenue and they agreed to waive the underpaid tax, which amounted to over £600. They also offered to send Mr Q £20 as reimbursement for his out-of-pocket expenses. Mr Q was content with this outcome and accepted their proposal.



Case Study

'Two wrongs don't make a right!'

Relief for certain allowances included in a tax code is given at the same rate, irrespective of how much somebody earns. In order to ensure that some people, for example higher rate taxpayers, do not get full relief at their highest rate of tax, it may be necessary to restrict the amount of relief available to them. To do this, the Inland Revenue will have to estimate what they think somebody's level of earnings will be, based on information available to them from previous years.

The tax that is collected through PAYE is, therefore, provisional and the true liability cannot be finalised until the Inland Revenue establish the taxpayer's actual earnings on receipt of a Self Assessment tax return. Once the actual remuneration is established, the Inland Revenue should use this information to update future tax codes.

Mr R complained that, because the Inland Revenue failed to use the information he provided on his 2000/01 Self Assessment tax return, he was asked to pay over £800 in tax that should have been collected through his PAYE tax code. Most of the underpayment resulted from excessive relief for Children's Tax Credit given within his code number. The Inland Revenue held information showing that Mr R was a higher rate taxpayer, but did not include the appropriate restriction when calculating his code. This meant that Mr R received relief at the higher rate of tax (40%) rather than, correctly, at 10%.

He argued that the Inland Revenue should give up the tax under ESC A19. When they refused to do so, he asked the Adjudicator to investigate his complaint.

We partially upheld this complaint.

We established that the Inland Revenue failed to use the information Mr R provided on his 1999/00 and 2000/01 Self Assessment tax returns, neglecting to update their estimated pay figures with the actual figures that he provided on his returns. This resulted in his 2001/02 coding restriction being based on his 1998/99 pay, which was considerably less than in the following years.

We felt that it was unreasonable to expect Mr R to notice this, and concluded that he had no reason to suppose his affairs were not in order. As the Inland Revenue had failed more than once to update Mr R's details, the exceptional circumstances of ESC A19 could apply.

Of the total underpayment, approximately one third was the result of the Inland Revenue's mistakes, and we recommended that this tax was given up under ESC A19.

Inappropriate disclosure of information

The Inland Revenue have a responsibility to ensure that they respect the privacy of all taxpayers, which they take very seriously. They go to great lengths to ensure that all staff recognise their duty to ensure taxpayer confidentiality. Very occasionally, however, confidential information is made available to third parties with potentially damaging consequences as the following case studies illustrate.



Case Study

'A broken confidence'

Mr S complained that the Inland Revenue disclosed confidential information about his tax affairs to a third party, with serious consequences.

During divorce proceedings, Mr S's ex-wife's solicitor referred to Mr S having received a substantial repayment of tax, which he had not declared to the Court. The solicitor specified the amount and date of the repayment and the Judge ordered an injunction to freeze any monies that Mr S received from the Inland Revenue.

Although Mr S had been expecting to receive a repayment and had submitted his tax return to the Court, together with his other financial details, he had not, at that stage, received the repayment. When he received the repayment several weeks later, he noted that the details matched exactly those quoted by the solicitor in Court.

Mr S was very distressed and felt that his integrity had been publicly questioned. This was, understandably, very embarrassing for him and he was concerned that the solicitor's disclosure had influenced the eventual divorce settlement in his ex-wife's favour. Mr S complained to the Regional Director when his concerns were not properly addressed locally.

During their investigation, the Inland Revenue established that a member of staff had accessed

Mr S's computerised tax records without authority. The Inland Revenue offered Mr S their apologies, £50 for the poor way in which his complaint was handled and £150 for the worry and distress that he had experienced.

Mr S wrote to the Adjudicator because he remained dissatisfied and he wanted to know the identity of the member of staff who had accessed his records.

We partially upheld this complaint.

When we contacted Mr S, we explained that we could not ask the Inland Revenue to disclose the identity of the member of staff. This was an internal disciplinary matter for the department, who have their own stringent conduct and discipline procedures. We could, however, investigate the way in which Mr S's complaint was handled.

It seemed that a member of staff from the Inland Revenue had accessed Mr S's tax records intending to pass confidential information to a third party. Given the seriousness of this offence, the Inland Revenue's initial failure to investigate Mr S's complaint properly was wholly unacceptable.

We were particularly concerned that nobody from the Inland Revenue had asked Mr S about how these unfortunate events had affected him and we recommended that they substantially increase their payment for worry and distress to £500, with £250 for poor complaint handling.

We did not, however, conclude that the disclosure had adversely affected the terms of the eventual divorce settlement, as the repayment was something Mr S would have had to disclose in any event.



Case Study

'Malicious intent?'

The Inland Revenue received information from a third party, alleging that Mr T was not paying the correct amount of tax. They sent him a Self Assessment tax return to complete, which prompted him to contact the Inland Revenue for an explanation. Mr T said that he was concerned that somebody might have sent information maliciously about him to the Inland Revenue.

The Inland Revenue confirmed that they had received information about Mr T, but refused to divulge the source. When they received Mr T's Self Assessment return, the Inland Revenue opened an enquiry into his tax affairs, and established that he had underpaid tax in 1996/97 and 1997/98.

Mr T subsequently alleged that a former acquaintance, who worked for the Inland Revenue, had accessed his tax records and confronted him with certain confidential information. This person had also gossiped to him about other people's tax records and, he alleged, had disclosed confidential information about another taxpayer to a third party.

The Inland Revenue told Mr T that they had a duty of confidentiality to their staff as well as the public. They explained that they could not give him any details of the action that they took as a result of his concerns, or the outcome of any investigation that was conducted. The Inland Revenue maintained this stance, in spite of Mr T's repeated complaints over the next two years. Mr T complained to the Adjudicator.

We partially upheld this complaint.

We found that the Inland Revenue had not acted improperly in refusing to divulge the details of any internal enquiry. However, the Inland Revenue had failed to recognise Mr T's complaints about the handling of his own tax affairs.

In focussing on the allegation that a particular member of staff had misused confidential information about Mr T, the Inland Revenue had failed to consider their responsibilities towards Mr T as a complainant.

During our investigation, we saw that information about Mr T had been disclosed to his employer. We concluded that, on the balance of probabilities, the Inland Revenue had failed to maintain Mr T's tax records properly.

The Inland Revenue accepted that they should have acknowledged Mr T's concerns as a formal complaint from the outset. Although they had not found any evidence to support the allegations that he made, the Inland Revenue agreed to make payments amounting to £325 in recognition of the worry and distress that Mr T experienced when they failed to deal adequately with his complaint.

Status enquiries

The Inland Revenue conduct employment status enquiries to determine whether an individual is self-employed or employed for tax and National Insurance purposes.

Until April 1999, the Contributions Agency was responsible for determining correct employment status for National Insurance purposes. The approach taken by the Contributions Agency was different in some respects to that taken by the Inland Revenue when determining employment status for tax purposes. The Inland Revenue tend to place greater emphasis on the terms of any written contracts

between the parties involved, whereas the Contributions Agency were more concerned with actual working practices.

In April 1999, the Contributions Agency merged with the Inland Revenue who then had responsibility for status decisions for both tax and National Insurance purposes. This merger brought the different approaches into sharp contrast and we sometimes receive complaints where a status decision that was made by the Contributions Agency has been overturned by the Inland Revenue following the merger. Uncertainty about status can affect an individual's other entitlements.

The following case studies illustrate the sorts of status issues that we have investigated in the past 12 months.



Case Study

'Time is money'

Mr U is a self-employed carpenter, who was engaged by a company for around three months, twice yearly, as a set-builder. In February 2000, considering himself to be an employee of the company during these assignments, Mr U applied to the Inland Revenue for a tax code so that the company could deduct PAYE from his earnings.

Mr U did not receive a reply from the Inland Revenue, so he wrote to them again in May 2000. The Inland Revenue replied two months later, telling him that a specialist office would investigate his status.

It took until February 2001 for that office to meet with the company that used Mr U's services. A further meeting took place in March 2001 but the Inland Revenue did not resume contact with Mr U, or the company, until June 2001.

Mr U replied promptly to the Inland Revenue's correspondence, although the company did not reply until October 2001. Shortly after the company replied to the Inland Revenue, Mr U's status as an employee was confirmed.

By this stage, Mr U had complained to the Inland Revenue about the delays that he had experienced. He wanted to know why their investigation was taking so long and alleged that the Inland Revenue had breached his confidentiality during their discussions with the company by showing them copies of his letters.

The Inland Revenue apologised for the delays and explained why they had to discuss his position with the company in order to establish his correct employment status. But they denied that they had shown any copies of his letters to the company during these discussions. They sent Mr U £25 in recognition of the delays. Mr U was not satisfied with this and wrote to the Adjudicator.

We upheld this complaint.

During our investigation, it became apparent that Mr U had been unable to claim certain benefits, for example Housing Benefit, that he could have claimed if his status as an employee had been confirmed earlier.

We considered that the Inland Revenue should compensate Mr U for the loss of benefits that he would have received had the investigation concluded promptly. The Inland Revenue were initially unwilling to accept the principle that Mr U had lost state benefits as a direct result of their delays.

When they did accept that they should compensate Mr U in this regard, there were further difficulties in establishing the value of the benefits that Mr U had lost. Eventually, we recommended that Mr U be compensated for over £800 lost benefits.

We concluded that the Inland Revenue had handled Mr U's case very poorly. He had been subjected to unreasonable delays and the Inland Revenue had failed to keep him informed about their investigation, or to provide him with adequate help and advice.

Although we found no evidence to suggest that the Inland Revenue had inappropriately disclosed information during their meetings with the company, we did feel that it would have been preferable to discuss the employment status of freelance workers in general, rather than focussing solely on Mr U's specific circumstances.

In addition to the £800 lost benefits, the Adjudicator recommended the Inland Revenue pay Mr U £70 for his direct costs and a further £100 to recognise the worry and distress resulting from their poor handling of his tax affairs.



Case Study

'A change of heart'

The V Group plc consists of several construction industry companies. Following an investigation in March 1998, the Contributions Agency issued an employment status ruling, directing that a number of 'labour-only' subcontractors working for group companies should be treated as employees for National Insurance purposes.

V Group plc did not agree with the ruling and the Contributions Agency accepted that it was invalid because it did not make sufficiently clear which subcontractors were directly affected. The Contributions Agency formally withdrew the ruling and agreed to carry out a fresh enquiry, in consultation with the Group and its advisers.

Following the second enquiry in November 1998, the Contributions Agency issued another ruling concluding that the subcontractors in question were employees.

The Group's agents wrote to the Contributions Agency, asking them to reconsider their ruling. The agent's letter was lost in transit and, by the time it came to light, the Contributions Agency had merged with the Inland Revenue who now had responsibility for determining employment status for National Insurance purposes.

The Inland Revenue reviewed matters and reversed the Contributions Agency's decision, giving a ruling of self-employment.

The Inland Revenue accepted that the first Contributions Agency ruling was flawed. They reimbursed professional fees of more than £33,000 incurred by the company as a direct result of that ruling. The agents also submitted a detailed claim for compensation amounting to nearly £2 million in relation to the withdrawal of the second ruling. They said that, as it was reversed following the Contributions Agency merger with the Inland Revenue, the ruling made by the Contributions Agency was clearly unsound.

We did not uphold this complaint.

We considered the instructions that were available to Contributions Agency staff at the time when the second employment status ruling was made in 1998.

We found that the Contributions Agency had less regard to the Group's standard written contracts with the subcontractors, focussing more on what actually happened in practice, in keeping with their instructions. The Inland Revenue placed greater emphasis on the terms of the contracts.

Although the Inland Revenue reached a different conclusion, we were satisfied that each of the rulings made was based on a properly considered approach. The different conclusions reflected the different instructions that existed prior to the merger and we were satisfied that these instructions were applied correctly.

We did not conclude that the second enquiry was poorly handled or that the resulting ruling was unsound. We did not, therefore, recommend that the Inland Revenue reimburse any costs resulting from that ruling and its subsequent withdrawal.



Case Study

'Personal service?'

In April 2000, the Government introduced legislation (IR35) to combat tax avoidance in the area of personal service provision. The Government was concerned that individuals, hired through the medium of their own service company, avoided paying tax and National Insurance contributions. The legislation's aim is to ensure that people working in what is, in effect, employment, pay the same amount of tax and National Insurance as someone who is actually employed.

The focus of the legislation is on the working relationship that exists between the individual worker and the client for whom the individual works. This entails careful consideration of the terms of specific contracts.

Mr W was a director of A Ltd, a personal service company that had a contract with an agency (B Ltd) to supply a worker (Mr W) to B Ltd's client, (C Ltd). Mr W sought an opinion from the Inland Revenue as to whether or not the IR35 legislation applied to this specific contract.

The Inland Revenue made enquiries of the end client, C Ltd. They were seeking to determine the nature of the arrangements between C Ltd and Mr W. The agents acting for Mr W, however, complained that this amounted to a breach of their client's confidentiality.

We partially upheld this complaint.

We concluded that the Inspector made a mistake when she approached the end client, C Ltd, without first seeking Mr W's permission, though we did not think there were any adverse consequences.

We looked at the Inland Revenue's instructions, which clearly stated that, if the worker (Mr W) was not prepared to obtain a copy of the contract with the end client (C Ltd), then the Inspector should not provide an opinion on the application of IR35.

In this case, Mr W had asked for an opinion, although he did not initially supply a copy of the contract with C Ltd.

If the Inspector had not carried out enquiries with C Ltd, Mr W could not have received the opinion that he requested. In the circumstances, we concluded that an apology from the Inland Revenue was appropriate for the Inspector's failure to seek Mr W's permission before she approached C Ltd.

We did not uphold Mr W's agent's complaint that it was not necessary for the Inspector to make enquiries with C Ltd, because the focus of the legislation is on the nature of the engagement between the worker and the end client.

Extra Statutory Concession B41 (ESC B41)

The Taxes Acts specify that, where a person has overpaid tax, any claim to repayment is subject to a statutory time limit of six years.

The Inland Revenue have discretion, however, to accept late claims for repayment in accordance with ESC B41. For ESC B41 to apply, however, the overpayment must be the result of a mistake by the Inland Revenue or another government department, with no facts in dispute.

The following case studies illustrate how this concession may apply.



Case Study

'Make allowance'

Mrs X was divorced in 1984 and had care of her three children. A few years later she took up employment. It was not until 2002, however, that she realised that she was entitled to claim Additional Personal Allowance. She submitted a retrospective claim for the years 1988/89 to 1995/96.

The Inland Revenue rejected Mrs X's claim because it fell outside the six-year time limit. They did not consider that they had made any mistake in the handling of Mrs X's tax affairs and ESC B41 could not therefore apply.

Mrs X felt that the Inland Revenue should have advised her that she could claim the Additional Personal Allowance as soon as it was appropriate for her to do so. She asked the Adjudicator to investigate her complaint.

We did not uphold this complaint.

Whilst we were sympathetic to Mrs X's position, we concluded that the Inland Revenue had not made any mistakes and that their decision not to apply ESC B41 and repay the money in question was reasonable.

The Additional Personal Allowance is an allowance that a taxpayer must claim. Taxpayers have a responsibility to establish which allowances they may, or may not, be entitled to claim. It would be impractical for the Inland Revenue to identify and contact every taxpayer that might qualify for this allowance.

We concluded that it was a mistake not to issue form P91 and the Inland Revenue agreed that the conditions of the concession were met and to repay the tax that had been overpaid together with interest. They also agreed to reimburse Mr Y's agent's fees, which were incurred as a direct result of this mistake.



Case Study

'Wrong code'

Mr Y's agent complained about the Inland Revenue's refusal to repay tax that he had overpaid. The overpayment arose, over a period of some eight years, because Mr Y's employer had operated a Basic Rate (BR) tax code against his PAYE earnings, so he had not had the benefit of his personal allowances. The Inland Revenue had repaid the tax overpaid for later years, but had refused to do so for 1994/95 and 1995/96.

The Inland Revenue did not dispute that Mr Y had overpaid tax in these years. However, they refused to repay the tax overpaid for 1994/95 and 1995/96 as these years fell outside the statutory six-year time limit.

Mr Y's accountant stated that the Inland Revenue had failed to review their client's case for a number of years and that, if they had done so, they would have realised that his employer was operating PAYE incorrectly. Appropriate action could then have been taken to resolve the situation. The Inland Revenue did not agree that they had made any mistakes or that the concession should apply.

We upheld this complaint.

We established that the Inland Revenue had received Mr Y's form P11D from the employer previous to the one that subsequently operated the incorrect tax code. On receipt of the form P11D, the Inland Revenue would have been aware that Mr Y had changed employment and that his records needed to be transferred to a new tax district. The Inland Revenue should have issued form P91 to Mr Y requesting details of his new employment. Had this happened, we felt that the subsequent overpayment would have been prevented.

Valuation Office Agency

The Valuation Office Agency (VOA) is an Agency of the Inland Revenue and is responsible primarily for the council tax banding on domestic properties, and the rating assessments on non-domestic properties in England and Wales. The VOA is also responsible for Right to Buy determinations in England, Wales and Scotland and carries out valuations for government departments and some local authorities.

The number of complaints that we investigated about the VOA this year increased, but only slightly. We completed 11 full investigations compared to nine last year, of which three were partially upheld. Last year, 56% of complaints that we investigated about the VOA were upheld, either wholly or in part. The comparable figure this year is 27%, which reflects well on the VOA and the procedures it has in place to deal with complaints. This year, none of the complaints that we investigated were wholly or substantially upheld.

As in previous years, we continue to receive complaints about the VOA which involve:

- Council Tax banding
- non-domestic rating valuation.

Neither of these issues are ones that we can investigate because they are outside our remit as independent tribunals exist to consider such matters.

We can, though, consider handling issues, typically delays, misleading advice or staff attitude. Although it is not within our remit to look into the valuation of a property, we can ensure that proper procedures have been followed by the VOA.



Case Study

'Service charge included'

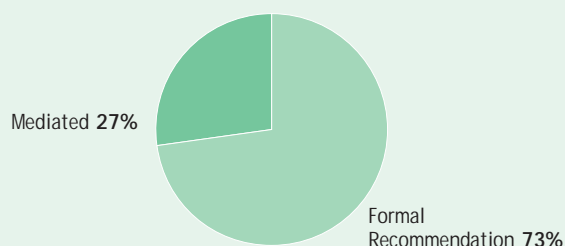
A Ltd leased premises in a shopping centre. The VOA twice made mistakes when assessing the rateable value of the premises. Although these mistakes were subsequently identified and put right, there were additional consequences for A Ltd.

When apportioning service charges for the various outlets in the shopping centre, the landlords based their calculation on the respective rateable values of the premises. This meant that A Ltd paid a higher proportion of the service charges than they should have done in 1998 and again in 2000 as a result of the incorrect rateable value assessments.

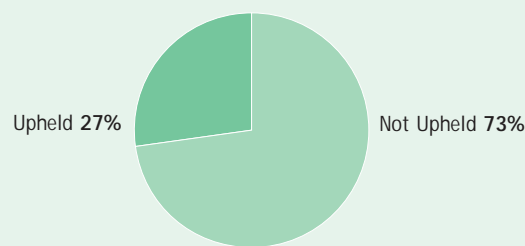
Before referring the matter to the VOA to consider, A Ltd asked their landlords if they would recalculate the service charges retrospectively. The landlords explained that they could not do this because of the complications involved in recalculating the charges for all of the other tenants in the shopping centre.

Following their discussions with the landlords, A Ltd decided to ask the VOA, under its Code of Practice, 'Putting things right for you', to reimburse the additional service charges. The Code of Practice says that, where costs have been incurred as a direct result of the VOA's mistake, they will be refunded. The VOA, however, contended that the additional service charges were an indirect, rather than a direct, result of its mistakes.

How investigation cases were completed



Result of completed investigation cases



We did not uphold this complaint.

Although the costs incurred by A Ltd would not have arisen if the rateable value had been assessed properly, we also had regard to the arrangement between A Ltd and their landlord.

After lengthy consideration of A Ltd's lease by the VOA's solicitors, they concluded that, in their opinion, there was nothing within the wording of the lease to prevent the company from pursuing matters with their landlord. They also maintained that the costs were not a 'direct' result of the VOA's mistake, rather a consequence of the terms of the lease with the landlord.

We accepted that A Ltd had not exhausted the possibility of resolving their concerns within the terms of their lease and did not therefore ask the VOA to reimburse the additional service charge. We did feel, however, that there could be circumstances in which additional charges, such as those borne by A Ltd, might be considered to be a 'direct' consequence of a VOA mistake.

This was a finely balanced decision and, although we sympathised with A Ltd's predicament, we took the view that the VOA's decision was not unreasonable.

The VOA did not know what sales evidence or survey information, if any, had been used when determining the banding. It did, however, have records of other houses in the same road, including an adjacent larger semi-detached house and another large detached house with a similar name to Mr and Mrs B's semi-detached house, which would have been available.

The VOA argued that the original banding had been based on the limited information readily at hand and that, within an exercise involving in excess of 20 million bandings, the appeals process had been intended as the means to address any concerns. It did not accept that its readiness to alter the banding meant there had been any mistake when the original banding was undertaken.

We did not uphold this complaint.

There was no conclusive evidence that a mistake had been made, for example the confusion of survey details, and we accepted that the original banding had not been undertaken as a precise exercise.

We also found that the VOA had not delayed unreasonably, either in agreeing to alter the banding of Mr and Mrs B's house or in dealing with their subsequent complaint.



Case Study

'The wrong band'

Mr and Mrs B wrote to the VOA to query their Council Tax band. The VOA subsequently agreed to reduce the band and Mr and Mrs B received a refund of their Council Tax. They asked the VOA for interest on the overpayment, after their local council had refused. The VOA also refused because they did not consider that, whilst they had agreed to alter the band, they had made a mistake with the initial banding of the property. Mr and Mrs B were also concerned about the length of time the VOA took to consider their complaint.

Customs and Excise

Customs and Excise have a wide range of responsibilities, and are split broadly into two operational areas. The Business Services and Taxes side of the organisation collects over a third of central Government revenue from indirect taxes, most notably VAT and duties such as those on alcohol and tobacco, and helps businesses to comply with relevant requirements. The Law Enforcement side of the organisation fights crime by tackling tax evasion, preventing the importation of Class A drugs, firearms and paedophile material, and enforcing restrictions on such things as the importation of excise goods.

In the year to 31 March 2004, we took on 98 complaints about Customs and Excise, an increase of some 15% compared with the previous year, though we upheld fewer. And the breakdown of complaints within that total continues to change. In the year to 31 March 2003, 45 per cent of complaints concerned VAT matters. This year, complaints about VAT matters have accounted for nearly 70% of all new complaints. This indicates a steady return to what we were accustomed to before the dramatic rise in complaints from cross-channel travellers, a phenomenon featured in our previous two annual reports.

As previously, there are three key issues which recur:

- clarity of information to customers, be it VAT traders or the travelling public
- adequacy of internal guidance to staff
- record-keeping.

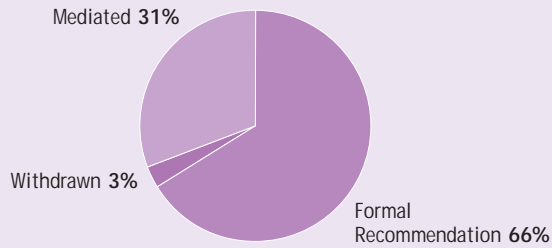
It is fair to say that Customs and Excise have come a long way on these fronts. But the pace of change is unrelenting, so we constantly need to reinforce basic messages. For example, we need to induct newcomers in good practice and we constantly need to remind ourselves of the implications of getting the basics wrong. And that is where complaints come in.

We see encouraging signs from many senior managers within Customs and Excise that they recognise that complaints are an important tool in measuring and improving an organisation's effectiveness. Inevitably, some areas of the organisation seem to be taking this forward with more enthusiasm and success than other areas. But overall the signs are positive and encouraging.

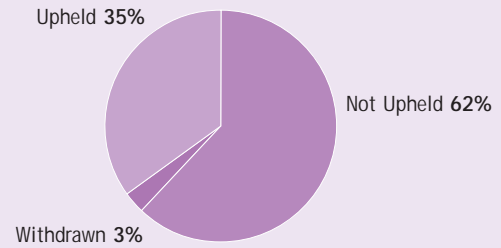
The case studies in the next section illustrate the type and range of complaint we have investigated this year.

The cases are categorised under the two broad operational heads of Business Services and Taxes, and Law Enforcement. Inevitably, we highlight those cases which exhibit noteworthy features, or which have wider implications. It is nevertheless worth pointing out that, in the majority of the cases we investigate, we can offer reassurance that the department has done all that might reasonably have been expected of it.

How investigation cases were completed



Result of completed investigation cases



Business Services and Taxes

We can certainly say that the majority of VAT cases we now see are complex and often entrenched. This suggests to us that the regional complaints units within Customs and Excise, operating under the revised complaints structure which they put in place a couple of years ago, are handling the vast majority of cases to the satisfaction of complainants.

We are also seeing a growing number of complaints from large companies who are increasingly keen to explore alternative ways of resolving complex disputes. It is pleasing that they and their advisers are aware of our services.

As regards complaints about VAT, 'misdirection' - in effect misleading advice - continues to be the single most common basis for complaint. Customs and Excise will always consider a claim to misdirection under the terms of the relevant extra statutory concession published in their Notice 48. When we investigate complaints about alleged misdirection, we look to see whether they have exercised their discretion under the concession reasonably and consistently.

We also look to see whether Customs and Excise have made a mistake in their dealings with the trader. This is because cases can arise where, although the criteria for applying the concession are not met, there are nevertheless grounds for considering redress under the provisions of Customs and Excise's Code of Practice on complaints, Notice 1000.

The following cases give a feel for the variety of complaints we see about VAT in general, and misdirection in particular.





Case Study

'Spanner in the works'

ABC Ltd is the UK part of a global business. A team of officers working within Customs and Excise's Large Business Group carries out assurance of its UK VAT.

During 2001, ABC Ltd was negotiating contracts for the purchase of goods, which involved arrangements for ABC Ltd to finance the purchase of the tools needed to make the goods. At an early stage, ABC Ltd took informal advice, both from its taxation advisers and from Customs and Excise, about whether the company would incur any VAT as a result of the tooling arrangements. Customs and Excise offered an informal opinion, on the basis of what they understood the contractual arrangements would be, that ABC Ltd's suppliers would have to charge VAT on billing ABC Ltd for the tooling costs.

When the suppliers were close to invoicing ABC Ltd, Customs and Excise began to have doubts about whether the supplies would be standard-rated. Customs and Excise told us that they had conveyed this potential change of mind to ABC Ltd at a meeting on the company's premises. But the company told us that, after the meeting, they still understood that the supplies were standard-rated, and that they would have to reclaim the VAT via their VAT return. The suppliers invoiced ABC Ltd for VAT amounting to several million pounds.

In the following month, Customs and Excise gave ABC Ltd a ruling that there were no taxable supplies and instructed the company not to include the amounts paid as VAT in their VAT returns. The suppliers later issued credit notes to ABC Ltd and the company recovered its money.

ABC Ltd complained that, during the meeting between Customs and Excise and the company, Customs and Excise had given a ruling that the supplies would be taxable. They said they had suffered a financial loss, because they had paid VAT unnecessarily, which Customs and Excise should remedy as the ruling they had given was incorrect.

We did not find that Customs and Excise had given a formal ruling. But we thought they had a responsibility, having expressed an informal view, to make sure that the company understood that their view had changed. Customs and Excise had failed to document what had been said at the meeting or in several subsequent telephone conversations. It was clear from the documentation we saw that, after the meeting, ABC Ltd still believed there would be VAT to pay and reclaim.

We held that Customs and Excise's failure to convey their change of mind to the company amounted to a mistake under their Code of Practice on complaints, and we recommended that they reimburse costs incurred as a direct result of the mistake, amounting to over £18,000 in interest and more than £11,000 in professional fees.

We place a high value on learning from mistakes. Customs and Excise's Large Business Group encourages close working with their customers, but that cannot be at the expense of properly considered and documented dialogue in this type of situation. The weaknesses we had identified were quickly addressed in their guidance to staff, the Quality Assurance Standards document. Indeed, they went further and initiated a review to ensure that the shortcomings in this case were not prevalent elsewhere. This is an excellent example of a positive, proactive attitude to complaints and their value to an organisation.



Case Study

'Whose mistake?'

Mr A runs a business importing vintage vehicles. Before importing his first vehicle, he sought a written ruling from Customs and Excise concerning the application of import duty and VAT. Customs and Excise issued a written ruling in 1998 confirming that, in the example given to them by Mr A, he was applying tax correctly.

Following a visit by Customs and Excise in 2001, Mr A was told he had been incorrectly calculating the cost price of imported cars. Customs and Excise apologised for their incorrect ruling in 1998. They explained how VAT and duty on the imported vehicles should be applied in the future. Mr A was unhappy with this and employed an accountant to investigate the position.

It transpired that Customs and Excise's ruling in 1998 was in fact correct and that the error lay elsewhere in Mr A's calculations.

Mr A complained that, because Customs and Excise incorrectly challenged their own initial ruling, he incurred needless accountancy fees resolving the situation. Customs and Excise initially agreed and offered a payment towards the accountancy costs.

However, after Mr A expressed his dissatisfaction with the amount offered, Customs and Excise reviewed their decision and decided no mistake had been made. They felt that, since Mr A had made the error, they were right to question his workings. They therefore withdrew their offer of compensation. Instead they offered a payment of £50 for the delay in replying to Mr A's complaint letter.

We felt Customs and Excise had made a mistake when they said that their original ruling was incorrect, without properly establishing the real root of the problem. Customs and Excise agreed and made an improved offer for payment of those accountant's fees directly involved in dealing with the mistake, and they also increased the amount of compensation for poor complaint handling to £75. Mr A was happy with this outcome and we were able to achieve a mediated settlement to the complaint.



Case Study

'The whole question'

Mrs B received advice from Customs and Excise's National Advice Service (NAS) regarding the VAT liability of new building work. The advice she received, that the work should be zero-rated, was incorrect. The NAS adviser had not asked a crucial question concerning whether the new build could be disposed of separately from the main dwelling. When all the facts were before NAS, Mrs B was informed of the correct rating, which she said caused her considerable shock and distress. She also argued that she had been misled.

Customs and Excise said that this could not fall within their misdirection concession, as Mrs B was not a VAT-registered trader. Moreover, the NAS adviser was not in possession of the full facts when the original advice was given. They argued that it was not reasonable to have expected the adviser to identify the key facts and they also pointed out that it was for the VAT-registered trader (in this case the builder) to establish the VAT liability and not Mrs B.

After discussions with us, Customs and Excise accepted that the adviser should have asked the crucial question before giving advice, and that the failure to do so amounted to a mistake. They agreed to apologise and pay £150 compensation for the distress caused, on which basis we were able to mediate a settlement.

In this case, the terms of the misdirection concession were largely irrelevant, as was the argument as to who should establish the VAT liability.

The incorrect advice was given to Mrs B who, reasonably, felt entitled to rely on it, although she confirmed that she would have proceeded with the work anyway. Mrs B was clearly and directly affected by Customs and Excise's mistake.



Case Study

'A matter of principle'

DEF Ltd made two attempts to alter its structure and contractual arrangements, with a view to minimising the situations in which it acted as principal in making standard-rated supplies. The company wrote to Customs and Excise on each occasion to seek their confirmation that the arrangements achieved this, and Customs and Excise told the company both times that they still acted as principals.

DEF Ltd then adopted arrangements that they believed to be standard to their trade sector and which they were confident that Customs and Excise would accept. They wrote to Customs and Excise, setting out their proposals and the VAT accounting method that they intended to use.

Customs and Excise acknowledged the letter, and told DEF Ltd that a named officer would consider the matter and give them a reply, but the letter was then lost. The company assumed that, because they had not heard from Customs and Excise, their proposals and accounting method were acceptable.

Some time later, a VAT assurance officer visited DEF Ltd. He found that, while the reorganisation achieved the aim of minimising the circumstances in which the company acted as principal, the accounting method was faulty and VAT had been under-declared. The company claimed that, in failing to reply, Customs and Excise had misdirected them, and should remit the VAT under-declared.

Customs and Excise acknowledged that they had made a mistake in not replying to DEF Ltd, but said that the company should have made further enquiries when they did not receive a reply from them. They refused the claim of misdirection.

Customs and Excise recognise that misdirection can occur where their acquiescence may be interpreted as acceptance that something is correct - misdirection by omission - and in this case, on the face of it, they had received a request for agreement to certain VAT accounting arrangements but had not replied.

But, as we saw it, both the company and Customs and Excise had responsibilities. Customs and Excise tell us, and we accept, that VAT is, by design, a self-assessed tax, and that it is the responsibility of VAT-registered businesses to ensure that they account for the correct amount of VAT at the correct time.

But Customs and Excise also have a responsibility to provide assistance to businesses when they ask for it. We thought that, in this case, the responsibilities of both parties needed to be taken into account.

Customs and Excise had already told the company that two proposed arrangements did not achieve what the business wanted. Moreover, when Customs and Excise acknowledged the company's letter with the third proposal, they had put the company on warning that they had not yet made a decision and would reply once they had done so.

The company had adopted a structure that they believed was standard to businesses in their trade sector, and were confident that their proposals would be acceptable to Customs and Excise. They told us that this was why they did not pursue a reply, assuming instead that Customs and Excise's silence implied consent to their proposals.

We could see nothing in Customs and Excise's acknowledgement letter that would suggest to the company that a reply should only be expected if the proposals were unacceptable. And we thought that the company should reasonably have pursued a reply, if only to eliminate the possibility that it had gone astray. Customs and Excise had made a mistake in not replying to the letter, but we did not think that this was sufficient to transfer responsibility for the under-declared VAT from the company to them. Their mistake should have been capable of speedy remedy, and should only have been a minor irritation, deserving an apology. But the company's decision not to contact Customs and Excise compounded the mistake and resulted in the under-declared VAT.

We did not uphold the complaint of misdirection.



Case Study

'On your boat'

Ms C and Mr D converted a commercial barge into living accommodation. For this purpose they purchased goods and services from a large number of suppliers, and paid VAT on most of the purchases; but they carried out the bulk of the conversion work themselves.

Ms C's mother made enquiries, on behalf of Ms C and Mr D, as to the VAT position. She was advised that, when the conversion work was substantially completed, Ms C and Mr D would be able to claim back from Customs and Excise the VAT they had paid, by virtue of Customs and Excise's 'DIY builders and converters' scheme. But, when she contacted Customs and Excise again nearly two years later, she learnt that she had been wrongly advised.

Ms C's mother complained to Customs and Excise who said that she had not been misdirected.

When the complaint was referred to this office, we agreed with Customs and Excise that the misdirection concession was not applicable in this case. But we concluded that Customs and Excise had made a mistake when they advised Ms C's mother about the 'DIY builders and converters' scheme which did not apply to the conversion of a boat.

Customs and Excise accepted that they had made a mistake and that Ms C and Mr D could have arranged things differently if they had known the true VAT position. They were willing to pay an amount equivalent to the VAT that would not have been charged in relation to the conversion of the barge.

Ms C's mother was a qualified accountant and also claimed professional costs. Customs and Excise did not consider that the arrangement was commercial and that she had intended to charge her daughter and Mr D for her time. We did not think that Customs and Excise's conclusion on this point was unreasonable. We were not satisfied that there was a genuine commercial arrangement and, in particular, that Ms C and Mr D would have received, and paid, a bill, whatever the outcome of the representations to Customs and Excise and this office.

However, Ms C's mother provided further evidence demonstrating that Ms C and Mr D had given her formal authority to act on their behalf and that they had insisted she accept payment for her work. Customs and Excise then agreed to meet the costs.

Law Enforcement

As noted last year, the consequences of a number of well publicised Court cases, together with new measures introduced by Customs and Excise, have dramatically reduced the number of complaints referred to us by disgruntled cross-channel shoppers. But we have still been able to make a number of recommendations to Customs and Excise that we hope will lead to improvement in what can often be difficult circumstances for the cross-channel shopper and customs official alike.

We said last year that, in comparison with excise and VAT related issues, we see relatively few complaints originating from Customs and Excise's efforts to detect and prevent the importation of drugs, firearms, pornographic material, and the like. The reason for this, as we said, is that there is far less scope for doubt or misunderstanding, on the part of the individual, when it comes to the detection of such items. They are prohibited no matter what the quantity, and society at large is well aware of that.

By their very nature, where enforcement is concerned, some of the interactions with officials can be confrontational and stressful, and those affected will often hold deep-rooted feelings about the matter. Complaints arising from such situations can sometimes be difficult to investigate, especially where we face a direct conflict of evidence, with one party's recollection of events at sharp variance with the other's and no independent corroborative evidence available. Regrettably, we may sometimes be unable to reach a conclusion about what was said or done, but we value the opportunity to investigate such incidents and identify any learning points for the department.

The following case studies show the range of issues typically encountered in Law Enforcement related complaints and illustrate the type of learning points which can emerge.

There are limits to what we can do in cases where people have had goods seized, because legal routes exist to determine the validity of seizures and whether Customs and Excise are right not to return seized goods. For example:

- a person may contest the validity of a seizure by having their case heard at a Magistrates' Court. This is often referred to as a 'condemnation hearing'
- a person whose goods have been seized may ask for them to be returned. If the person accepts that Customs and Excise had the right to seize the goods, Customs and Excise may return the goods on certain conditions, usually including payment of a sum of money. This is called 'restoration'

- if a person whose goods have been seized contests the seizure, they may, at the same time, ask for the goods to be returned on payment of a sum of money. This process is called 'delivery up'.



Case Study

'On your bike'

Mr E was stopped on his return from a day trip to the Continent. His excise goods and motorcycle were seized. Mr E challenged the seizure. He was very concerned to get his machine back quickly, so he asked for it to be restored to him. Customs and Excise said they could not consider restoration until the appeal against the seizure had been resolved. However, Mr E continued to pursue restoration and, although the Magistrates' Court had yet to determine the matter of the seizure, he took his case to Tribunal, which directed Customs and Excise to consider the question of restoration. As a result, Customs and Excise agreed to return Mr E's motorcycle.

Mr E complained to us about the quality of the guidance provided by Customs and Excise. We agreed that the guidance provided to him had not been clear and asked Customs and Excise to apologise.

We also thought that, as Customs and Excise could not consider restoration, because Mr E had appealed against the seizure of his goods and motorcycle, they should have considered delivery up, as an alternative means of returning Mr E's motorcycle. We asked them to send him £50 for the worry and distress he experienced.



Case Study

'A sympathetic ear?'

Customs and Excise officers stopped Mr F and Mr G at Dover on their return from Belgium, and seized their excise goods and car. Messrs F and G complained about the way the Customs and Excise staff had treated them.

Mr F had told the officer who interviewed him that he had recently been in hospital because of mental health problems and was still off work and on medication. He complained that the officers had been rude and uncaring, had been unsympathetic about his health problems and had refused to discuss the matter any further once they had made up their minds to seize the goods and car. They had left him and Mr G to find their own way home without money, and had told them it was not the officers' problem.

Mr F also said that he had been refused access to a senior officer. Both Mr F and Mr G complained of the stress that the Customs and Excise officers had caused them. Mr F said it had set back his recovery considerably and Mr G said he had been unable to go to work the following day.

Customs and Excise had obtained reports from the officers who had interviewed Mr F and Mr G and their senior officer and had concluded that there was no substance to the complaints. But when Mr F spoke to us, it emerged that his complaints were mainly against a third officer, who had intervened after Mr F and Mr G had been interviewed.

When the third officer was asked, he acknowledged that he had said that travel home was 'not our problem', albeit accompanied by an explanation of Customs and Excise's policy. He could not remember whether he had given the practical advice about making travel arrangements at Dover that Customs and Excise officers routinely give travellers, whose vehicles they have seized. Mr F was sure that he had not done so.

Customs and Excise acknowledged that their investigation of the complaint had been inadequate and that the officer's comments were inappropriate.

As a result of their poor handling of the matter, Customs and Excise agreed to make payments of £110 to Mr F and £75 to Mr G.

Over the past couple of years, we have seen a number of cases, of which this was one, that have touched on the treatment of people with disabilities, and we raised the issue with Customs and Excise. We are encouraged to see that, as a result, Customs and Excise have since updated their guidance to officers about dealing with disabled and otherwise vulnerable people.



Case Study

'An arresting experience'

Ms H complained that she was stopped every time she travelled between the UK and the Continent. She said that Customs and Excise officers acted outside their powers by asking her questions about her travel and accommodation. She said they did not give her reasons for stopping her, had damaged her personal property and shared information about her with non-UK authorities. She said an officer had threatened her with arrest if she failed to answer his questions.

We considered that, whilst no evidence existed that the officers had acted improperly, shared information with overseas agencies, or done any damage to Ms H's property, one officer had misunderstood and exceeded the powers under which he was acting.

We discussed this with Customs and Excise. They agreed that there was a training need and that it had been improper of the officer to threaten Ms H with arrest for failing to answer questions about her travel and accommodation. We recommended that Customs and Excise pay compensation to Ms H for the upset caused, and they agreed. They also agreed to review their training to ensure that their officers were aware of the proper scope and application of the powers under which they act.

Customs and Excise agreed to pay Ms H £50 for failing to properly address her complaint themselves and £250 for worry and distress.



Case Study

'Who's got the key?'

Customs and Excise officers visited the address where Mr I lived, and he agreed that they could search the premises. At the end of the visit they seized his car and some excise goods. Mr I made a number of complaints about the conduct of the visit:

1. Consent to the search

Mr I signed a form consenting to the search of the premises. He complained that he was not told that he could withdraw his consent at any time. But the officers said they told him that he could withdraw his consent.

In view of the direct conflict of evidence, we were not able to uphold this complaint.

2. The extent of the search

The premises consisted of a house, an annexe and some outbuildings. Mr I lived in part of the outbuildings whilst some tenants occupied rooms in the house and the annexe. When the officers first arrived, they did not appreciate that there was multiple occupancy. But this soon became clear to them, when one of the officers went into the house and met some of the tenants.

After meeting some tenants, the officer asked Mr I for the key to the room of one of the tenants and Mr I let him into the room. The room was searched in the presence of Mr I, but in the absence of the tenant. When the tenant later learnt that his room had been searched, he was angry, saying that Mr I should not have let the officer into the room.

Mr I complained that his tenant's accommodation should not have been searched.

We looked at Customs and Excise's guidance about searching premises by consent. The guidance says that, in the case of a lodging house or similar accommodation, a search should not be made on the basis solely of the landlord's consent unless the tenant is unavailable and the matter is urgent. There is a similar statement in the document headed 'Information to the Occupier' which should be handed to the occupier of the premises being searched.

Since there was no particular urgency about the search in this instance, we concluded that the search of the tenant's room was contrary to Customs and Excise's guidance. The room should not have been searched and Mr I should not have had to face the tenant's anger. We recommended that Customs and Excise should apologise and pay Mr I £50 for the resulting distress.

We felt it was important that Customs and Excise officers should be fully aware of the extent of their powers when they are conducting a search by consent. We therefore asked Customs and Excise to make arrangements for officers who carry out searches to be reminded of the relevant guidance.

Public Guardianship Office

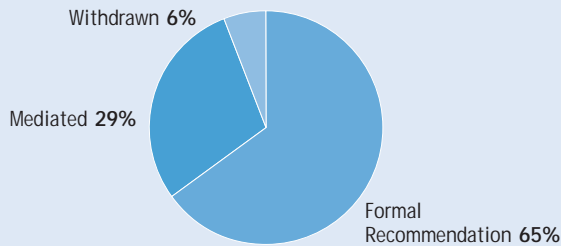
The Public Guardianship Office (PGO) was formed in April 2001 from the Receivership and Protection Divisions of the former Public Trust Office. The PGO's central role is to protect the financial wellbeing of mentally incapacitated people.

The PGO is responsible for overseeing 'receivers', who are appointed by the Court of Protection to manage an incapacitated person's financial affairs. Often, the receiver will be a family member, or friend, of the person concerned. Local authorities, professionals and receivers who are on the PGO's accredited panel, may also fulfil this role, as can the PGO itself in a small number of cases.

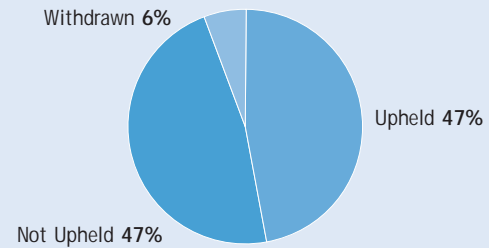
The PGO also registers Enduring Powers of Attorney when an individual has lost, or is losing, their mental capacity.



How investigation cases were completed



Result of completed investigation cases



This year, we investigated 17 complaints about the PGO compared with nine in the previous year. We were pleased to note that, whereas last year 67% of the cases that we investigated about the PGO were upheld, this year the figure has fallen to 47%.

We consider that the significant increase in the number of complaints about the PGO can be attributed to:

- a legacy of the considerable backlog of work and the loss of experienced staff when the PGO underwent re-organisation in 2001
- the design and implementation of a more straightforward and user-friendly complaints procedure
- a growing awareness among PGO customers of our role.

There is no doubt that, during the first two years we worked with the PGO, it struggled with fundamental changes in its organisational structure. The service provided to its customers suffered as a result of these changes, which included the re-location of its office premises and the loss of many experienced members of staff.

The PGO should, however, be commended for the efforts made to improve its position over the last year, reflected in the reduction in instances where we upheld complaints about its service. Its achievements in eliminating the very considerable backlog are particularly noteworthy and priority has been given to resolving its older complaints.

The relationship between this office and the PGO has continued to develop, with regular meetings at senior level and improved communication with its complaints team. We have also been encouraged by the PGO's more receptive approach to the payment of compensation for its mistakes and delays, as detailed in its Code of Practice: *Complaints Putting things right if things go wrong*.

The Adjudicator and the Acting Chief Executive of the PGO have recently signed a new three-year agreement, which confirms that we will continue to work with the PGO until at least 31 March 2007.

The complaints that we have investigated about the PGO during the last year have included issues such as:

- its failure to adequately explain and supervise the role of the receiver
- delays in dealing with requests for the release of funds, even where the importance of early release has been made clear
- delays in selling investments
- poor complaints handling.

The following case studies illustrate our investigation of some of these issues.



Case Study

'A family affair'

Mrs A was appointed as her aunt's receiver. Although she asked several times, the PGO never gave her clear guidance about what expenses she could claim from her aunt's estate. The PGO was not thorough in its checking of her annual accounts and, even when it found irregularities, it only made half-hearted attempts to rectify them.

In addition, requests by Mrs A for gifts to be made from her aunt's estate were processed carelessly by the PGO. Finally, ambiguous information that the PGO gave to the Court of Protection resulted in an unfair apportionment of the gifts to the client's family.

After the client died, another niece, Mrs B, who was also joint administrator of the estate with Mrs A, challenged what she considered to be excessive expenses taken by Mrs A during the receivership. The PGO made concerted efforts to resolve her complaint over four years, but eventually Mrs B asked this office to consider her complaints.

We upheld this complaint.

From the outset, our aim was for the PGO to restore the deceased's estate to the position it should have been in if the PGO had been more diligent in its supervision of Mrs A throughout her receivership. We decided that, given the length of time that had elapsed, it was now impossible to calculate exactly what expenses should have been allowed. After a careful examination of the evidence, including information provided by Mrs B, we agreed with the PGO that 50% of the expenses claimed by Mrs A should not have been allowed. We asked the PGO to make an ex-gratia payment to the estate of around £8,000 in reimbursement of those excessive expenses.

Following the client's death, no power exists to change gifts properly authorised by the Court of Protection, made during her lifetime. To compensate for its mistakes, we asked the PGO to pay to Mrs B and her sister £1,125 each to compensate them for the incorrect and unfair distribution of gifts during their aunt's lifetime.

We also asked the PGO to pay to Mrs B a further payment of £250. This was in addition to the payments of £200 each already offered by the PGO to Mrs B and her sister, in recognition of the effect that its mistakes, delays and poor complaint handling had upon her. We also asked the PGO to pay interest on both the ex-gratia and compensation payments at the agreed rate of 6% from the dates of the original payments.

During our investigation, we also found that the PGO had failed to advise the Court Funds Office to stop making payments to the ex-receiver's bank account, after the client's death. These payments totalled nearly £40,000. The PGO was able to confirm that Mrs A had retained this money in a low interest account. However, in recognition of its mistake, we asked the PGO to pay the difference between the interest actually credited to that account and the higher rate that would have been paid had the money correctly remained in the Court Funds Office account.

Lastly, we asked the PGO to pay Mrs B's solicitor's costs, which she had incurred in pursuing her complaint and dealing with the checking of the receivership accounts.



Case Study

'A risky business'

Mrs C acts as a receiver for her disabled daughter, having replaced a solicitor who previously held this position.

Whilst the solicitor was receiver, Mrs C's daughter received an award of damages, which was invested by the PGO's stockbrokers in stocks and shares in accordance with an investment strategy decided by the Court of Protection. The investments subsequently decreased in value because of a fall in the stock market.

Mrs C blamed the PGO for failing to manage her daughter's affairs properly and complained that it had failed to provide her with relevant information about the investments made on her daughter's behalf. She also complained about delays in replying to her correspondence.

We did not uphold this complaint.

We explained from the outset that we can neither investigate complaints about investment strategies fixed by the Court of Protection, nor about the performance of stockbrokers or individual shareholdings.

The crux of this complaint concerned what information Mrs C received from the PGO about investing on the stock market and the inherent risks associated with such activities. We saw that the PGO sent literature about investments to the previous receiver, but we could not see that any similar information was sent to Mrs C when she took over this role.

We were critical that the PGO did not provide more information about the risks involved in investing in stocks and shares and asked it to do so in the future.

We could not, however, find any evidence to suggest that the PGO had acted incorrectly or had made any mistakes in its handling of Mrs C's daughter's affairs. We concluded that the PGO had acted in accordance with its published guidelines and was not responsible for the fall in value of the investment portfolio.

We did identify delays by the PGO in answering correspondence about Mrs C's complaint, but we did not consider that these warranted compensation for poor complaint handling.



Case Study

'Be my guest'

Mr D and his wife lived with his mother in her house. In September 2000, Mr D made an application, through his solicitor, to become a receiver for his mother. Mr D's intention was to sell his mother's house and use the proceeds, along with his own money, to purchase a guesthouse. He and his wife would run the guesthouse and his mother would live with them under their care.

The Court of Protection agreed in principle to Mr D's plan, but requested further information from him. Meanwhile, objections to Mr D's plans were made to the PGO by both of Mr D's children. The PGO failed to register Mr D's son's concerns and neglected to inform Mr D of his daughter's objection.

An attended hearing was held in August 2001 and, again, the Court of Protection requested further information from Mr D. Both of Mr D's children attended the hearing.

The Court gave Mr D permission to go ahead with his plans in April 2002. Unfortunately, there were administrative errors in processing the arrangement and Mr D's solicitor was involved in extra work correcting these mistakes before the house sale and purchase could take place.

Both Mr D and his solicitor had contacted the PGO on numerous occasions to check on the progress of the application but no responses were forthcoming.

The PGO accepted that it had caused unacceptable delays and paid Mr D £300 in respect of his own costs. Although the PGO requested a breakdown of his solicitor's costs on a number of occasions, these remained unpaid, prompting Mr D to complain to this office.

We partially upheld this complaint.

Whilst we acknowledged that this was not a standard receivership application, we felt that the PGO did not handle the application, or Mr D's complaint, well.

We concluded that Mr D had incurred extra professional costs as a result of the PGO's shortcomings.

The PGO accepted our conclusions and agreed to pay £100 for worry and distress and £75 for poor complaint handling, together with £500 in respect of solicitor's costs.



Case Study

'Too late!'

Mr E's mother had applied to become receiver in respect of her son's affairs and instructed solicitors, F & Co, to purchase a house for him. F & Co complained that the price of the house had increased as a result of delays by the PGO.

A property had been found and a price agreed with the vendor but, because of the time taken, the vendor had lost patience and set a three-week deadline for completion. F & Co had written to the PGO to ask for approval of the proposed purchase and release of the necessary funds and had stressed the importance of meeting the deadline.

The PGO took no action on receipt of the solicitor's letter. A few days before the deadline expired, F & Co faxed a reminder to the PGO but this was also ignored.

The day before the deadline was reached, the matter was put before the Court of Protection for approval of the purchase and release of the funds.

This was approved on the same day but the letter confirming this did not reach F & Co until after the expiry of the deadline. The vendor increased the purchase price by £7,500 and set a further deadline. This time, the PGO was able to arrange for the release of the funds before the new deadline expired.

F & Co asked the PGO to reimburse their client the additional £7,500 that he had to pay for his property, together with additional costs.

The PGO accepted that, had it acted with greater urgency, Mr E could have purchased his house for the original price. It referred his case to its legal experts for advice, who concluded that the PGO had no legal obligation to meet deadlines set by third parties and that the delays that Mr E and his solicitors experienced did not warrant the payment of compensation.

When the PGO maintained this position F & Co contacted this office.

We upheld this complaint.

We concluded that the first deadline imposed by the vendor could reasonably have been met, were it not for the PGO's failure to take appropriate action in a timely manner. This had directly resulted in a substantial financial loss to Mr E that could have been avoided. We also felt that the PGO handled the solicitor's complaint poorly, failing to address their specific concerns.

We asked the PGO to reimburse Mr E the additional £7,500, together with the solicitor's costs incurred in pursuing the complaint, which amounted to almost £600. We also recommended a payment of £200 in recognition of the resulting worry and distress and poor complaints handling.

In accepting our findings, the PGO confirmed that it had also revised its procedures to make sure that, in the future, it would recognise the need to consider an ex-gratia payment under its code of practice, even if it had no legal liability to pay compensation.

The Insolvency Service

The Insolvency Service, an Agency of the Department of Trade and Industry, deals with insolvency matters in England and Wales, and some limited insolvency matters in Scotland.

Its Official Receivers are responsible, amongst other things, for:

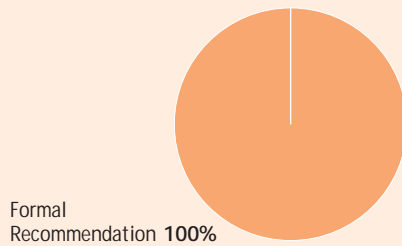
- undertaking the initial administration of the estates of bankrupts and companies in compulsory liquidation
- acting as trustee/liquidator where no private sector insolvency practitioner is appointed
- investigating the circumstances and causes of failure of companies wound up by the Court and of individuals subject to bankruptcy orders
- reporting any misconduct on the part of directors or bankrupts.

Its various headquarters divisions deal with such things as the disqualification of directors and the authorisation and regulation of the insolvency profession.

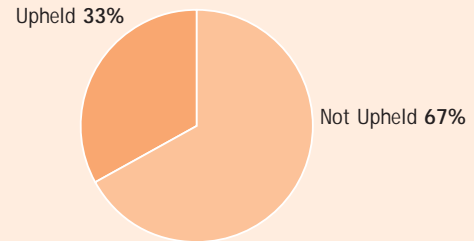
Through its network of Redundancy Payments Offices, The Insolvency Service is also responsible for assessing and paying statutory entitlement to redundancy payments when an employer cannot, or will not, pay its employees.



How investigation cases were completed



Result of completed investigation cases



Official Receivers are statutory office holders and are directly accountable to the Courts for a considerable proportion of their actions. This is an important point for us because, where an action or decision can be challenged through the Courts, we cannot consider it. We need to ensure that we investigate only those matters that should not be resolved through the Courts. Only the Court can reverse, or modify, a decision about the administration of an estate.

Judging by the number of complaints we have received, our first year looking at complaints about The Insolvency Service has been relatively quiet.

In some ways, that is not surprising. Given that we would not be looking at the majority of complaints that had been received by The Insolvency Service prior to 1 April 2003, it was inevitably going to be some time before we saw a steady flow of referrals to this office.

Moreover, relying, as we do, on The Insolvency Service to signpost the way to our office, we believe that this may have been somewhat patchy in the early days. That has now been addressed and, certainly over the latter part of the year, we have witnessed a steady increase in the number of complaints and enquiries to this office, which we expect to continue over the course of the next year or so.

We have not yet seen enough complaints about The Insolvency Service to allow us to comment on trends and issues arising. We may have glimpsed some seeds, but it would be premature to speculate on the extent to which any of them might develop.

We hope, however, that the following case summaries will illustrate the sorts of issue we can investigate and our approach to them.



Case Study

'Ten years on'

Mrs A complained that The Insolvency Service did not provide clear information about her property at the time of her bankruptcy. Mrs A said that an Insolvency Examiner told her that the Official Receiver would have no interest in her property because she was in a negative equity situation. In fact, where an asset belonging to a bankrupt cannot readily be disposed of, or is of little or no immediate value, but may be of value in the future, it is entered onto a 'Protracted Realisations Register'. It may then be realised at any time in the future, even after a bankrupt's discharge from proceedings, for the benefit of the bankrupt's creditors.

Mrs A thought that, once she had been discharged from bankruptcy, that would be the end of her dealings with her Trustee and the Official Receiver. It therefore came as a considerable surprise to Mrs A, who had continued to reside in the property and pay off her mortgage, when, following an enquiry in 2002, she learnt that the Official Receiver continued to have an interest in her property.

We could not find any evidence to corroborate Mrs A's claim concerning the examiner's assertion. As examiners are under no obligation to record full details of every discussion with a bankrupt, this was not particularly surprising. And, as the discussion took place nearly ten years ago, the examiner was unable to recall what was said. We were, therefore, unable to reach a conclusion on this aspect of Mrs A's complaint.

We looked at the notices and letters that The Insolvency Service sent out to Mrs A at the time of her bankruptcy. We saw that she had confirmed receipt of two documents, both of which outlined the position regarding assets and how they are treated both before and after discharge from bankruptcy. In light of this, we could not support Mrs A's complaint that she had been misinformed.

We had some sympathy for Mrs A, who had heard nothing from The Insolvency Service for nearly ten years. We could see how the mistaken belief that the Official Receiver no longer had any interest in the property could have arisen. However, we felt Mrs A had been provided with adequate information at the outset to inform her of the position.

We understand that there are a significant number of discharged bankrupts who may find themselves in a similar position to Mrs A, and who may have lost sight of the fact that an asset, such as a property, may still be of interest to The Insolvency Service and the bankrupt's creditors. We are in discussion with The Insolvency Service about how best to manage this situation with minimum distress to those affected.



Case Study

'Sold off'

A Bankruptcy Order was made against a restaurateur. Following the inspection of the bankrupt's restaurant, assets were removed by the Official Receiver and sold for the benefit of the bankruptcy estate.

Following the sale, and on receiving a copy of the Report to Creditors, BC Ltd - one of the creditors - contacted the Official Receiver and notified him of their retention of title (ROT) claim over wines and spirits held at the restaurant. The Official Receiver sought further details from BC Ltd regarding the stock to which the claim related.

The Official Receiver was unable to identify wines sold that were subject to BC Ltd's ROT, save for 3 bottles of champagne and, therefore, only remitted the net proceeds of sale for the champagne.

BC Ltd complained that the Official Receiver had made insufficient enquiries into the ownership of the assets before removing and selling them. They also complained that a detailed inventory was not kept of the items sold, which made it difficult to establish which wines BC Ltd had supplied.

We felt that the Official Receiver had taken all reasonable steps to establish any third party claims to goods held at the restaurant. The bankrupt was correctly asked about goods he did not own, and failed to inform the Official Receiver about the wine.

The Official Receiver had no reason to question the answers provided by the bankrupt. The inventory kept by the Official Receiver was sufficient for the administration of the estate. Given that the Official Receiver has to consider the interests of all creditors and keep costs to a minimum, we could see why highly detailed inventories are not kept as a matter of course. The complaint was not upheld.



Case Study

'Take your time'

Mr D was not happy about the way in which The Insolvency Service dealt with his concerns regarding the investigation of an insolvent company and the conduct of its directors. The company concerned had been placed in creditors' voluntary liquidation in November 1997, and had therefore stopped trading.

Mr D complained that he had been passed from one office to another with little continuity, and that this led to long delays in providing a response.

We found that it was not for The Insolvency Service to carry out the investigation into the conduct of the company directors. That responsibility falls to the liquidator appointed in the voluntary liquidation, who is required to send a 'Directors' conduct report' to The Insolvency Service.

In this case, the liquidator filed a 'fitted' report, so clearing the way for the directors to act as directors of other companies in future. If an 'unfitted' report is filed, The Insolvency Service then has to decide whether to proceed with disqualification action.

In January 2000, the liquidator held a final meeting of creditors to obtain agreement to his release. Mr D, as a creditor (disputed by the directors), disagreed with the release. He felt that a complete investigation had not been undertaken.

As the liquidator was unable to get agreement to his release, he had to apply to the Secretary of State, and it was at this stage that The Insolvency Service became involved. It looked at Mr D's concerns, and whether the liquidator had properly considered them, and became involved in protracted correspondence with both Mr D and the liquidator.

As it is not within our remit to look at the work undertaken by a liquidator in a voluntary liquidation, our investigation focused on how The Insolvency Service dealt with Mr D's concerns. We looked at whether it informed Mr D of his options and whether it took his concerns seriously and responded appropriately.

The Insolvency Service has a duty to deal with any concerns raised by a creditor regarding the investigation carried out by the liquidator. In this case, we found that it had addressed all of Mr D's concerns, had put them to the liquidator and obtained his views. Mr D had been informed of the outcome of the enquiries, and been advised of the options available to him.

The Insolvency Service had apologised for delays in responding to Mr D, and now offered compensation. We found no evidence to show that the delays affected Mr D's ability to take his own action. And we felt that The Insolvency Service had gone further than it really needed to in dealing with Mr D's concerns.

In its report to us, The Insolvency Service acknowledged that it had not dealt with Mr D's correspondence adequately, and had fallen short of its charter standards. It offered to make a payment of £100 to Mr D for the distress this had caused him. We felt the offer was reasonable in all the circumstances.

Statistics

This year we took on for investigation 511 complaints. In 2002/2003, the total was 469.

We completed 475 investigations.

Outcome of complaints

	Upheld	Not upheld	Withdrawn	Total
2002/2003	233(46%)	256(51%)	14(3%)	503
2003/2004	166(35%)	289(61%)	20(4%)	475

How complaints were handled

	Recommendation	Mediation	Withdrawn	Organisation Reconsidered	Total
2002/2003	328(65%)	160(32%)	14(3%)	1 (n/a)	503
2003/2004	296(62%)	159(34%)	20(4%)	0	475

Assistance cases

In 2003/2004, the Assistance Team answered 16,259 general enquiry telephone calls. These covered topics such as questions about VAT returns and requests for telephone numbers of tax offices, as well as information about complaints procedures.

This year we took on 3,955 complaints as assistance cases (these are cases where the organisation has not had a chance to consider the complaint, and we refer the complaint back to the organisation).

Inland Revenue

We took on for investigation 374 complaints about the Inland Revenue this year, an increase of 4% over last year. We completed 355 investigations compared with 364 last year.

We did not uphold the complaint in 216 cases. In 123 of the cases we investigated we upheld the complaint either wholly or in part. 16 cases were

withdrawn by the complainant before we completed our investigation.

215 complaints were resolved by recommendation and 124 through mediating a settlement that was acceptable to both sides.

The Inland Revenue accepted all of the Adjudicator's recommendations.

We recommended the Inland Revenue pay a total of £189,338 to complainants this year, a decrease of £168,069 on the previous year.

We recommended the Inland Revenue pay £26,643 compensation for costs arising directly from their mistakes or delays. We also recommended payments totalling £8,913 for worry and distress and payments amounting to £4,835 for poor complaints handling.

We recommended that the Inland Revenue give up tax or interest amounting to £148,947.

Valuation Office Agency (VOA)

We took on for investigation 13 complaints about the VOA this year, an increase of 44% over last year. We completed 11 investigations compared with 9 last year.

We did not uphold the complaint in 8 cases. In 3 of the cases we investigated, we upheld the complaint either wholly or in part.

8 complaints were resolved by recommendation and 3 through mediating a settlement that was acceptable to both sides.

The VOA accepted all of the Adjudicator's recommendations.

This year we recommended the VOA pay a total of £30,406 to complainants, an increase of £26,816 on the previous year.

We recommended the VOA pay £30,181 compensation for costs directly arising from their mistakes. We recommended the VOA make payments totalling £25 for worry and distress and payments amounting to £200 for poor complaints handling.

Customs and Excise

We took on for investigation 98 complaints about Customs and Excise, an increase of 13% over last year. We completed 89 investigations compared with 121 last year.

We did not uphold the complaint in 55 cases. In 31 of the cases we investigated, we upheld the complaint either wholly or in part. 3 cases were withdrawn by the complainant before we completed our investigation.

59 complaints were resolved by recommendation and 27 through mediating a settlement that was acceptable to both sides.

Customs and Excise accepted all of the Adjudicator's recommendations.

We recommended Customs and Excise pay a total of £72,199 to complainants this year, a decrease of £13,220 on the previous year.

We recommended Customs and Excise pay £41,860 compensation for costs directly arising from their mistakes or delays. We recommended Customs and Excise make payments totalling £1,150 for worry and distress and payments amounting to £100 for poor complaints handling.

We also recommended that Customs and Excise give up VAT or interest amounting to £29,089.

Public Guardianship Office (PGO)

We took on for investigation 16 complaints about the PGO and completed 17.

We did not uphold the complaint in 8 cases. In 8 of the cases we investigated, we upheld the complaint either wholly or in part. 1 case was withdrawn by the complainant before we completed our investigation.

11 complaints were resolved by recommendation, 5 through mediating a settlement that was acceptable to both sides.

The PGO accepted all of the Adjudicator's recommendations.

We recommended the PGO pay a total of £76,819 to complainants this year, an increase of £73,864 on the previous year.

We recommended the PGO pay £75,294 compensation for costs directly arising from their mistakes or delays. We recommended they make payments for worry and distress totalling £1,100 and payments amounting to £425 for poor complaints handling.

The Insolvency Service

We took on for investigation 10 complaints about The Insolvency Service and completed 3.

We did not uphold the complaint in 2 cases. The other case that we investigated was partly upheld.

All 3 complaints were resolved by recommendation.

The Insolvency Service accepted all of the Adjudicator's recommendations.

We recommended The Insolvency Service pay complainants a total of £100 for worry and distress this year.

Key Performance Measures and Targets

Description	2003/04 Target	2003/04 Result	2004/05 Target
Provide a written response to correspondence (<i>assistance cases</i>) where needed	65% within 5 working days	70.38%	70%
	95% within 15 working days	96.61%	95%
Average age of open investigation cases	16 Weeks	10.78 weeks	15 weeks
Provide a written response to correspondence (<i>investigation cases</i>) where needed	90% within 10 working days	91.24%	90%
	100% within 20 working days	100%	99%
Average investigation case turnaround time	23 Weeks	20.34 weeks	22 weeks
Time taken to close investigation cases	98% within 12 months	98.95%	98%
Seek to mediate the outcome of complaints wherever possible	30% of cases settled by mediation	33.47%	30%

2004/2005 Service Standards

Assistance work

The Assistance Team will:

- Handle all enquiries in an efficient, tactful and courteous manner.
- Provide help and advice about the remit of the office, making it clear from the outset those issues that we can and cannot look into during our investigation, considering alternative avenues available to a complainant where practicable.
- Operate a staffed telephone enquiry service between 9am and 5pm on working weekdays and an answer-phone service between 5pm and 9am, dealing with any messages left outside office hours by close of the next working day.
- Deal with all written correspondence to the standard specified.
- Give the organisations sufficient information to consider a complaint and request a report when we decide to investigate.

Investigation work

When a case is taken on for investigation we will:

- Ensure that the organisation and the complainant are kept regularly informed of progress while the case is awaiting allocation to an Adjudication Officer.
- On allocation of a case for investigation, ensure that the complainant and the organisation are notified of the investigating officer's name and contact details.
- Ensure that the complainant and organisation receive regular updates on the progress of the investigation.
- Ensure that enquiries made of the complainant, or organisation, are appropriate, relevant, clear and comprehensive.
- Ensure that any advice given to the complainant or organisation is correct in all regards.
- Ensure that investigations are progressed to conclusion as quickly as possible.
- Seek to resolve complaints by agreement (mediation) where possible, clearly explaining the terms of the agreement in writing.
- Where mediation is not possible, provide advice to the Adjudicator, who will clearly set out in a letter to the complainant (copied to the organisation) her decision and reasons for that decision.

- Ensure that complainants are given clear advice on what to do if they remain unhappy following our investigation.
- Ensure that the organisation is clear about the outcome of the complaint and any further action that we recommend they take, monitoring this further action as appropriate.
- Deal promptly and efficiently with any post-closure issues.
- Deal promptly and efficiently with complaints about our service.

Budget

	2002/03		2003/04		2004/05
	Estimate	Actual	Estimate	Actual	Estimate
Staffing	£1,649,599	£1,594,388	£1,941,685	£1,843,581	£1,826,020
Accommodation	£420,000	£423,727	£438,000	£429,301	£470,000*
Other Operating Costs	£210,000	£153,719	£220,000	£155,371	£190,000
Capital	£4,503	£1,179	£4500	£1,231	£4,300
Total	£2,284,102	£2,173,013	£2,604,185	£2,429,484	£2,490,320

*Accommodation costs in 2004/05 will vary due to the planned refurbishment of our office accommodation.

Contact details

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Website www.adjudicatorsoffice.gov.uk

Meetings with the Adjudicator's Office: Notes for people making complaints (A03)



Publications

The Adjudicator's Office Annual Report 2004



Meetings with the Adjudicator's Office: Notes for Inland Revenue and Customs and Excise staff (A04)



The Adjudicator's Office - for complaints about the Inland Revenue and Valuation Office Agency (Full leaflet (A01) or flyer)



How to complain about the Public Guardianship Office (A05)



The Adjudicator's Office - for complaints about Customs and Excise (Full leaflet (A02) or flyer)



How to complain about The Insolvency Service (A06)



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