

Annual Report 2010

continuous improvement driving performance learning lessons



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Our Role, Vision and Values

Our Role

We investigate complaints from individuals and businesses unhappy about the handling of their complaints by HM Revenue & Customs, the Valuation Office Agency or The Insolvency Service.

Our Vision

We will have a reputation for fulfilling our role expertly, professionally and effectively, and we will help the organisations we investigate to become exemplars in complaints handling.

Our Values

- We are objective, impartial and independent
- We get it right
- We understand our customers' needs, and our services are free and accessible to all
- We value the experience and insight of our customers and staff who come from diverse backgrounds
- We handle all complaints with respect, professionalism and openness
- We are efficient and focus on outcomes
- We work collaboratively and provide transparency in our approach
- We provide feedback to the organisations we investigate to improve their customer understanding and complaint handling
- We recognise that we have privileged access to information and we protect it
- We continue to develop ourselves within a high performance environment.

I am very pleased to present my second annual report and the first to encompass my work as Adjudicator.

The Adjudicator's foreword

This report covers the year 1 April 2009 to 31 March 2010 and is the 17th to detail the work of this office.

When I started in my role I made a commitment to do the following: restore customer service performance to acceptable levels; review outcomes and learning; work with the departments to ensure that complaints are dealt with efficiently and timeously. Within a few weeks of my arrival I had very positive meetings with the then Financial Secretary to the Treasury, Stephen Timms; the Chief Executive, Permanent Secretary for Tax and key Directors General in HM Revenue & Customs (HMRC); as well as the Chief Executives for the Office of the Public Guardian, the Valuation Office Agency and The Insolvency Service. I am pleased my conversations with the departments got off to a good start and that we have been able to build on this during the year.

Since the last report much has been achieved and significant improvements have been undertaken in my office to drive changes to our working practices and maximise efficiency. This work has been led by a new Head of Office, Margaret Allcock, who joined us in December 2009 and it built on process developments started by our previous Head of Office, Simon Oakes. I am really pleased with the way all the staff have risen to the challenge and I would like to thank them publicly

for their hard work.

In particular, the quality of our customer service has improved significantly since the creation of specialist teams to deal with our oldest cases. We have had a number of customers writing in to thank us for our intervention – even customers who may not have received a favourable outcome from my review of their case.

The backlog of cases awaiting investigation, which I inherited, is only now starting to reduce. During 2009-10 the inability to make any meaningful inroads into the numbers posed a significant risk to the work of the office. We were fortunate to secure some additional temporary staff resources towards the end of the year and I am pleased to say we ended 2009-10 by clearing 7% more cases than last year. Across the year we responded to over 16,000 enquiries; investigating and resolving over 1,800 complaints. This was an excellent achievement against such a backdrop of change and these improvements are continuing into 2010-11.

Externally we have begun informal benchmarking of our office through membership of the British and Irish Ombudsman Association (BIOA) network and by visiting colleagues in the office of the Independent Case Examiner (Department for Work and Pensions) and the Pensions Ombudsman. We have also had a

number of interesting discussions with the third sector, including Tax Aid, Tax Help for Older People and the Low Incomes Tax Reform Group and I will host a seminar in autumn 2010 to share observations about the issues affecting customers and to explain my role.

In terms of volumes, HMRC Tax Credits continue to be a significant proportion of our workload and during the year I commissioned a programme of process improvement for a small team of experienced staff

16,758

**enquiries handled
this year**



in this office to work with Tax Credit complaints teams. The Tax Credit Office (TCO) were very receptive to identifying areas for improvement in handling customer complaints, with both the Director General, Steve Lamey and Head of Operations, Colin Stewart adding the full weight of their support. This has led to a better service for customers and I am very pleased indeed to report that within a few months we have seen a sustained improvement in the overall quality of the TCO complaints

1,837
complaints
resolved this year

process. I will be looking for this to continue and to be fed down to frontline complaints handling.

When I took up office I became aware of the growth in volume of taxation cases and the impact HMRC's decision making was having on some customer groups, particularly pensioners. My initial meetings with the Parliamentary and Health Service Ombudsman (PHSO) indicated they too had serious concerns over HMRC's handling of these cases. I wanted to ensure that we brought any failures in the application of guidelines to HMRC's attention and highlighted areas for improvement. I hosted a meeting with HMRC, the PHSO and Adjudicator's Office (AO) specialist investigators to ensure everyone had a clear understanding of the guidelines and what both the AO and PHSO would expect in the handling of these cases. From this I gained agreement to using a new audit template to ensure the guidelines are followed and this is now mandatory across HMRC. The quality of the complaints handling on taxation cases is generally satisfactory, although I am expecting a sustained focus on quality improvement for the future.

Our volumes of work are much smaller for the Valuation Office Agency (VOA) and The Insolvency Service (The IS) and 2009-10 saw the winding down of our involvement with the Office of the

Public Guardian. However, some important customer themes have arisen during the year and my discussions with the departments have been very useful in continuing their focus on improving complaints handling and the customer experience. Both the VOA and The IS continue to be very pro-active in considering their support for customers and how they can learn from complaints.

My first year in office has been one of tremendous change in working practices for both the Adjudicator's Office and the departments. I am confident these improvements give us a firm foundation for the future, not just to drive improvements for individual complainants but also to ensure lessons are reflected back into frontline customer service in each department. Handling a complaint is time consuming and costly for all concerned, a far better strategy is to get it right first time.

Judy Clements OBE
The Adjudicator

The Adjudicator provides a free, impartial and independent service and investigates all complaints within her remit.

The role of the Adjudicator

The role of Adjudicator was created because HM Revenue & Customs (HMRC), the Valuation Office Agency (VOA) and The Insolvency Service (The IS) decided that they would like to introduce a third, independent tier of complaint handling. They took the view this would provide customers with a higher level of customer service and give departments the opportunity to learn lessons and make improvements. There are no targets for the number of cases upheld and all final decisions on cases are made by the Adjudicator herself.

While there are some areas the Adjudicator cannot consider, such as disputes about aspects of departmental policy and matters of law, she can look at complaints about:

- mistakes
- unreasonable delays
- poor and misleading advice
- inappropriate staff behaviour
- the use of discretion.

To support the Adjudicator there are 48 permanent staff in two locations; Central London and Derby. Additional temporary staff have also been housed in these locations plus a further office in Preston. The staff are specialist

investigators who review each complaint and evidence in detail.

While we investigate a complaint, we have no authority to ask a department to suspend any action they may be taking. They may, for example, continue to pursue a debt and calculate interest on any outstanding amount.

Resolving complaints is only part of the work. The Adjudicator also looks to add value to the way the departments handle complaints and strives to be seen as:

- a trusted provider of assurance and redress; and
- an informed and intelligent advocate for service improvement.

What our customers say

Our customers tell us they appreciate having an independent and impartial review. However, many expressed concern at the volume of work and the delays in investigating cases. These concerns were reflected in our 2009-10 customer survey¹ where 38% of respondents said that the process was too slow.

This feedback was matched by comments from the departments too and in response we have restructured our office and brought in additional temporary resources.

“It remains for me to express my gratitude to you for your assistance in this matter. Your support has been very important in keeping me going with the complaint and investigation. Thank you.”

Complainant

“I was impressed by your candour and recognition that radical improvement is required and pleased with your assurance that additional resources have been put in place.”

Graham Stuart
MP for Beverley & Holderness

¹ In order to allow time for our new structure and changes to bed in we have decided to move to a biennial customer survey from 2011-12 onwards.



Agreement with statements about importance of the Adjudicator's Office



Important that it exists – %



Fairer than the government department I was complaining about – %



I would have no one else to complain to – %



The restructure started in the last quarter of 2009-10 and is proving very effective in reducing waiting times and improving our customer service, although the main benefits will surface in 2010-11.

Our customers are drawn from across the adult population of the UK; including carers, employees, employers, businesses, traders and households. We cover all age groups and ethnic backgrounds, with a service which is accessible to all and free of charge.

We accept complaints from individuals, businesses and agents

acting on behalf of the complainant. We also accept complaints from MPs acting on behalf of constituents.

It is encouraging to see four out of five (80%) of customers think it important that the Adjudicator's role exists. This indicates that the Adjudicator provides a valued and impartial service.

“Thank you for the time and effort you and your staff have put in to considering our case so thoroughly.”

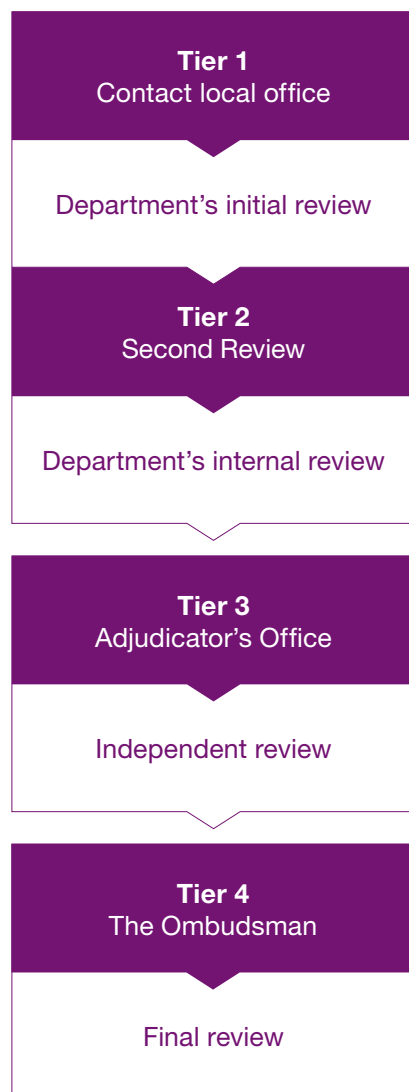
Complainant

“I am hugely impressed by the care taken in this matter and by the clarity of your explanation.”

Complainant

How we work: the complaints process

How to make a complaint



Customers unhappy with the service they have received should discuss their concerns with the local office/person they have been dealing with. If the complaint is not resolved at this stage, or the customer does not wish to discuss the issues directly with the person they have been dealing with, then a review will be carried out by a complaint handler.

If the complaint handler is unable to resolve the complaint the customer can ask for a Second Review. A different complaint handler will take a fresh look at the complaint and provide the department's final response.

If the customer remains unhappy then they may approach the Adjudicator's Office.

The complaint will be investigated to draw together a full and impartial summary of details from the customer and the department. The Adjudicator provides an independent review of the details and makes her decision.

Customers who remain unhappy can ask an MP to put their complaint to the Parliamentary and Health Service Ombudsman. The Ombudsman will decide whether to investigate the complaint and, if she decides to do so, her investigation may also look at the way in which the Adjudicator's Office has reviewed the complaint.

Our internal process

Before the Adjudicator's Office becomes involved with a complaint it must have exhausted the complaints procedures for HM Revenue & Customs, the Valuation Office Agency or The Insolvency Service at Tier 2 level.

New enquiry

At this stage our staff give help, support and guidance on complaint issues relating to the departments and the role of our office. Some callers ask us how to contact other organisations.

16,758

different types of enquiries in 2009-10

Assistance Cases

We assess the complaint to see if it is ready for our office. Many initial contacts are referred back to the departments because they have not exhausted their internal complaints process. We call these Assistance Cases.

99%

of Assistance Cases replied to within 10 working days

Cases ready for investigation

We ask each department to provide a report into their handling of the complaint and the reasons for their decisions. We review the complainant's letter and all the relevant evidence alongside the department's papers, guidelines and procedures.

1,890

new complaints for investigation in 2009-10

Resolution by Mediation

Mediation is the process whereby both parties reach an agreement on how a case may be settled. Our investigator will review the complaint and if there is scope to propose a mediated settlement they will work with the complainant and the department to achieve this on behalf of the Adjudicator.

21.9%

of complaints were mediated in 2009-10

Resolution by Recommendation

Where mediation is inappropriate, the investigated case will be presented to the Adjudicator. The Adjudicator will review the case in detail. She will write to the customer and the department outlining her views and any recommendations.

1,837

cases closed in total during 2009-10

Further review

A few complainants may remain dissatisfied with the outcome of their case. The Adjudicator will only reconsider an earlier decision if new evidence, fundamental to the complaint, is provided.

The Ombudsman

If a complainant remains unhappy they can ask an MP to put their complaint to the Parliamentary and Health Service Ombudsman.

Summary of workload 2009-10

■ 2009-10 ■ 2008-09



The changes made in the last quarter of 2009-10 produced a step change in performance. We are therefore expecting to see a substantial reduction in the number of cases on hand by the end of 2010-11.

Assistance cases by department

HM Revenue & Customs*	3,291
The Insolvency Service	28
Office of Public Guardian	18
Valuation Office Agency	65
Total	3,402**

New cases for investigation by department

HM Revenue & Customs*	1,820
The Insolvency Service	15
Office of Public Guardian	7
Valuation Office Agency	48
Total	1,890

*All HMRC totals include Tax Credits.

**Assistance cases are referrals back to the department because the case is not yet ready for our office to investigate.

Outcomes

	Not upheld	Partially upheld	Substantially upheld	Withdrawn	Reconsidered	Total
HMRC	752 (43%)	509 (29%)	295 (17%)	36 (2%)	151 (9%)	1,743
The IS	9 (75%)	1 (8%)	2 (17%)	0	0	12
OPG	16 (53%)	10 (33%)	3 (10%)	1 (4%)	0	30
VOA	45 (87%)	6 (11%)	1 (2%)	0	0	52
Total	822 (45%)	526 (29%)	301 (16%)	37 (2%)	151 (8%)	1,837

Methods of settlement

	Reconsidered*	Recommendation	Mediation	Withdrawn	Total
HMRC	151	1,171	385	36	1,743
The IS	0	10	2	0	12
OPG	0	27	2	1	30
VOA	0	39	13	0	52
Total	151	1,247	402	37	1,837

*Where the department has revised or reconsidered their decision because of new policy or evidence not previously available.

Redress £

	Worry and distress	Poor complaints handling	Liability given up	Costs	Total
HMRC	59,505	44,085	1,887,921	193,154	2,184,665
The IS	50	0	0	4,072	4,122
OPG	1,675	0	0	22,690	24,365
VOA	300	300	0	14,264*	14,864
Total	61,530	44,385	1,887,921	234,180	2,228,016

*Including interest

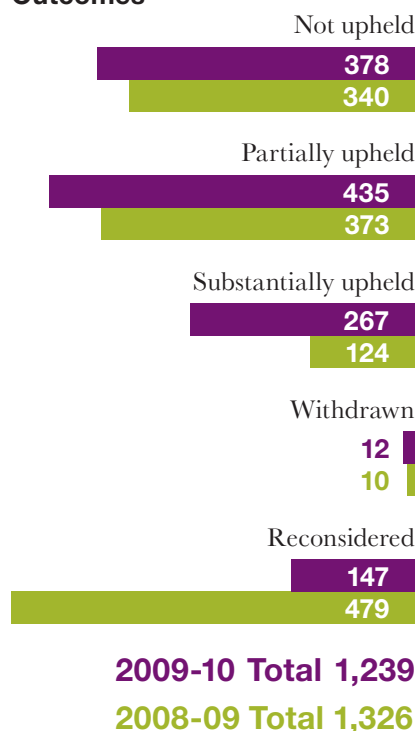
HM Revenue and Customs (HMRC) makes sure that the money is available to fund the UK's public services and it helps families and individuals with targeted financial support.

HM Revenue & Customs

Tax Credits

HMRC Tax Credits continue to be a significant proportion of our workload (67% of cases resolved were about this area of work). During 2009-10 we received 1,231 new Tax Credit complaints. We resolved 1,239 Tax Credit complaints in total, upholding 57% either partially or substantially.

Outcomes



The majority of Tax Credit complaints received by the Adjudicator are about HMRC's refusal to write off overpayments. HMRC's decision is made by reference to Code of Practice 26 (COP26) – "*What happens if we have paid you too much tax credit?*" and looks at whether both the claimant and the department have met their required responsibilities. The Adjudicator reviews complaints to ensure the guidelines have been followed.

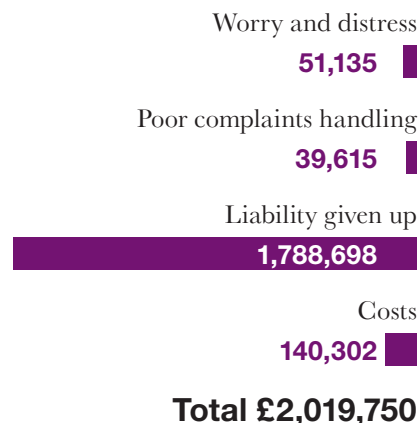
The work commissioned by the Adjudicator during 2009-10 has developed a more streamlined review process for Tax Credit complaints. The process involves sharing a report of the known facts at an early stage with customers and offering them an opportunity to comment.

This enables the Adjudicator to resolve Tax Credit complaints more quickly and conclusively, reducing the need for lengthy exchanges with the customer or HMRC. However, there is scope for further improvement in the consistency of decision making, the length of time the complaints process takes and the detail given to customers. These are areas the Adjudicator will be seeking to take forward with HMRC.

Case Studies 1, 2 and 3 illustrate how overpayments have arisen and demonstrate the important role of the Adjudicator acting as an impartial referee for the resolution of Tax Credit complaints. Case Study 4 concerns an inappropriate disclosure of information as well as overpayments of Tax Credits. All the Adjudicator's recommendations were accepted by HMRC.

Occasionally the Adjudicator may recommend that the Tax Credit Office (TCO) pay a monetary sum to complainants to recognise the poor level of service they have received, and other relevant costs. The graph below shows the sums recommended this year.

Redress paid 2009-10 £





Case Study 1 – Recovery of an overpayment where the parties have separated

Issues

Mr A was unhappy about the TCO's decision to recover overpaid tax credits from him. Whilst Mr A did not dispute the actual overpayment incurred in relation to the joint claim he made with his former wife, he felt that the TCO should not seek recovery from him. He claimed not to have received any of the tax credit payments made because they were paid directly into his former wife's single account and he did not have access to this. He felt the overpayment should be recovered entirely from his former wife. However, whilst the TCO sought clarity about the actual date of separation they also paid both claimants individually.

Outcome

The Adjudicator did not uphold this complaint.

The overpayments were caused by the TCO's mistake in not correctly recording income information which Mr A and his former wife had provided to them. Award notices were issued showing incorrect information. However, in order to meet the responsibilities under COP 26, Mr A should have contacted the TCO within 30 days of receiving the award notice to notify them that the information on the notice was wrong. Mr A and his former wife failed to do so and in the Adjudicator's view, they too had not fulfilled their responsibilities under COP 26.

With regard to liability for repayment of an overpayment, the Adjudicator explained that, when a joint claim is made, claimants nominate an account to receive payments. The declaration, which is signed by both parties holds them both responsible for repaying any overpayment. The Adjudicator did not concur with Mr A's view that he should not be partly responsible for repaying the overpaid tax credits, more so as he had received some of the money directly.

However, since 21 September 2009, new TCO guidance regarding the recovery of an overpayment following a household breakdown, stipulates that the TCO will not seek to recover more than 50% of the outstanding overpayment from either party. Consequently, the TCO confirmed that, in the absence of an agreement between Mr A and his former wife for repaying the overpayment, the TCO will seek to recover half of the overpayment from each of them. The Adjudicator said that this was reasonable and in line with the HMRC guidelines.

Learning

The TCO accepted that they had made mistakes and paid Mr A compensation in recognition of this. However, the Adjudicator recommended additional redress to acknowledge the service failure issues in recording inaccurate personal details for the customer, coupled with the worry and distress suffered. She asked that TCO staff ensure a higher degree of accuracy when entering personal data for customers on their systems.

Case Study 2 – Overpayments of Tax Credits

Issues

An overpayment occurred because the TCO said that Mr and Mrs B did not respond fully to the Annual Declaration for 2003-2004. As a consequence their award was terminated, and all payments for 2004-2005 considered an overpayment. However, Mr and Mrs B had in fact responded to the Statement of Account, but the TCO failed to reinstate the award. Another overpayment occurred for 2006-07 because Mr and Mrs B had indicated that Mr B was in receipt of Income Support (IS); however his claim for IS was unsuccessful but he did not inform the TCO of this.

Outcome

The Adjudicator partially upheld this case.

A Statement of Account was issued in February 2005 and Mr and Mrs B responded to this within 30 days, therefore, their claim should have been restored at this stage, but it was not. The TCO accepted they made a mistake by not reinstating the claim. The claim was subsequently reinstated and as a result, Mr and Mrs B were owed tax credits for 2005-2006 and 2006-2007. However, their claim was 'stuck' in a processing queue and payments could not be issued. The TCO offered to make manual payments in October 2008. Initially Mr and Mrs B decided to wait until the system problem was resolved; but during the course of the investigation into their complaint they changed their minds and requested the payments. The TCO said that they were awaiting new guidance and therefore unable to issue payments at that time.

Mr and Mrs B asked for the remaining 2006-07 overpayment to be given up in light of exceptional circumstances, primarily because of Mr B's ill health. After very careful consideration of the potential exceptional circumstances of this case the Adjudicator concluded that Mr and Mrs B had demonstrated a reasonable level of ability to manage their own affairs. They had continued to apply and deal with a number of issues relating to their claims for benefits during the period of his illness and she considered that it was not unreasonable to expect Mr and Mrs B to be able to contact the TCO to advise them that Mr B was not in receipt of IS. The Adjudicator reached the view that Mr and Mrs B should repay the 2006-07 overpayment and TCO should pay the outstanding money for earlier years.

Learning

The Adjudicator wrote to the Director of the TCO expressing her concerns about the delay in making manual payments for 2005-06 and 2006-07. She said that, in her view, it was unreasonable for monies legitimately due, and owed for several years in this case, to be withheld because of a computer system fault. Particularly, as it would appear that a previous offer of payment had been withdrawn.

The TCO accepted that they had made mistakes and not handled the complaint well. They offered to make a redress payment which the Adjudicator considered to be reasonable.

Case Study 3 – Main responsibility for qualifying child

Issues

The TCO determined that Mr C had the main responsibility for his son. However, they subsequently amended this decision and noted their records to show that he did not have main responsibility for his son. The tax credits he had received were therefore classed as an overpayment.

Later Mr C advised the TCO that there was a new court order giving joint responsibility to each parent. The TCO reinstated their records to show that Mr C was entitled to tax credits from the date of the court order and started to make payments to him.

Outcome

The Adjudicator upheld this complaint.

The Adjudicator has no involvement in deciding who has main responsibility, for tax credit purposes, for a child. Such matters are considered on appeal by an independent tribunal.

However, during the course of investigating Mr C's complaint the TCO established that the decision to re-instate Mr C's entitlement had been made without following correct procedures. After taking into account information from both Mr C and his former partner, TCO decided that Mr C did not in fact have main responsibility for his son for tax credit purposes and that he had been overpaid.

Having reviewed the circumstances surrounding how Mr C's overpayments arose the TCO decided that he would not need to pay them back. The TCO accepted they did not follow their own procedures in seeking further information about the main responsibility for the child at the appropriate time.

The TCO also offered to make a redress payment to recognise the worry and distress, delays and direct costs.

Learning

The TCO should have made further enquiries with both Mr C and his former partner in order to establish which of them, for tax credit purposes, had main responsibility for their son. This should have been done before amending their records.

“HMRC and your office have a strong professional relationship. You provide an independent way in which our customers, particularly the vulnerable, can resolve complaints they have not been able to sort out with the Department. Just as important, feedback from and intervention by the Adjudicator's Office has helped us improve our complaints handling processes. The changes to complaints handling in the Tax Credit Office are the best example of this approach.”

Dave Hartnett
Permanent Secretary for Tax
HM Revenue & Customs

Case Study 4 – Inappropriate disclosure of information

Mr and Mrs D complained that their customer records had not been updated, their claim had been stopped incorrectly and there had been an inappropriate disclosure of information.

Issues

The Adjudicator often sees cases where a number of issues affect the overall standing of a claim. In this case, the TCO incorrectly amended Mr and Mrs D's personal circumstances which resulted in their awards being terminated from the start of their claim. Mr and Mrs D received demands for repayment of all of the money that they had received. Whilst Mr and Mrs D continued to be entitled to tax credits, they did not receive any further payments. Mr and Mrs D were also unhappy with the explanations given to them by the TCO.

Outcome

The Adjudicator upheld this complaint.

The Adjudicator felt that the TCO's explanations of how they had handled Mr and Mrs D's affairs had been 'minimal and confusing'. There had also been an inappropriate disclosure of information as a letter Mr and Mrs D had written to the TCO had been sent to an unconnected party. In addition the TCO failed to make manual payments to Mr and Mrs D as promised, failed to respond to some letters and included inaccurate details in some of their replies.

Mr and Mrs D were overpaid tax credits for 2003-04, 2004-05 and 2005-06 due to the level of their household income. However, Mr and Mrs D had received a letter from the TCO which said that 'when the system updates you will not have an overpayment showing on your award'. As a result the TCO agreed that it would be wrong to expect Mr and Mrs D to repay the remaining overpayments. In addition, Mr and Mrs D had a continuing entitlement to tax credits, but because the TCO had terminated their claim, an underpayment had occurred for 2006-07. The Adjudicator supported the TCO's decision not to recover the remaining overpayments, and to pay the underpayment.

Mr and Mrs D were unhappy with the level of compensation previously offered by the TCO. The Adjudicator considered this carefully alongside an increased offer from the TCO in recognition of the poor service, in particular the inappropriate disclosure of information. The Adjudicator explained to Mr and Mrs D that while payments of compensation may appear low, the money paid comes from the public purse and as such must be considered proportionate to the merits of each case. The Adjudicator concluded that the increased sum offered by the TCO was reasonable.

Learning

The Adjudicator asked the TCO to issue a notice to all staff:

- reminding them of the importance of ensuring individuals' papers are kept separate from other claimants to avoid letters becoming muddled; and
- that TCO staff should always review, in detail, the information held for each customer and keep promises to take action.

“We are in a period of financial austerity and must learn the lessons from the individual cases highlighted in the report, but we should not forget the millions of cases we get right and which do not cross the Adjudicator's desk. Where a customer does have a complaint we will try and resolve it but there will always be some cases where both sides believe their interpretation is correct and in these cases an independent ruling by the Adjudicator provides assurance to both customers and officials.”

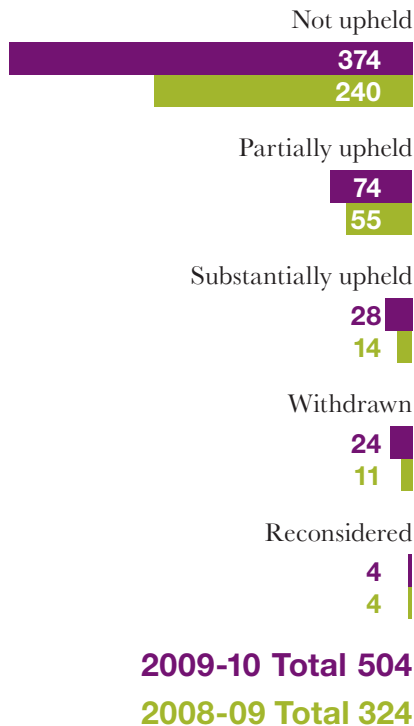
Steve Lamey
Commissioner and Director General
for Benefits and Tax Credits
HM Revenue & Customs

Taxation

For HMRC taxation we received 589 new complaints and resolved 504, upholding 20% either partially or substantially.

In recent years we have seen a growth in cases where HMRC's decision making has had an adverse impact on vulnerable groups of people, for example pensioners facing unexpected tax bills.

Outcomes



The Adjudicator identified concerns with the handling of cases involving the application of Extra Statutory Concession A19 (ESCA19) and invited representatives from the Parliamentary and Health Service Ombudsman (PHSO) and HMRC policy to meet with her. These initial discussions developed further, with specialist investigators from the Adjudicator's Office leading a workshop for HMRC complaint handlers; emphasising the need to provide clear, evidence based

explanations and reasons for their decisions. Further collaborative work with HMRC resulted in an audit template which helps complaint handlers ensure that they have followed the appropriate guidelines. The template is now a mandatory part of reviewing such cases across the whole of HMRC and has been effective in ensuring issues are fully considered.

“Your role also gives you a unique insight into the lessons that could be learned from customers’ complaints, and it’s vital that we use that valuable insight to continue to improve our products and services for all of our customers.”

Bernadette Kenny
Director General Personal Tax
HM Revenue & Customs

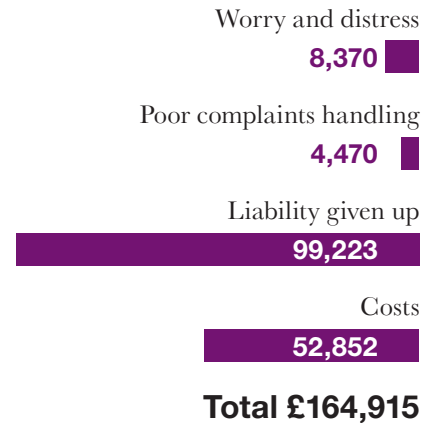
In September 2009, the Adjudicator also attended her inaugural meeting with HMRC's Ethics and Responsibility Committee. This was an opportunity for the Adjudicator to highlight the difficulties customers face and comment on the steps made by HMRC to take on board her concerns and improve their complaints processes. These meetings are an important route for feedback and to monitor progress.

Case Studies 5 and 6 illustrate underpayments of tax. Case Study 7 concerns an HMRC Enquiry. All the Adjudicator's recommendations were accepted by HMRC.

Occasionally the Adjudicator may recommend that HMRC pay a monetary sum to complainants to recognise the poor level of service they have received, and other relevant

costs. The graph below shows the sums recommended this year.

Redress paid 2009-10 £



“2009-10 has been a year of real achievement for your office. Determined effort by all your people has significantly improved performance and your backlog is diminishing rapidly. In addition, a more practical approach to complaints handling has enabled new users of the adjudication service to receive a faster outcome than has been available for some time. Complainants tell HMRC they are very appreciative of the service you provide, even when their complaints are not upheld. I think this has been a good year for the Adjudicator's Office and all the people you serve.”

Dave Hartnett
Permanent Secretary for Tax
HM Revenue & Customs

Case Study 5 – Underpayment of tax across several years

Issues

Mrs E retired from a civil service department in July 2002, at the age of 60, and started to receive a civil service pension along with a state pension. Instead of setting up a record under the civil service pension reference, one was set up under an NHS pension reference, by mistake. Although Mrs E contacted HMRC twice in February 2003, and advised them that she was receiving a pension from the civil service and not the NHS, they did not update their records. This meant that coding notices were sent to the wrong pension provider. Coding notices were also issued directly to Mrs E over a period of time still showing incorrect information about the pension; however, she did not contact HMRC again. The mistake was not discovered until Mrs E was sent a form P161 prior to her approaching the age of 65. A large underpayment of tax had arisen across several years because the pension provider operated an emergency tax code and did not collect the correct amount of tax.

Mrs E said that the tax underpayments had arisen because of HMRC's mistakes, and she believed that they should not collect the tax involved. HMRC accepted that they had made mistakes; however, they did not believe the underpayments should be given up under the Extra Statutory Concession A19 because they considered that Mrs E could not reasonably have believed her tax affairs were in order when she continued to receive coding notices with incorrect details about her pension and provider.

Outcome

The Adjudicator substantially upheld this complaint.

The Adjudicator said there was no doubt that HMRC were at fault and had failed to act on information supplied. Mrs E was sent a payment in recognition HMRC's poor handling and the Adjudicator considered that this was a reasonable resolution.

Learning

As formal assessments were not issued within the statutory time limits the debts were not legally enforceable and the tax outstanding could not be collected. HMRC should ensure that they follow their internal instructions for these types of cases as this meant that it was no longer necessary to consider Extra Statutory Concession A19. This complaint could have been resolved at an earlier stage.

“Firstly I was grateful for the time that two very busy people gave to Robin and I. It demonstrated to me that the Adjudicator wanted to listen to and understand the problems which confront the vulnerable when they have to deal with HMRC.

I was impressed by the disciplined way in which Judy and Margaret have put in place plans to address the issues of arrears.

I liked the feeling that we were both on the same side; neither HMRC nor the individual; but justice based on the facts and the ability of the individual to cope with the complexities of life and tax.”

John Andrews
Low Incomes Tax Reform Group

Case Study 6 – Underpayment of tax

Issues

Mr F's difficulties began when he retired and took a part time job in 2003. His PAYE personal allowances were duplicated for both sources of income.

In November 2006, Mr F received tax calculations for 2004-2005 and 2005-2006, showing significant amounts of tax owing. Mr F then instructed an accountant who wrote to HMRC, but HMRC took a long time to give a detailed reply. When HMRC did respond, they explained that there were also arrears for 2002-2003 and 2003-2004 as it appeared his employer at the time may not have operated PAYE correctly. Later on, HMRC decided that the employer had applied PAYE correctly, so they asked Mr F to pay the shortfall. HMRC said that they could not give up any of the arrears because, in their view, Mr F should have known his tax affairs were not in order.

Outcome

The Adjudicator partially upheld this case and recommended that HMRC give up a large proportion of underpaid tax.

The Adjudicator's review of the circumstances of Mr F's case found that, for the two earliest years there was no evidence that HMRC's failure to act on information had caused arrears and therefore the Extra Statutory Concession ESC A19 did not apply.

For the two later years, however, the Adjudicator recommended that HMRC should not pursue the underpayments of tax as it was not reasonable to assume that Mr F should have been able to work out that he had not been paying enough tax, particularly as he had not received any tax codes for those years.

Learning

Staff should put themselves in the position of each individual taxpayer when considering the 'reasonable belief' element of ESC A19. It is only by appreciating the customer's likely level of understanding of tax, and not making general assumptions, that staff will be able to apply the concession fairly and consistently for all of their customers.

Case Study 7 – HMRC Enquiry

Issues

Mr G complained that the request from HMRC for him to sign a Contract Settlement was premature as he had not been given the opportunity to formally appeal against the tax assessment and interest charges raised by HMRC. Mr G also complained about the quality of the complaint handling process and level of redress offered by HMRC.

Outcome

The Adjudicator partially upheld this complaint.

There was no evidence that HMRC had given misleading advice or that they had failed to refund tax which the complainant felt had been overpaid. However, the Adjudicator identified failings in the way in which the Enquiry into the Tax Return had been handled and asked that the matter of interest be referred to the appropriate HMRC specialist unit. HMRC set aside the Contract Settlement and issued new assessments and amendments giving Mr G an opportunity to formally appeal. Having considered the facts of the case the Adjudicator did not recommend any increase in redress already offered by HMRC.

Learning

HMRC accepted there had been mistakes, in particular by asking Mr G to sign a Contract Settlement when it was clear that Mr G had not agreed to all of the terms of the contract.

The Valuation Office Agency (VOA) is an executive agency of HMRC. The VOA compiles and maintains the business rating and council tax valuation lists for England and Wales, provides government valuation services and gives policy advice to Ministers.

Valuation Office Agency

During the year we received 48 new VOA cases, 28 for council tax, 13 for business rates and 7 for other valuation issues. We resolved 52 cases during the year. One case was substantially upheld and is reviewed in Case Study 9. This particular case is responsible for the majority of the redress recommended in 2009-2010.

Outcomes



2009-10 Total 52

2008-09 Total 31

The Adjudicator issued formal recommendations in 39 cases, with our investigators mediating 13 cases directly with the complainants.

The relationship between the VOA and the Adjudicator remains positive and the VOA are receptive to her constructive feedback. The VOA accepted all of the Adjudicator's recommendations.

Note: The types of complaints the Adjudicator can review are limited in VOA cases. For example, the Adjudicator is unable to comment on the banding of properties for council tax or how a property is assessed for business rates or other valuation purposes as there is an appeal route for these issues. Council tax is the most significant area for complaint but unless there is a 'clear mistake' very few are capable of being upheld. Case Study 8 is an example of this type of case.

Occasionally the Adjudicator may recommend that the VOA pay a monetary sum to complainants to recognise the poor level of service they have received, and other relevant costs. The graph below shows the sums recommended this year.

Redress paid 2009-10 £





Case Study 8 – Payment of interest on refunded council tax payments

Issues

Mr H complained to the Adjudicator about the VOA's refusal to pay interest on refunded council tax payments which he had received because the council tax band of his property had changed from band E to D. Mr H said: "I believe it is clear that the VOA made a mistake."

Outcome

This case was mediated with Mr H on behalf of the Adjudicator. Our complaint investigator listened to Mr H's point of view and then clarified the difference between a 'judgment' and a 'clear mistake' when making a property banding decision. He explained that, under the terms of the VOA's own guidance, they will only award compensation to cover lost interest where there is clear evidence of a mistake or a delay. Our remit only extends to reviewing whether or not a department has followed its own guidance, and does not extend to criticising the guidance itself.

We found no evidence to suggest that the initial banding was a clear mistake in this case. When the property was initially banded there was no clear sales evidence on the complainant's property or a neighbour's property, and so the Listing Officer (the LO), who has the statutory responsibility for council tax bands, had to make a judgment based on the information available. This information seemed to show that the properties were border-line between bands D and E, and as Mr H's property had a good quality conservatory, the LO decided band E was more appropriate for his property whilst placing his neighbour in band D.

A different decision was reached when Mr H asked for a review of the band, again demonstrating that an element of judgment is exercised when considering bands which are borderline.

In light of the discussions with our investigator Mr H accepted that the VOA's decision not to award compensation in lieu of lost interest was in line with its own guidance, and the case was closed on that basis. We did not see any areas of concern with how Mr H's complaint was handled.

Case Study 9 – Claim for interest and agent’s fees

Issues

The VOA had previously acknowledged that a mistake was made in the compilation of the 2000 Rating List and that, as a result of duplicated entries, Mr I was overcharged business rates by £40,205. The VOA accepted that they had made a mistake and settled this aspect of Mr I’s complaint before the case came to the Adjudicator.

However, the VOA did not agree that they should pay interest on the amount refunded to Mr I; neither should his agent’s fees be met. The VOA felt there were opportunities for Mr I to mitigate the losses by carefully examining his rate demands and that he should have realised that he was being charged twice for his business. Furthermore, there had been opportunities for Mr I to appeal against the duplicated entries during the lifetime of the Rating List. Mr I was unhappy with the VOA’s decision and his agent asked the Adjudicator to review it.

Outcome

The Adjudicator substantially upheld this complaint.

The Adjudicator decided that the VOA’s acceptance of responsibility for the mistake should also take into account the interest and professional fees incurred by Mr I in bringing his complaint. The overriding principle of the VOA’s Code of Practice, *‘Putting things right for you’* is to restore taxpayers and ratepayers to the position they would have been in, had the mistake not occurred.

The VOA code does not mention payments of interest on refunded business rates payments. Usually, these are the responsibility of the local Billing Authority (BA) as there is scope, within the Non-Domestic Rating Legislation, to make payments of interest on refunds which are the result of reductions in rateable values. However, the duplicated entry in the 2000 Rating List could not be amended or deleted: leaving no vehicle for the BA to consider a claim for interest. The Adjudicator did not accept that the interest should be paid at the 8% level being claimed by Mr I. Instead she recommended that the interest should be calculated using the prevailing rates applied by legislation so that Mr I would be no better or worse off than if he had received the refund directly from the BA. The VOA agreed to pay the interest.

The Adjudicator also recommended that the VOA considered the claim for professional fees. The code of practice says that a complainant “...can claim any reasonable costs which you can show you have incurred” as a result of a mistake or unreasonable delay caused directly by the VOA. On reflection, the VOA also agreed to refund Mr I’s agent’s fees.

Learning

The Adjudicator emphasised the need for consistency in complaint handling and felt that the VOA had not applied the code of practice appropriately.

“We do appreciate that our conclusions can sometimes leave customers seeking a further route by which their complaints can be escalated. It remains vital in our view that a third, and independent, complaints tier is available. The important aspects of that service for us include the contribution your investigations have made to the implementation of, and improvements to, our customer service and technical policies, and the further test of our conclusions which your investigations provide. These add value to the Agency’s final decisions and enable us to provide an improved service in the knowledge of the independent conclusions you have reached.”

Penny Ciniewicz
Chief Executive of the VOA

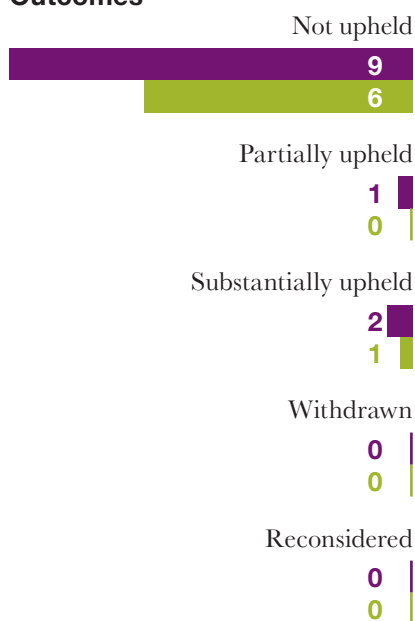


The Insolvency Service (The IS) is an executive agency of the Department for Business, Innovation & Skills. The IS exists to provide the framework and the means for dealing with financial failure and misconduct.

The Insolvency Service

Historically, the number of cases referred to the Adjudicator is small; however, we have seen an increase in the number of new cases coming to our office during 2009-10. We received 15 new complaints (compared to eight in 2008-09) and we resolved 12.

Outcomes



2009-10 Total 12

2008-09 Total 7

Official Receivers are statutory office holders, and as such they find themselves directly accountable to the courts for a considerable proportion of their actions.

This is an important point for the Adjudicator because she cannot consider complaints about actions or decisions which have an established means of challenge through the courts. We therefore examine complaints about The IS very carefully to ensure that we investigate only those matters which do not have their resolution through the courts. Only the court can reverse or modify a decision about the administration of an insolvent estate.

The Adjudicator visited Stephen Speed, Agency Chief Executive in September 2009 to see the work of The IS first hand and get a feel for the customer experience.

Case Studies 10 and 11 are examples of complaints about The IS handling of bankruptcy. All the Adjudicator's recommendations were accepted by The IS.

Occasionally the Adjudicator may recommend that The IS pay a monetary sum to complainants to recognise the poor level of service they have received, and other relevant costs. The graph below shows the sums recommended this year.

Redress paid 2009-10 £





Case Study 10 – Misleading advice and failure to act

Issues

Mr J had been made bankrupt in early 1999 and had a personal pension which formed part of his estate. Mr J complained that The IS had misled him about when they would realise his pension policy.

The IS wrote to Mr J in September 2004, and they confirmed that they would realise his pension policy and the first five years of annuities. They also explained that once this had been done they would have no further interest in the pension policy and any further annuities would be paid directly to Mr J by the pension company. This was the standard way of dealing with pensions of this nature. If the pension policy had been realised in 2004, Mr J would have begun to receive annuities in 2009.

However, the pension policy was not realised in 2004, and The IS were unable to give a reason as to why this was not done. Mr J said that he was unhappy that The IS did not realise his pension policy in 2004 and because of the delay he would not receive any annuities until 2014 at the earliest, five years later than he had been led to believe.

Outcome

The Adjudicator substantially upheld this complaint.

In recognition of this error, The IS agreed to give up the five years of annuity payments that they would normally collect from the pension policy and offered monetary compensation (redress) for their poor handling. They also took appropriate steps to realise the pension policy which means that Mr J will now start to receive annuities, the position he would have been in if this had been done in 2004.

Redress payments are not direct compensation. In the Adjudicator's view, no amount of money can ever directly compensate Mr J for the worry and distress that he suffered as a result of the way that his case was handled. However, she views such payments as a clear acknowledgement by The IS of the distress they caused. The Adjudicator felt the compensation offered by The IS, as a result of Mr J's complaint, was reasonable and she did not recommend that the amount be increased.

Learning

Mistakes or delays need to be minimised, or where they do arise, addressed quickly to avoid causing worry, distress and financial hardship to the individual.

Case Study 11 – Bankruptcy

Issues

Mr K complained about how The IS had handled certain aspects of his bankruptcy. He told the Adjudicator that The IS had wrongly advertised that he owned a business when he did not. He said that this caused offence to the actual owner, which led to Mr K losing his home and job. He also complained that The IS extended the term of the bankruptcy from five to eleven years without informing him, and there were other handling issues.

Outcome

The Adjudicator did not uphold this complaint.

The investigation considered all of the available evidence from the customer and The Insolvency Service.

The Official Receiver has no involvement with the creation of a bankrupt's description as it appears in a bankruptcy order. The petitioning creditor is required to provide the court with a description to identify the bankrupt and this is done prior to a court order being made. When the Official Receiver is notified of a new bankruptcy, he or she has a statutory duty to advertise the bankruptcy as soon as possible. Only after the bankrupt had been interviewed, could it be reasonably expected that The IS could amend the description, which was done in this case.

Although the Adjudicator sympathised with Mr K's situation she did not believe it was reasonable to blame The IS for the description in the bankruptcy order. Nor could she reasonably hold The IS responsible for the actual owners' reaction. The advertisement made no suggestion that Mr K was the owner of the business; it only described it as his place of residence, which was correct at the time.

Mr K's complaint concerned the handling of a bankruptcy order made in 1998, but his complaint that The IS extended the term of that bankruptcy from five to eleven years without informing him arises from the effects of an earlier bankruptcy. Mr K had been subject to another bankruptcy before 1998 and the law in 1998 stated that there was no entitlement to an automatic discharge from his second bankruptcy. To obtain discharge, a bankrupt was required to make application to the Court, at least five years after the date of the bankruptcy order. In April 2004, the law regarding bankruptcy changed. As a result of these changes, an individual subject to a second bankruptcy, prior to 1 April 2004, would get an automatic discharge on 1 April 2009. Mr K had made no application to the Court for discharge at any stage; but he was automatically discharged from bankruptcy on 1 April 2009. The Adjudicator did not agree that The IS had taken any steps to extend the term of Mr K's bankruptcy.

“The Agency puts great store by having an independent adjudication in the complaints process. It offers a greater level of confidence in the complaints process for our customers and provides the Agency with the welcome prospect of additional scrutiny to our approach to complaint resolution and customer satisfaction. The service provided by yourself achieves these goals and is made clear by the number of customers accepting your findings, and our acceptance of your recommendations.”

Melanie Charlton
The Insolvency Service
Head of Customer Services
and Secretariat

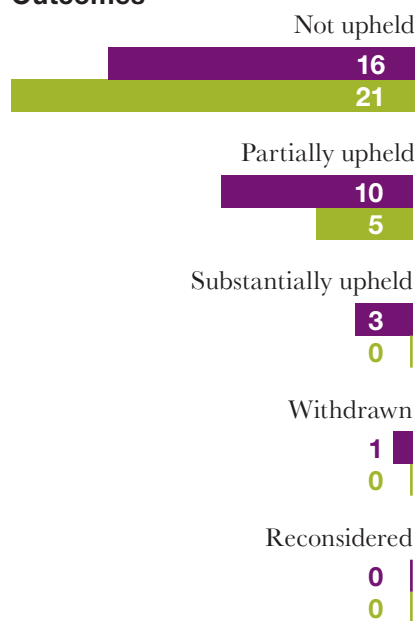


The Office of the Public Guardian (OPG) supports and promotes decision making for those who lack capacity or would like to plan for their future, within the framework of the Mental Capacity Act 2005.

Office of the Public Guardian

During the year we resolved 30 complaints about the OPG, with the Adjudicator issuing formal recommendation letters for 27 of these. Two cases were settled by mediation and one withdrawn.

Outcomes



2009-10 Total 30

2008-09 Total 26

The OPG is responsible for setting up and managing registers of Lasting and Enduring Powers of Attorney and court orders that appoint Deputies. They also supervise Deputies, instruct Court of Protection Visitors, receive reports from Attorneys and Deputies, provide reports to the Court of Protection and deal with cases where there are concerns raised about the way in which Attorneys or Deputies perform their duties.

The Adjudicator cannot look at any issues that involve decisions of the Court of Protection, but can look at mistakes, unreasonable delay, or misleading advice given by the OPG.

The Adjudicator's Office is no longer responsible for investigating complaints about the OPG with effect from September 2009.

However, we completed investigations into the final complaints we had outstanding.

Complainants who wish to have their complaints investigated independently are now required to approach the Parliamentary and Health Service Ombudsman via a Member of Parliament.

Case Study 12 illustrates a case upheld by the Adjudicator.

Occasionally the Adjudicator may recommend that the OPG pay a monetary sum to complainants to recognise the poor level of service they have received, and other relevant costs. The graph below shows the sums recommended this year.

Redress paid 2009-10 £



Total £24,365



Case Study 12 – Handling and claim for financial losses

Issues

Mr L complained to the Adjudicator about what he felt was the negligent way in which the OPG had dealt with the financial affairs of his aunt. He said that the OPG had failed to supervise the dealings of the Receiver, another relative appointed by the Court to manage and administer his aunt's affairs. In 2005, as the estate was being wound up after the aunt had died, relatives discovered that her estate was worth considerably less than they had anticipated. Mr L complained about delays, serious errors and poor handling, and of the stance taken by the OPG over the financial claim for losses from the estate.

The OPG do not accept any liability for any loss caused by the negligence or fraudulent actions of appointed Receivers. However, they did admit to a 12 month delay, during which time further sums were withdrawn from the aunt's accounts. The OPG offered to make an ex gratia payment to the estate as acknowledgement of this.

Outcome

The Adjudicator upheld this case.

The Adjudicator upheld this case. Whilst she felt that the OPG had followed an 'acceptable procedure' she concluded that the OPG should have applied more vigorous and consistent pressure on the Receiver to submit accounts. There had also been a missed opportunity to increase the security bond when the OPG became aware that a considerable amount of money had erroneously come under the control of the Receiver and that funds were not accounted for.

The OPG offered a sum to the estate of the late aunt, however, the Adjudicator felt that this did not fully reflect their failures and she recommended a considerable increase, together with interest to compensate the estate.

Learning

Where a Receiver is not properly accounting for or communicating with the OPG, there should be growing concern and action taken by the OPG, such as reviewing and increasing the security bond, trying to get large sums of money securely reinvested, or withholding the interest paid out to a Receiver. Action should be taken promptly.

The OPG agreed in broad terms that they should have done more to protect the aunt's funds. In particular, it is accepted that they should have been more pro-active in ensuring the security bond level was increased adequately to reflect the funds being managed.

The Adjudicator outlined her commitments in her foreword and these have provided the building blocks for restructuring and refocusing the work of the office beginning in the final quarter of 2009-10.

Office organisation

There are three main areas for continuing development.

Improvement Partner

We handle a huge range of cases from many varied customers and it is critical we not only have processes in place to resolve individual complaints, but also reflect broader learning back into the departments to help them improve. The departments welcome the opportunity to learn lessons and helping them continue to improve the quality of their services is a fundamental part of our role. Our aim is to develop this further year on year, so we capture learning effectively and help the departments use it to reflect the customer voice right to the heart of service delivery.

Resources

In February 2010 the office restructured into three distinct teams; one team of specialist investigators to help the Adjudicator review and resolve the oldest cases; one team of expert investigators to examine newer complaints ready for the Adjudicator's decisions; and one team of experienced advisors to help customers understand the Adjudicator's remit, how the complaints processes work and what information is required. The aim is to merge the two investigation teams when the older cases are cleared, and this is on course to be delivered by April 2011. Reducing the number of

teams also provides the opportunity to change the management structure and the number of managers will reduce by two by the middle of 2011. This will focus resources more effectively and ensure that overheads reduce without affecting customer service or quality.

Forecasting workflow

We need to ensure our predictions of the volumes and types of complaints are as accurate as possible so that staff resources and our mix of expert skills match customer need. We are improving our forecasting of future complaints issues by discussion with the departments, feedback from external stakeholders such as the third sector and benchmarking with other Ombudsman services. This work only started in early 2010 and is an important area for development into 2010-11 and beyond.

Finally, I would like to add my thanks to those of the Adjudicator. Throughout the year our staff have driven the service improvements essential to our customers, the departments and our stakeholders. 2009-10 marked the beginning of a major programme of change. The staff continue to show professionalism, a pride in their work and a care for the customer to underpin the impartiality and quality of the work of the Adjudicator.

Margaret Allcock
Head of Office

“We were pleased to receive a visit from the Adjudicator and her Head of Office, to discuss the work of our charity which gives free advice to those on low incomes. We were heartened by her concern to ensure that HMRC follows its guidelines consistently, and her interest in some particularly difficult problems we encounter: self employed clients with business or family problems who fall into tax arrears, employees where tax is under-collected under PAYE without the taxpayer realising it, and many others who have difficulties with their taxes because of mental health problems. The Adjudicator is a vital protection for such individuals, where the system might otherwise fail them.”

David Brodie
TaxAid



Finance for 2009-10

HMRC customers form the largest group of users of the Adjudicator's services. The Service Level Agreement between HMRC and the Adjudicator ensures staff, accommodation, equipment and materials are supplied to enable the Adjudicator

to provide an independent review of unresolved complaints.

The Adjudicator is an independent appointment agreed by the three organisations for which she adjudicates.

2009-10	Budget	Actual
Staffing	£2,429,046	£2,320,539
Other operational costs	£80,000	£71,628
Total	£2,509,046	£2,392,167

The Adjudicator's salary is set by reference to the Ministry of Justice pay scales, Group 6.2, and for 2009-10 the range was £120-125k.

Who we are



Judy Clements OBE

The Adjudicator

Judy was appointed in April 2009 having previously been a Director at the Independent Police Complaints Commission. She is deeply committed to public service, promoting high quality standards to ensure customers are treated fairly and listened to.



Margaret Allcock

Head of Office

Margaret joined the Adjudicator's Office in December 2009 as the temporary Head of Office. She has overall accountability for the staffing and resources of the office.



Maria Foord

Personal Assistant (PA) to the Adjudicator and Head of Office

Maria has worked in the Adjudicator's Office for seven years. Before changing roles to become PA she investigated Valuation Office Agency and Tax Credit Office complaints.



Duncan Calloway

Legacy Project Manager

Duncan leads the specialist investigation team dealing with the backlog of older cases. He is responsible for ensuring all older cases are investigated for the Adjudicator and cleared by April 2011.



Sarah Walker

Business as Usual Project Manager

Sarah manages the flow of incoming cases to ensure they are investigated within six months of receipt. She leads the team of expert investigators who prepare and investigate cases ready for the Adjudicator's decision.

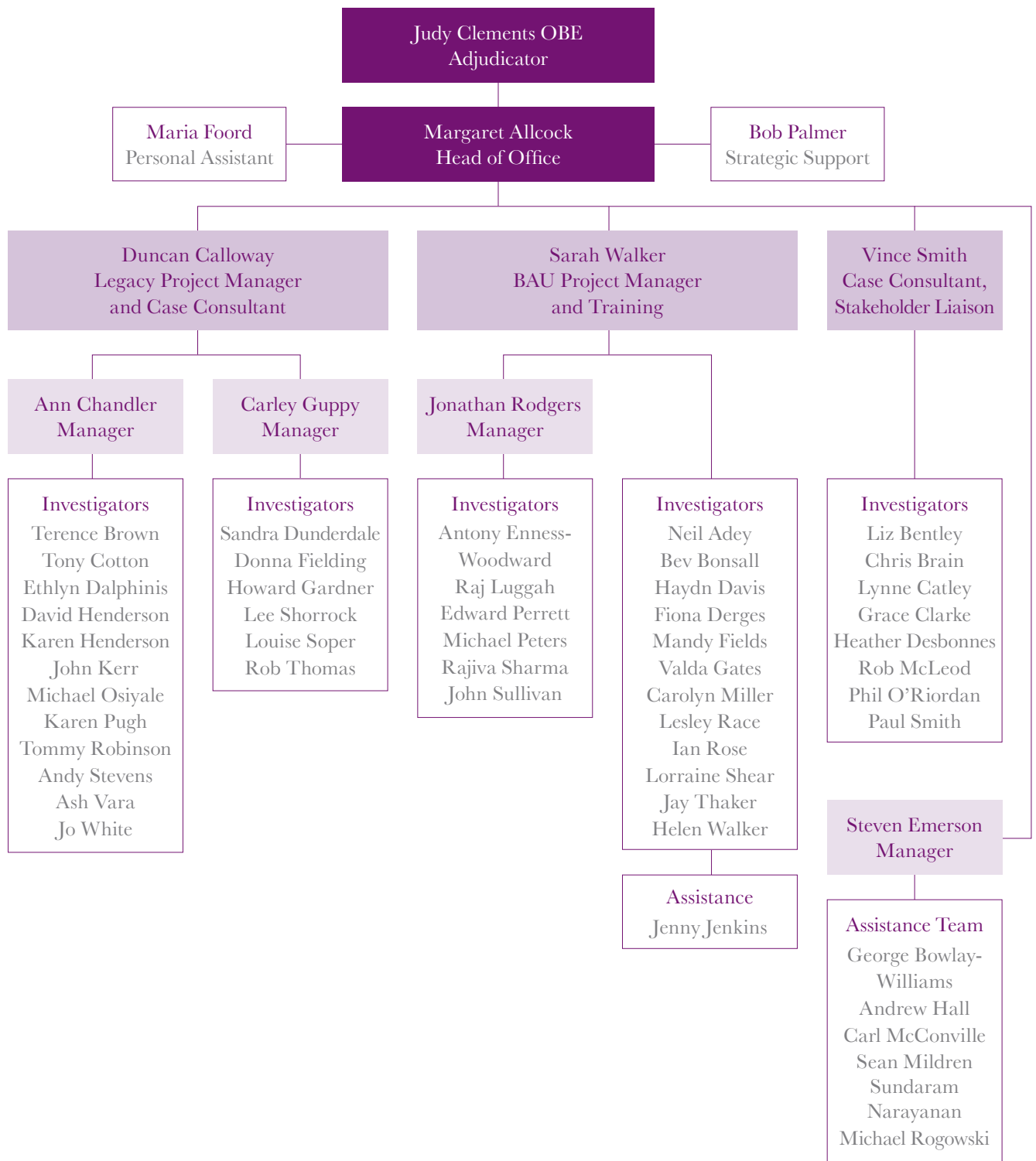


Vince Smith

Senior Case Consultant

Vince is an experienced manager and investigator who provides detailed advice on specialist complex cases. He is also the key liaison point with departmental complaints teams and the Parliamentary and Health Service Ombudsman.

How we are organised – structure 31 March 2010



How to contact us

Write to

The Adjudicator's Office
8th Floor
Euston Tower
286 Euston Road
London
NW1 3US

Telephone: **0300 057 1111** or **020 7667 1832** (Typetalk facilities are available)

Fax: **0300 057 1212** or **020 7667 1830**

You can contact us between 9am and 5pm, Monday to Friday (except Bank Holidays). Calls to our 0300 number will cost the same or less than 01 or 02 prefixed numbers.

Initial enquiries are dealt with by our London office. Our Derby office will contact complainants directly about the complaints that they investigate.

Online

www.adjudicatorsoffice.gov.uk

Unfortunately we are unable to accept complaints by email.

