

# Annual Report 2011

A year of record breaking performance

# Contents

Our Purpose, Vision and Aim	3
The Adjudicator's foreword	4
The role of the Adjudicator	6
The complaints process	8
Workload 2010-11	10
HM Revenue & Customs	12
Taxation	12
Tax Credits	18
Valuation Office Agency	22
The Insolvency Service	26
Office organisation	30
Strategic Plan 2011-15	31
How we are organised	32
Finance 2010-11	33
How to contact us	34
In memory	35

# Our Purpose, Vision and Aim

## Our Purpose

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; and

Through constructive feedback we help these organisations achieve a better understanding of customer needs and improve complaint handling.

## Our Vision

We are recognised as experts in our field, who act professionally, efficiently and add true value to the complaints handling process.

## Our Aim

To provide a service that is:

- Accessible
- Clear to customers
- Flexible
- Open and Transparent
- Proportionate
- Efficient
- Delivering quality outcomes

I am very pleased to be writing my third annual report and the 18th in the history of the Adjudicator's Office. This report covers the year 1 April 2010 to 31 March 2011.

# The Adjudicator's foreword

The 2010-11 year has been one of consolidation and focused hard work. In my last report, I stressed my determination to eliminate the backlog which my office had been carrying for over five years since the introduction of Tax Credits.

## It is a year to celebrate!

I am delighted to report that we have successfully completed our recovery plan to clear the backlog of cases whilst maintaining the quality of our investigations. Waiting times have now been stabilised at an average of six months and my aim is for us to reduce this still further.

## We have made history!

What is even more remarkable is that we cleared 24% more cases than the previous year (2009-10) and for the first time, since the establishment of the Adjudicator's Office in 1993, over 2000 cases were adjudicated on and cleared in a single reporting year. Currently we have the lowest number of cases on hand since 2005.

I would like to thank all the Adjudicator's Office staff (both permanent and temporary) who worked painstakingly under sustained pressure to ensure their targets were met. My gratitude also goes to my Head of Office, Margaret Allcock, and my Senior Management Team for spearheading the operational delivery plan to ensure its success.

Despite our rigorous targets, I also felt it was important to continue to engage more effectively with external stakeholders, in particular those who frequently act as intermediaries for our customers. I am keen to learn more about common trends and the type of complaints they deal with. Last autumn I hosted a round table seminar with representatives from TOPS (Tax Help for Older People), TaxAid and the Low Incomes Tax Reform Group. We discussed their perspectives on supporting customers with particular needs, the lack of clarity in departmental communications, the general confusion and lack of customer understanding around financial matters, and the difficulties customers experience in trying to contact departments to discuss issues.

We were also able to send two members of staff on a visit to shadow the work of TaxAid. They found their visit very useful and it highlighted the limited understanding and experience many customers have in dealing with their tax affairs. I very much appreciate external stakeholders finding the time to share their work with us and I intend to continue to build on these important relationships.

I also maintained my international connections. For the third time since my appointment, Margaret and I addressed the overseas participants of the International Ombudsman Study Programme

arranged by Public Administration International Limited. In addition to the programme, we shared information on our structure with the South African Revenue Service as part of their benchmarking with other national ombudsman schemes. It was most worthwhile to exchange updates on service levels and to appreciate the different constraints and issues faced by colleagues in other countries.

During the year, I charged my senior team with developing case handling processes to increase our engagement with customers and show transparency in our investigations. We identified the shared report process already working with HM Revenue & Customs Tax Credits as a good practice model. This process involves sharing a report of known facts about a complaint with customers at an early stage and offering them the opportunity to comment. We have found involvement early on in the investigation process is much appreciated by customers and reduces the need for lengthy exchanges. I am pleased that other business areas within HM Revenue & Customs (HMRC) have now agreed to pilot this model and development will continue into the coming year.

There was much learning to come out of cases handled during 2010-11 and I have highlighted some examples in the case studies



in my report. Three particular areas of concern from cases were; customer difficulties with departmental communications, worry and stress caused by unexpected consequences from departmental actions, and patchy recognition of specific customer needs, especially around mental health.

However, I am pleased with the response from the departments in accepting all my recommendations and demonstrating a willingness to listen. I am particularly grateful for the personal interest shown by the senior leaders including Dave Hartnett, HMRC Permanent Secretary for Tax; Stephen Speed, Chief Executive of The Insolvency Service; and Penny Ciniewicz, Chief Executive of the Valuation Office Agency. I was also able to present my observations to the HMRC Ethics and Responsibilities Committee and, through them, feed into the internal HMRC customer debate.

### More to do!

I want to help drive learning and provide a serious challenge to the departments. So for the coming year my priorities are clear; to consolidate performance improvements, refresh quality and better understand customers' experiences of complaints handling. I also want us to drive down the volume of cases on hand.

We are now in a position to give

real-time feedback to the departments and I want to help them translate that into improved and better targeted services for their customers.

Judy Clements OBE  
**The Adjudicator**

**14,861**  
enquiries handled  
this year

**2,284**  
complaints  
resolved this year

“The Ombudsman programme finished this morning and I just wanted to write and thank you both so very much for sparing the time out of your busy schedules to come and talk to the group last week. It was quite evident from the evaluation session this morning how much they had enjoyed meeting you both. They have all now left invigorated with a list of things to improve when they get back home to their own countries.”

Public Administration  
International Limited

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

# The role of the Adjudicator

The role of the Adjudicator was created because HM Revenue & Customs (HMRC), the Valuation Office Agency (the 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 that this would provide their customers with a higher level of customer service and would also give the 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 that 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 49 permanent staff in two locations; London and Derby. Staff are specialist investigators who review each complaint and the evidence in detail.

*During our investigation of a complaint, we have no authority to ask a department to suspend any action that 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 that 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.

---

“Finally, I would like to bring to your attention the promptness with which your own staff deal with my letters, the action they take and their courteous replies.”

Complainant

“I would sincerely like to thank you for your in depth investigation, in actually understanding my complaint and your continued efforts in bringing my case to an acceptable conclusion.”

Complainant

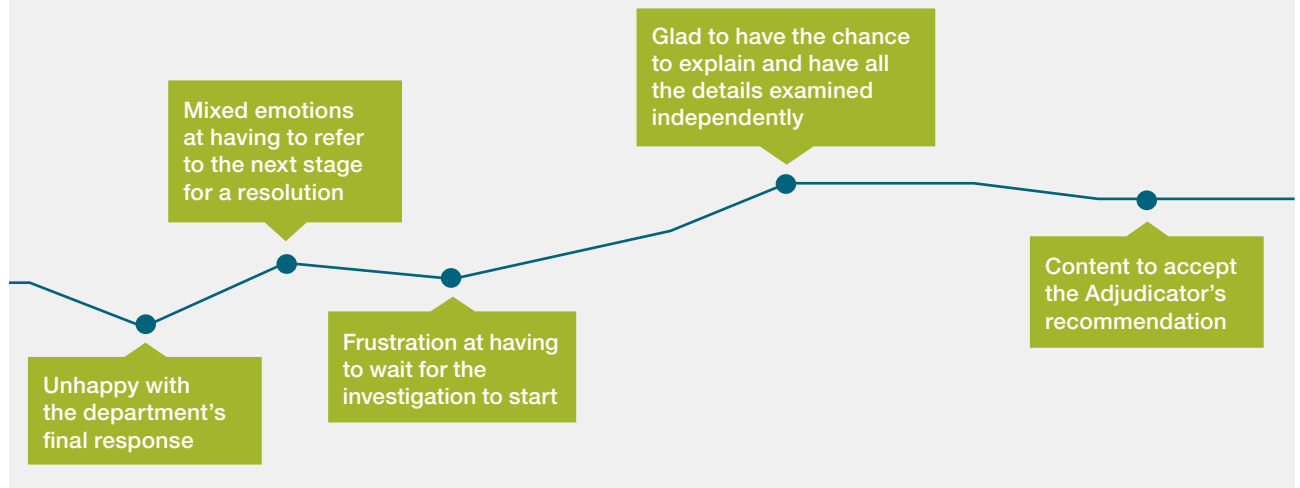
“A major part of the resolution has been the rigorous and professional approach by your officer.”

Complainant

---



### An example of a customer's emotional journey



## Improving customer understanding

We are looking at the experience customers have with us to identify process improvements.

Our customers have told us that it is important to them that we minimise the length of time they have to wait before we start to investigate their complaint. By looking at the journey a customer has with us we hope to pinpoint other areas where we could enhance their experience.

Our customers are drawn from across the adult population of the UK; including carers, employees, employers, businesses, traders and households. We cover all aspects of

the diverse population, with a service which is accessible to all and free of charge.

We are seeking to understand our customers better by reviewing types of complaint to see if we could respond more effectively. During 2011-12 we will also introduce a monitoring questionnaire to capture a broader range of general information about our customers and their needs.

We know that clearing our backlog of work has helped our customers' experience tremendously. However, we need to continue to build customer confidence year by year.

---

“Our client and I are very grateful for your considerate decision and you are really the unsung hero and champion to this society where an ordinary can obtain justice.”

Complainant

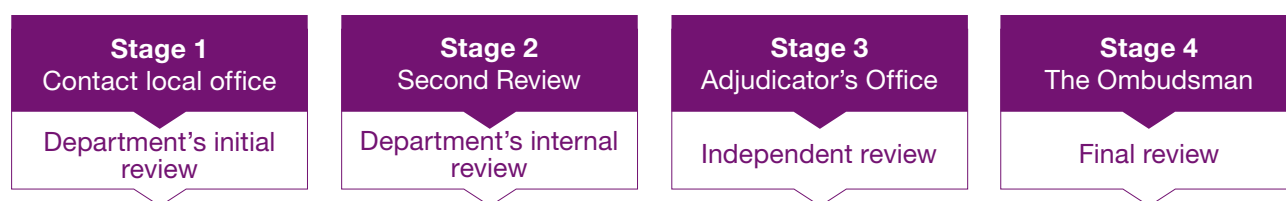
---



# The complaints process

## How to make a complaint

The Adjudicator's Office cannot consider a complaint until the customer has completed stages 1 and 2 of the department's own complaints process.



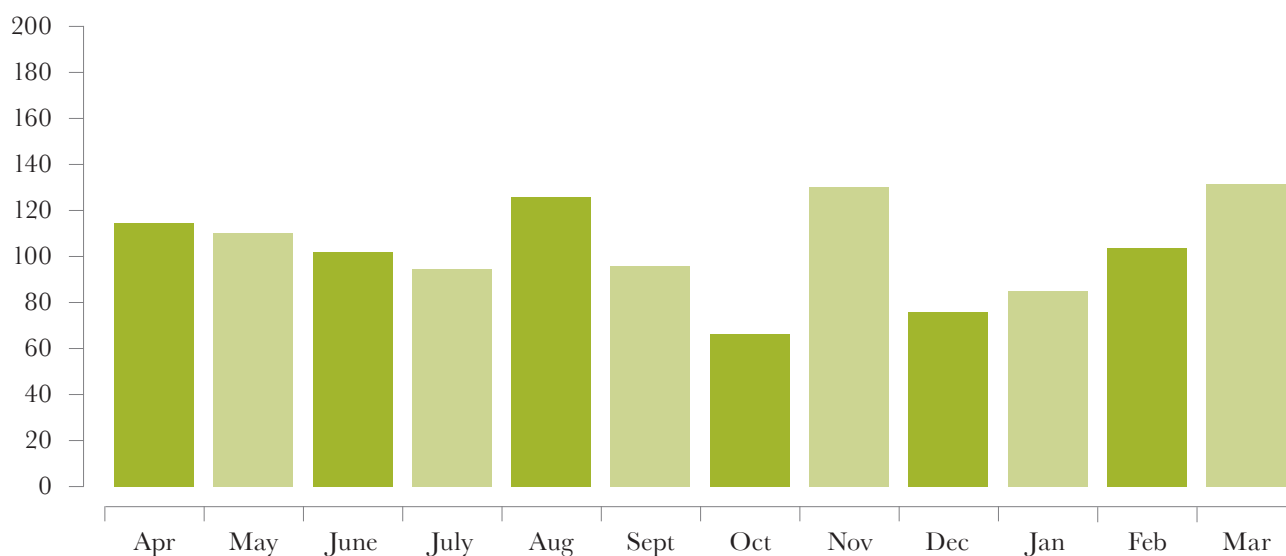
If customers are unhappy with the service they have received they may ask for a formal review of their complaint.

If the complaint is still not resolved, the customer may ask for a second review; which is a fresh look at their complaint and gives them 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 recommendation.

Customers who remain unhappy can ask an MP to refer their complaint to the Parliamentary 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.

**Number of cases received by the Adjudicator's Office by month 2010-11**





## The process in the Adjudicator's Office

### 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.

# 14,861

different types of enquiries in 2010-11

### 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.

# 1,235

new complaints for investigation in 2010-11

### 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.

# 19%

of complaints were mediated in 2010-11

### 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.

# 2,284

cases closed in total during 2010-11

### 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 Ombudsman.

# Workload 2010-11

■ 2010-11 ■ 2009-10



## Assistance cases by department\*

HM Revenue & Customs**	2,348
The Insolvency Service	21
Valuation Office Agency	38
<b>Total</b>	<b>2,407</b>

## New cases for investigation by department

HM Revenue & Customs**	1,191
The Insolvency Service	10
Valuation Office Agency	34
<b>Total</b>	<b>1,235</b>

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

\*\*All HMRC totals include Tax Credits.

## Outcomes

	Not upheld	Partially upheld	Substantially upheld	Withdrawn	Reconsidered	Total
HMRC	970 (44%)	749 (34%)	408 (18%)	56 (2%)	42 (2%)	<b>2,225</b>
The IS	6 (50%)	5 (42%)	0	1 (8%)	0	<b>12</b>
VOA	38 (81%)	2 (4%)	3 (6%)	3 (6%)	1 (3%)	<b>47</b>
<b>Total</b>	<b>1014 (44%)</b>	<b>756 (33%)</b>	<b>411 (18%)</b>	<b>60 (3%)</b>	<b>43 (2%)</b>	<b>2,284</b>

## Methods of settlement

	Reconsidered*	Recommendation	Mediation	Withdrawn	Total
HMRC	42	1,699	428	56	<b>2,225</b>
The IS	0	11	0	1	<b>12</b>
VOA	1	35	8	3	<b>47</b>
<b>Total</b>	<b>43</b>	<b>1,745</b>	<b>436</b>	<b>60</b>	<b>2,284</b>

\*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	52,545	52,804	2,066,652	323,600	<b>2,495,601</b>
The IS	400	50	0	0	<b>450</b>
VOA	150	25	0	21,133*	<b>21,308</b>
<b>Total</b>	<b>53,095</b>	<b>52,879</b>	<b>2,066,652</b>	<b>344,733</b>	<b>2,517,359</b>

\*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.

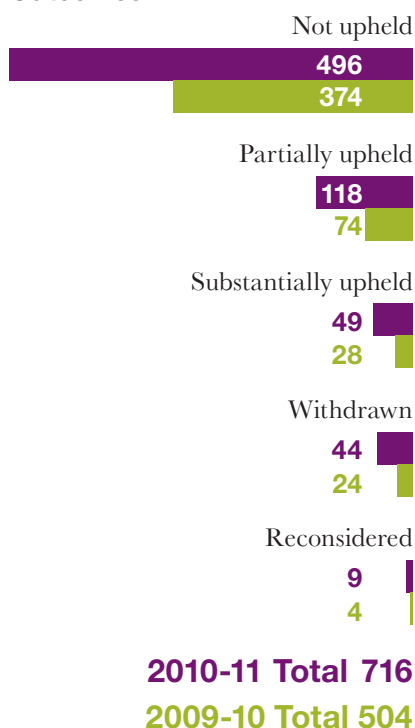
# HM Revenue & Customs

## Taxation

During 2010-11 we received 425 new complaints. We resolved 716, upholding 23% either partially or substantially.

The Adjudicator reviewed a number of cases under the provisions of HMRC's Extra Statutory Concession A19. In the main these related to customers with more than one source of income where the wrong tax code had been in operation.

### Outcomes



The case studies in this report also highlight cases where HMRC failed to establish the relevant facts before coming to their conclusions. They focused on narrow or specific aspects of a case and did not seek information from colleagues in other parts of the department. This resulted in our investigators asking HMRC further questions and seeking out additional information before the Adjudicator was able to consider the complaint fully. On occasions the Adjudicator has also reminded HMRC of their internal guidance and the legislation which governs how they operate. In these cases she has been critical of the explanations that HMRC provided to customers and has reminded them of the need to provide clear, evidence based information, taking into account all of the relevant circumstances.

Managers from the Adjudicator's Office met regularly with HMRC Complaints Teams in order to promote good practice and encourage lessons to be learned. The Adjudicator has continued to engage with senior members of HMRC to ensure that they are fully aware of the issues that she sees on a day to day basis, and to suggest improvements to processes.

Case study 1 highlights an example where the Adjudicator felt HMRC had unreasonable expectations of what a customer should understand about the taxation system. Case study

2 illustrates a situation where different parts of HMRC did not provide a joined up response to one of their customers. Case study 3 demonstrates an instance where HMRC had not given due consideration to the full facts of the case, including the legal position. Case study 4 illustrates an example where HMRC had not fully considered the impact of their actions on an individual. Case study 5 highlights where HMRC had not fully considered the implications of mental health on one of their customers, and had not followed their internal guidance.

HMRC accepted all the Adjudicator's recommendations.

On occasion, the Adjudicator may recommend that HMRC pay a monetary sum to complainants in recognition of the poor level of service they received, and other relevant costs. The graph below shows the sums recommended this year.

### Redress paid 2010-11 £





## Case study 1 – Underpayment of tax

### Issues

In 2004 Mrs K retired with an occupational pension. Unfortunately, HMRC closed her occupational pension record in error and this caused an underpayment of tax over four years.

HMRC agreed they had made a mistake and properly considered the recovery of the tax under their Extra Statutory Concession A19. This concession has two elements. The first is a time test of whether HMRC made proper and timely use of the information. The second is a reasonable belief test of whether it was reasonable for the taxpayer to believe their tax affairs were in order.

HMRC initially decided that Mrs K's circumstances did not meet the reasonable belief test which rested on Mrs K's ability to understand that the correct tax code was not being used by her pension payer.

### Outcome

#### **The Adjudicator upheld this complaint.**

The Adjudicator was concerned that HMRC had not considered that Mrs K's understanding of her tax position may have changed over the longer period as she had not received coding notices since August 2004. The Adjudicator asked HMRC to consider what information Mrs K would have received to tell her the tax code was not collecting sufficient tax. HMRC finally accepted that Mrs K did meet the reasonable belief test.

HMRC wrote off Mrs K's arrears and made a payment for poor complaint handling.

### Learning

HMRC agreed that they had expected too much of Mrs K when it came to what was reasonable for her to understand given the circumstances of her case.

## Case study 2 – Interest objection and handling

### Issues

Mr X asked the Adjudicator to consider the interest that HMRC had imposed on a number of tax assessments for earlier years: he was seeking a partial or full waiver of this interest. As these are legal charges, the Adjudicator is unable to determine what is chargeable or reasonable, but she is able to ensure that the interest charges were properly considered by HMRC's Interest Review Unit.

Mr X also said there had been a catalogue of errors on HMRC's part and they had taken too long to deal with them. Furthermore, a County Court Judgment had been obtained in his absence, despite the fact that he had advised that he was unwell and unable to attend Court. He felt HMRC's heavy-handed approach left him feeling bullied and they had failed to consider, or take account of, his personal circumstances.

### Outcome

**The Adjudicator asked for senior level intervention by HMRC and this resulted in the Adjudicator's Office mediating this case. This complaint was partially upheld.**

The Adjudicator had concerns about different parts of HMRC not working together to resolve the case.

Following a review at a senior level, HMRC offered to send Mr X a full and frank apology, pay him compensation for their poor handling, discharge the two potentially invalid assessments and repay the tax and interest.

### Learning

Different parts of HMRC must work together more effectively in supporting customers and handling complaints. HMRC decided to use internal learning tools, led at Director level, to review this case and reflect on the mistakes and failure to work across the department.

## Case study 3 – Complaint about HMRC's decision not to reimburse costs

### Issues

Company B, a subsidiary company of A, purchased and supplied energy to Company A. Climate Change Levy was introduced in 2001. Company B applied for Directed Utility status and this was granted including a retrospective application to backdate their registration.

During an assurance visit in August 2007, HMRC established that Company B had no renewable source contract with Company A. Company B rectified this by an amendment to their 1994 contract to supply Company A with electricity. HMRC advised that, as this amendment could not have retrospective effect, an assessment would be made on some of the 'green' electricity. Company B's agents challenged this – stating that it was impossible for Company B to have the appropriate arrangements in place at the time of registration because registration had been backdated. HMRC subsequently reversed their decision.

The complaint to the Adjudicator was about HMRC's inadequate offer to reimburse the associated costs.

### Outcome

#### **This complaint was settled through mediation and was upheld.**

HMRC had failed to consider adequately the legal position of the retrospective contract amendment. They had only done so at the second time of asking when Company B's agents asked them to confirm their legal advice. Initially, HMRC contended that this did not amount to a mistake, but following our intervention agreed that this did amount to a mistake giving rise to costs.

HMRC agreed to reimburse the agent's fees associated with Company B's challenge and complaint.

### Learning

HMRC realise the importance of ensuring that decisions on legality are cleared by those with appropriate technical expertise.



## Case study 4 – Administrative error

### Issues

Mrs Z complained to the Adjudicator because HMRC had recorded she was deceased and had issued a form to her personal representative at her address. As a direct consequence of this, Mrs Z also complained that she failed to receive her state retirement pension, when she reached pensionable age just a year later, as the Pensions Office's records also showed she was deceased.

### Outcome

#### **The Adjudicator upheld this complaint.**

Prior to the Adjudicator receiving this complaint, HMRC had paid compensation in recognition of the upset they caused. However, HMRC had also handled the complaint poorly by issuing two letters that contained errors. The Adjudicator concluded that HMRC's actions in this case had affected Mrs Z particularly badly.

The Adjudicator asked HMRC to reconsider the amount paid in recognition of the upset and after considering the matter HMRC agreed. HMRC acknowledged that the mistakes they made in noting Mrs Z's records that she was deceased caused her considerable worry and distress.

The Adjudicator expressed her concern at HMRC's mistakes which led to Mrs Z receiving a letter addressed to her personal representative. The Adjudicator was also dissatisfied with the HMRC Complaints Team not taking Mrs Z's complaint more seriously when Mrs Z first drew the matter to their attention. The Adjudicator asked HMRC to consider whether they should have a more robust process in place to prevent a recurrence of what happened.

### Learning

HMRC wrote a letter of apology to Mrs Z. They acknowledged the upset their actions had caused, both in the initial mistakes they made, and their poor handling of her complaint.

## Case study 5 – Enforcement and mental health issues

### Issues

Ms T was mainly self-employed with some PAYE work in the charitable sector. Despite mental health difficulties she was able to retain some work. She had arrears of VAT and Self Assessment tax which grew to £30,000. A number of arrangements to pay had been made but none succeeded. After warning of bankruptcy, HMRC initiated a statutory demand. The debt was in excess of £35,000.

Representatives took up her case as Ms T spoke of suicide. She did not open official envelopes. Her capacity to deal with her financial affairs and other matters varied and had deteriorated considerably.

Ms T and her representatives complained to the Adjudicator about HMRC's continued push for bankruptcy when Ms T was clearly not capable of dealing with her financial affairs, and their refusal to take notice of explanations indicating clear mental health issues.

### Outcome

**This complaint was withdrawn once Ms T's representatives felt their concerns had been recognised and understood by the department.**

The Adjudicator was concerned that HMRC were not familiar with their own guidance and as a consequence they were operating contrary to their guidelines:

*'Where a creditor is made aware that a customer has a mental health problem, they should only initiate court action or pursue enforcement through the courts as a last resort and when it is appropriate and fair to do so.'*

The Adjudicator facilitated discussion between Ms T's representatives and senior departmental officers. The discussions ensured there was recognition of the mental health issues involved and that the Money Advice Liaison Group (MALG) guidelines should be taken into account.

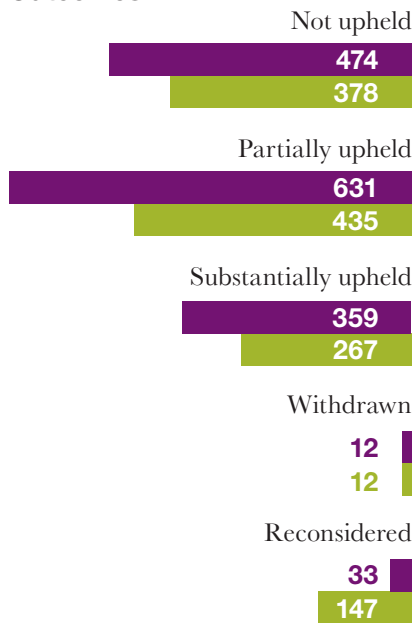
### Learning

- HMRC agreed to consider whether the MALG guidelines should be more integrated with their own guidance
- HMRC would also remind staff of the guidance and what should happen in cases involving debt where a customer has mental health challenges
- HMRC revised their letters to customers to highlight the Adjudicator's services.

## Tax Credits

HMRC Tax Credits are a significant proportion of our workload (62% of cases received were about this area of work). During 2010-11 we received 766 new Tax Credit complaints. We resolved 1,509 Tax Credit complaints in total, upholding 66% either partially or substantially.

### Outcomes



**2010-11 Total 1,509**

**2009-10 Total 1,239**

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.

When investigating a Tax Credit complaint, we ask HMRC to provide a report explaining their handling and decision. We share this report with the customer at an early stage and ask for their comments. The vast majority of customers do respond, and this enables us to ensure that we have all of the key facts to hand at the start of our investigation. Both customers and HMRC feel this process is useful and the feedback has been positive.

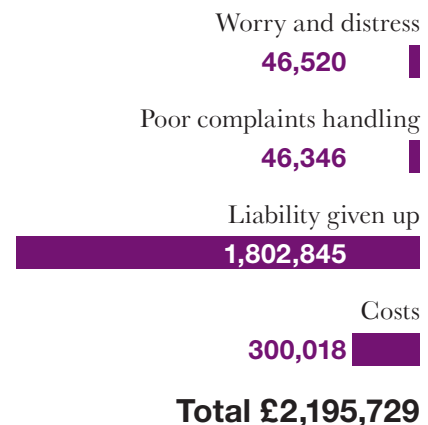
Last year we identified that there was scope for further improvement in the Tax Credit Office (TCO) process regarding the consistency of decision making, the length of time taken to review a complaint and the detail given to customers. Over the past year we have met regularly with the Tax Credit Complaints Teams and have provided detailed feedback on their complaints process. The TCO has also started testing ways to reduce the number of contacts between their office and customers prior to the case being escalated to the Adjudicator. On individual cases, the Adjudicator has also provided feedback to the TCO on their complaints handling and has reminded them of the need to ensure that all decisions are fully explained and evidenced.

Case study 6 demonstrates an instance where HMRC reviewed a complaint and incorrectly changed their original decision. They then wrote off an overpayment of tax credits that should in fact have been repaid. Although our role is to ensure that HMRC act within the provisions of their policy and guidance, in this case we felt that it would be unreasonable to ask the customer to repay the amount that had been written off. Case study 7 highlights where the TCO made a mistake and paid compensation to the customer. Case study 8 illustrates an example where the TCO had not given due weight and attention to their policy regarding exceptional circumstances.

HMRC accepted all the Adjudicator's recommendations.

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

### Redress paid 2010-11 £



## Case study 6 – Recovery of overpayments where husband working abroad

### Issues

Mr and Mrs V were unhappy about the TCO's decision to recover overpaid tax credits from them. During the period in question, Mr V was a serving officer based overseas.

Mr and Mrs V gave an incorrect income figure. The TCO used the incorrect figure and issued award notices to both partners. The TCO asked Mr and Mrs V to check the details and report any inaccuracies. The incorrect income figure created an overpayment. The TCO were not notified of the correct income figure until the time of the Annual Declaration.

Mr V maintained that he was responsible for all financial matters concerning the household, and as he was not in the UK, he had not been able to check the details shown on the award notices. As a result, he felt that the overpayment should be written off.

Mr and Mrs V had also become disillusioned with the whole system and stopped claiming tax credits, although entitlement still existed. The TCO met with Mr and Mrs V and their MP. The TCO agreed, as a discretionary measure, to award the amount Mr and Mrs V would have been entitled to had they made a continuous claim for the previous three and a half years, although this discretionary measure was not in line with their guidance.

### Outcome

#### **The Adjudicator did not uphold this complaint.**

The overpayments were not caused by any fault of the TCO, as award notices were issued showing income details provided by Mr and Mrs V. In a joint award, each partner is jointly responsible for checking the accuracy of award notices, and for notifying the TCO if there are any errors. The fact that Mr V looked after the household finances was irrelevant, as this is a personal choice; Mrs V was equally responsible for notifying the TCO of any incorrect award notice.

However, the Adjudicator was pleased to see the TCO exercising their discretion to get matters resolved for Mr and Mrs V.

### Learning

The TCO agreed to continue to review their communications to ensure claimants are aware of their responsibilities.

## Case study 7 – Exemption Certificate

### Issues

Mr P was unhappy that the TCO had failed to comply with government legislation and inform the Prescription Pricing Authority that he was eligible for a National Health Service (NHS) Exemption Certificate. The TCO said they had dealt with Mr P's claim, for an exemption certificate, in accordance with their instructions and guidance.

### Outcome

#### **The Adjudicator partially upheld this complaint.**

The rules that govern NHS exemption certificates do not form part of tax credit law. Therefore the TCO do not make decisions on anyone's eligibility to an exemption certificate. They do however have an agreement with the NHS to provide them with details of tax credit recipients who appear to satisfy the eligibility criteria.

Where an individual qualifies for an exemption certificate, but they do not fall within the rules that allow the TCO to tell the NHS, there are alternative arrangements which enable claimants to be issued with an exemption certificate.

The Adjudicator is unable to consider the legislation regarding the issue of an exemption certificate. Such matters are appropriate to the NHS. However, during the course of investigating Mr P's complaint, the TCO established that while Mr P appeared to be eligible for an exemption certificate, their guidance and instructions did not cover people in Mr P's position. The TCO accepted that there had been mistakes and delays in dealing with the claim, and offered to pay redress in recognition of this.

### Learning

The Adjudicator wrote to the Director of the TCO expressing her concerns about their procedures failing to identify a resolution in Mr P's case.

## Case study 8 – Overpayment of tax credits

### Issues

Miss H was overpaid on her joint tax credit award when she and her partner, Mr M, separated during the renewal period. The TCO did not process the Annual Declaration which they received around the time of the change in circumstance. The TCO failed to send out individual declarations and the claim was shown as not renewed. This meant that Miss H and Mr M had been overpaid all of the provisional payments received on their joint award. The TCO later sent out a Statement of Account to Miss H, to which she responded, although Mr M did not provide any income information. Although the TCO decided to write off a proportion of the overpayment that arose from their mistakes in not processing the Annual Declaration or sending individual declarations, they would not write off the rest of the overpayment because they had not received income details from both claimants.

Miss H told us that she was unable to influence Mr M to provide details of his income and complete the Annual Declaration. She had been in a violent relationship with him, and the separation entailed risks to her personal safety and that of her child. Miss H provided evidence of court proceedings to support this, and we asked the TCO to consider exceptional circumstances.

The TCO accepted that this constituted exceptional circumstances, and wrote off Miss H's half of the remaining overpayment.

### Outcome

#### **The Adjudicator upheld this complaint.**

The TCO apologised to Miss H after receiving the Adjudicator's recommendation, and agreed to pay her further compensation for their poor handling of the case.

### Learning

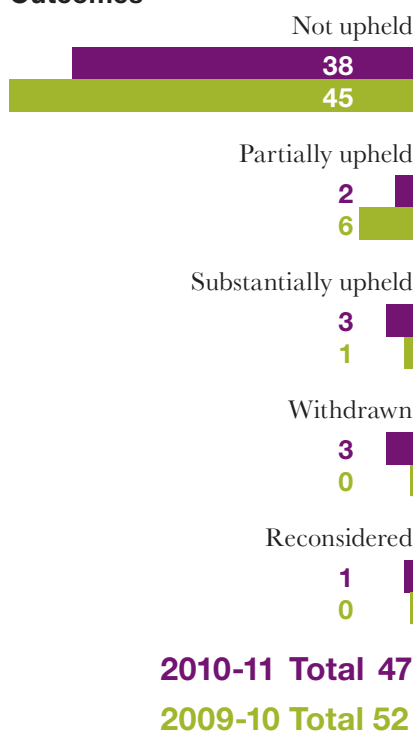
The TCO reminded staff of the need to consider exceptional circumstances when highlighted by the complainant.

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 34 new VOA cases and of these we resolved 47 (26 council tax, 15 business rates and six other valuations). The Adjudicator issued formal recommendations in 35 cases, with our investigators mediating eight cases directly with complainants. One case was reconsidered by the VOA and three were withdrawn by complainants.

## Outcomes



Of the cases we closed during the year, 55% were about council tax. Of these, 40% were requests for compensation for loss of interest following the VOA's decision to reduce a property's council tax band. The remainder of these cases included reference to decisions of the VOA or the Valuation Tribunal about council tax banding. The Adjudicator is unable to consider these elements of customers' complaints.

The 2010 Non-Domestic Rating Revaluation for England and Wales appeared to be a catalyst for many of the complaints we received during the year. For example, 40% of the non-domestic rating cases included complaints about perceived mistakes in the 1990, 1995 and 2000 Rating Lists, which are now closed. A fifth of non-domestic rating cases related to the VOA's handling of changes to rateable values during temporary road works. The other non-domestic rating cases did not fall into either of these two categories.

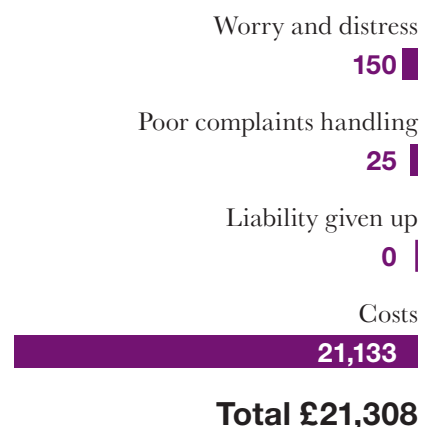
Other cases were relatively evenly split between fair rent applications, inheritance tax, capital gains tax, and the VOA's commercial services work.

The relationship between the VOA and the Adjudicator remains

positive, and the VOA are receptive to her constructive feedback. Case study 9 highlights the need for the VOA to make clear what they expect of customers. Case study 10 demonstrates how comprehensive explanations are required in complaints handling. Case study 11 illustrates the need for the VOA to be consistent in their actions. The VOA accepted all the Adjudicator's recommendations.

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

## Redress paid 2010-11 £







## Case study 9 – Mistake in rateable value

### Issues

The VOA acknowledged that they made a mistake in their assessment of Mr O's industrial unit for non-domestic rating, which caused its rateable value to be higher than it should have been. The rateable value had been corrected in the current Rating List and Mr O's local council had refunded the 'additional' rates Mr O had paid during the life of the current Rating List. However, no statutory provision exists for alterations of rateable values to be made in earlier Rating Lists, or for refunds to be paid in respect of overpayments during those Lists.

The VOA considered that Mr O ought to have realised their mistake and brought it to their attention. They suggested that they and Mr O shared equal responsibility for the impact of the mistake, and, on this basis, the VOA had offered to pay compensation equal to 50% of Mr O's overpayment during the life of the previous Rating List. Mr O complained to the Adjudicator about the VOA's decision.

### Outcome

#### The Adjudicator upheld this complaint.

The Adjudicator understood the VOA's reasoning for believing that non-domestic ratepayers should often take some responsibility for ensuring that their rates liability is based on correct information. However, when looking carefully at the information available to Mr O during the period in question, the Adjudicator concluded that, for the majority of that period, it was unreasonable to expect Mr O to have suspected that the VOA had made a mistake in their assessment of his unit.

Based on the Adjudicator's conclusions, the VOA agreed to pay compensation equal to 100% of Mr O's overpayment of rates, for ten of the eleven years in contention, and compensation equal to 50% of the amount Mr O paid in the final year. The VOA also agreed to reflect lost interest as part of the payment.

### Learning

The VOA applied the lesson they learned in this case to four similar complaints which had been made to the Adjudicator, and promptly agreed to pay compensation to customers in those cases. The VOA is currently reviewing their published codes of practice to define more clearly their expectations of customers and what customers can expect of them.

## Case study 10 – Unfair advantage for competitors

### Issues

Mr G complained to the Adjudicator that the rateable value attributed to a competitor's business premises, which had been identified as too low, allowed his competitor to gain an advantage over him for a 12 year period. Mr G believed that the VOA's actions had caused him to suffer a competitive disadvantage and a financial loss, and he asked for compensation from the VOA. The VOA told Mr G that they could only consider payment of compensation if there had been a mistake in respect of his own property's assessment and not that of a competitor's property.

### Learning

The VOA accepted the Adjudicator's recommendations and reminded staff to provide a full summary of the VOA's position at the initial complaint handling stage.

### Outcome

#### **The Adjudicator did not uphold this complaint.**

The reason given by the VOA for not agreeing to pay compensation when Mr G complained to them was that the claim centred on another party's rates liability. The Adjudicator believed that the VOA's published policy was unclear about whether they could consider the payment of compensation in the prevailing circumstances.

The Adjudicator considered the information provided by Mr G, which was intended to demonstrate the loss he had claimed. The department's redress guidance states that payment of compensation should only be considered if there is evidence of a clear, causal link between a mistake and a claimed loss. Having looked at all the evidence available, and considered a number of factors which appeared to have affected Mr G's business, the Adjudicator was unable to conclude that the loss Mr G had claimed was caused directly by the actions of the VOA.

During their discussions with the Adjudicator about Mr G's complaint, the VOA provided three further reasons for contending that payment of compensation ought not to have been considered. One of these reasons was that it was not a mistake which caused the rateable value of Mr G's competitor's property to be too low.

However, it was only when the Adjudicator wrote to Mr G with her decision that Mr G was made aware of the VOA's further reasons for contending that payment of compensation was not appropriate. The Adjudicator felt that it would have been helpful if the VOA had made Mr G aware of their stance in respect of all their reasons at an earlier stage, as this might have allowed Mr G to make a more informed decision about whether, and how, to escalate his complaint.

## Case study 11 – Rateable value

### Issues

Mr L had occupied a shop in a parade for twenty years. The parade comprised eight shops, and all had a raised floor area toward their rear, which limited the use that could be made of these areas.

Mr L appealed against the VOA's assessment of his shop in the 1995 Rating List. His agent and the VOA agreed that the area of the shop with a raised floor should be valued at one-third of the value of the primary retail space.

No appeal was made during the life of the 2000 Rating List, but Mr L appealed against the assessment in the 2005 List. This appeal resulted in an agreement that the area of the property in question ought to be valued at one-quarter of that of the main retail space. Having reached this agreement Mr L believed that the current adjustment should have been applied to the 2000 and 1995 Rating Lists, and complained to the Adjudicator that the VOA did not agree with this.

### Outcome

#### **This case was settled through mediation.**

The VOA's policy did not provide that a valuation adjustment applied in one Rating List ought, necessarily, to be applied in successive Lists. This would depend on the valuer's judgement, based on the information available at the time of carrying out the valuation.

However, the VOA accepted that, based on the information available to them during the 2000 Rating List, they could have applied a one-third adjustment to Mr L's shop; largely because they had applied this adjustment to other shops in the parade. They therefore paid financial redress to Mr L equal to the difference between the amount of non-domestic rates he paid during the 2000 Rating List, and what he would have paid if the one-third adjustment had been applied.

The Adjudicator considered this complaint very carefully, and compared the explanation given by the VOA with their published policy and guidance. The Adjudicator concluded that the VOA were not required to apply any existing valuation adjustment in future Rating Lists, and they were similarly not required to apply any adjustment to previous Lists. Because the decision to apply an adjustment was a valuation judgement, the appropriateness (or otherwise) of this judgement was not within the Adjudicator's remit.

During the investigation we identified that part of the financial redress paid by the VOA did not include an appropriate amount in lieu of interest. We challenged the VOA about this, and they agreed to pay further financial redress equal to Mr L's 'loss' of interest, and an additional amount to acknowledge the worry and distress that their handling of Mr L's affairs had caused.

We explained the Adjudicator's views to Mr L and the VOA's offer of additional compensation. Mr L accepted that this represented a suitable outcome to his complaint and agreed that the case be closed on that basis.

### Learning

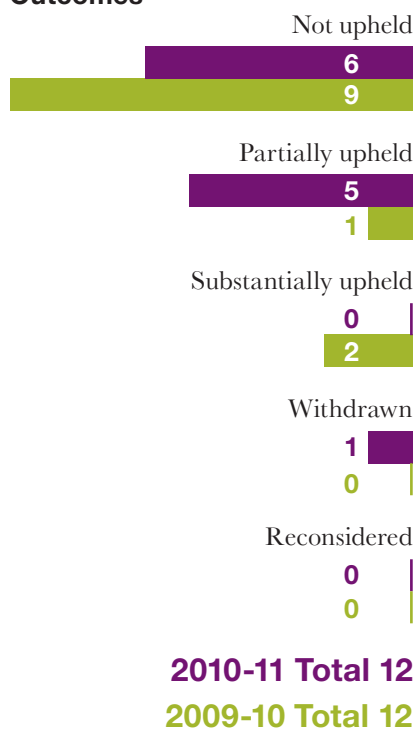
During our investigation it appeared that the VOA's approach to valuing some of the shops in Mr L's parade was inconsistent. Whilst the Adjudicator could not form a view about the correctness of any of the valuations, she was concerned by the apparent lack of consistency in their treatment of non-domestic ratepayers. Having liaised with the VOA about this, the VOA reviewed their assessments of some of the parade's shops, and the basis of their assessments was brought in line for all, leading to a reduction of some of the shops' rateable values.

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

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

## Outcomes



We therefore examine complaints about The IS very carefully to ensure that we investigate only those matters which cannot be resolved through the courts. Only the court can reverse or modify a decision about the administration of an insolvent estate.

Historically, the number of cases referred to the Adjudicator is small, with 10 new cases received during 2010-11 compared to 15 last year. We resolved 12 cases in 2010-11, partially upholding five, six were not upheld and one was withdrawn.

During the year, all of the cases investigated stemmed from bankruptcies and liquidations dealt with by the official receiver's office. Case study 12 concerns the regulatory role in relation to insolvency practitioners, and case study 13 is an example of a complaint about The IS's appointment of an insolvency practitioner.

Most of the complainants had more than one aspect to their complaint, and there were recurring themes:

- All of the creditor complainants were unhappy that The IS had not investigated the perceived misconduct brought to their attention.
- Five complainants, both creditors and bankrupt individuals, had complaints concerning how the official receiver dealt with assets.

- Three of the bankrupt complainants were unhappy with the appointment of an insolvency practitioner as their trustee in bankruptcy.
- Other areas of complaint included the information given by members of The IS staff, plus delays and failures by The IS to respond to the complainant's letters.

The IS accepted all the Adjudicator's recommendations.

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

## Redress paid 2010-11 £







## Case study 12 – Regulatory function

### Issues

The IS undertakes a regulatory oversight function over Recognised Professional Bodies (RPB): professional bodies recognised by the Secretary of State to authorise insolvency practitioners.

Mr Y was a creditor of a company in liquidation. He felt that The IS had not checked whether there were any procedural irregularities in the RPB's review of his complaint about the insolvency practitioner appointed as liquidator. Mr Y also complained that The IS caused significant delays in handling his complaint.

### Outcome

#### The Adjudicator partially upheld this complaint.

The Adjudicator is unable to investigate the actions of the RPB or a particular insolvency practitioner. However, she is able to consider how The IS fulfils its regulatory function of the RPB's complaint process.

The Adjudicator concluded that The IS had reached reasonable conclusions on most aspects of the RPB's review of the complaint. However, she did identify two areas of The IS' review where she felt they had failed to fully identify the RPB's shortcomings in handling Mr Y's complaint. The Adjudicator was concerned as to whether the RPB had shared their investigation findings with Mr Y and offered an opportunity for him to provide any further information before the complaint was reviewed by their Investigation Committee. She was also concerned as to whether the RPB had given timely updates to Mr Y on their investigation.

The Adjudicator recommended that The IS re-visit the RPB's files to review their own handling of the complaint, ensuring The IS provided Mr Y with the results of the further review. The Adjudicator also found that The IS had caused unreasonable delays in their handling of Mr Y's complaint.

The Adjudicator recommended that, in the interim, The IS write to Mr Y apologising for their shortcomings and make a payment to recognise the delays.

### Learning

The IS accepted the Adjudicator's recommendations and conducted a further review of the RPB's complaint handling. They have sought the RPB's assurance that particular attention will be paid to the areas of weakness identified by the Adjudicator.

## Case study 13 – Appointment of insolvency practitioner

### Issues

Mr E was a bankrupt who had been trying to get his bankruptcy annulled (cancelled). He had made two unsuccessful annulment applications to court and had indicated to the official receiver that he would be making a third attempt. Mr E was angry that an insolvency practitioner was then appointed as trustee in place of the official receiver against his wishes. He said the appointment of the external trustee greatly increased the costs of the bankruptcy – the costs he would have to repay to get his bankruptcy annulled.

Mr E also complained about The IS forwarding his letters of complaint on to the new trustee.

### Outcome

#### **The Adjudicator partially upheld this complaint.**

Whilst the Adjudicator sympathised with Mr E's trustee costs, she did not uphold the part of his complaint about the official receiver's decision to appoint the external trustee against his wishes. The Adjudicator found that the decision was made to appoint the trustee to enable Mr E's property to be sold, and was in accordance with their guidelines. The Adjudicator established that the official receiver had held off appointing an external trustee for some time whilst awaiting the outcome of Mr E's previous annulment applications, and found that Mr E did not provide the official receiver with an indication of when he would make his third annulment application. The Adjudicator noted that the official receiver could not hold off dealing with Mr E's property indefinitely, and that he had acted in the interests of Mr E's creditors.

The Adjudicator found a letter of complaint specifically stating that it should not be forwarded to the trustee, was in fact forwarded by The IS. The Adjudicator upheld this part of the complaint.

The Adjudicator recommended that The IS send Mr E a letter of apology, together with a redress payment to reflect the worry and distress that he suffered as a direct result of his complaint letter being passed to his trustee.

### Learning

The IS accepted the Adjudicator's findings that, in future, similar letters should not be forwarded to the trustee unless authorised by the complainant. They also agreed that where the contents of such letters contained matters deemed of relevance to the trustee, these would be summarised in a separate letter. The IS advised that written guidance to staff on forwarding communication to an insolvency practitioner has been revised accordingly.




---

“Congratulations on such a successful year.”

Lesley Strathie,  
Chief Executive and Permanent  
Secretary, HM Revenue & Customs

---



---

“I greatly appreciated the opportunity to meet with you personally and at very short notice. Your willingness to review the many cases thrown up as a result of HMRC’s claims for back-payment of income tax is greatly reassuring. Thank you.”

Roger Gale,  
MP for North Thanet

---



---

“A great achievement. Well done to you all.”

Dave Hartnett,  
Permanent Secretary for Tax,  
HM Revenue & Customs

---



The record clearances achieved are remarkable and a first in the history of the office.

# Office organisation

This has been a very successful year, with four main areas of learning for us as an organisation, showing that we can:

- adapt our working practices quickly and effectively to meet performance challenges
- maintain a robust quality approach whilst increasing productivity
- utilise the wide range of knowledge and experience of our staff
- drive towards our strategic goals with sound management practices.

## Resources

The change in structure to three distinct teams from February 2010 continued to work well throughout 2010-11 and meant we could consolidate our management layers and reduce our senior team by one. We also lost a further management post at the end of 2010-11, once our additional temporary staff had completed their time with us. The merger of the permanent investigation teams back together into a new structure has also gone well and 2011-12 continues to build on the solid foundations achieved during 2010-11. We are also reviewing our office locations to ensure our capacity is managed as effectively as possible.

## Communications

In addition to the clearances of cases, we have been working hard

to update our communications with customers and stakeholders. We have revised our explanatory leaflet AOI for customers, making it easier to read and reducing printing costs. We have also been updating our website to make it more accessible and quicker to navigate. There is still much work to be done, but feedback on the changes so far has been positive and we aim to have our new website up and running by summer 2011-12.

## Forecasting workflow

Our forecasting and planning continues to go from strength to strength. We now have robust monthly management information to help monitor performance and identify peaks and troughs. Our relationships with external stakeholders are also proving a rich source of information on trends and customer issues. I would like to thank TaxAid in particular for the time they have spared to host a visit by members of our office. These connections are really helping us to gain a better understanding of the difficulties customers face and give an insight into how confusion and misunderstandings arise.

## Learning lessons

Our feedback to the departments is improving but we still need to do more to help drive process improvement and enhance service

delivery. During 2010-11 we focused our feedback to departments on individual cases. We will develop our approach in 2011-12 to emphasise trends and common issues.

Our strategic aim is to support departments to put learning at the centre of customer service.

I would like to thank everyone involved in our tremendous success in 2010-11, both temporary and permanent staff, for their concerted efforts in making service improvements for our customers throughout the year. Last year was a year of excellent performance in clearing the backlog of cases. We are now ready to meet the challenges of 2011-12.

Margaret Allcock  
**Head of Office**

---

“This was a really interesting and personally enriching visit. We found it both useful and informative because we were able to appreciate first hand the diverse nature of TaxAid’s work and the difficulties encountered by the most vulnerable clients.”

Carolyn Miller and Ash Vara,  
Adjudicator’s Office

---



## Our Strategic Plan 2011-15

Year 1	Year 2	Year 3	Year 4
<ul style="list-style-type: none"> <li>• Improve understanding of the customer experience</li> <li>• Develop the Quality Team to share good practice and ensure consistency in quality working</li> <li>• Refine forecasting of work volumes, case types and trends</li> <li>• Continued focus on performance</li> <li>• Explore options for office locations</li> <li>• Host departmental discussions on effective methodologies for learning lessons</li> <li>• Invest in external benchmarking</li> </ul>	<ul style="list-style-type: none"> <li>• Improve customer insight</li> <li>• Continue to drive learning lessons</li> <li>• Develop and implement a clear communications strategy across different channels</li> <li>• Confirm office locations and the planned transition</li> <li>• Reduce overall case handling time</li> <li>• Share good practice externally</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure all case handling is smooth, swift and effective</li> <li>• Continue transition to office locations as part of long term planning</li> <li>• Develop a range of measures of the added value to departments from learning lessons</li> <li>• Be recognised as a leader in complaints handling</li> </ul>	<ul style="list-style-type: none"> <li>• Long term plans confirmed and implemented</li> <li>• Be recognised as a best practice role model for complaints handling</li> <li>• The preferred adjudication scheme for new areas of work</li> </ul>

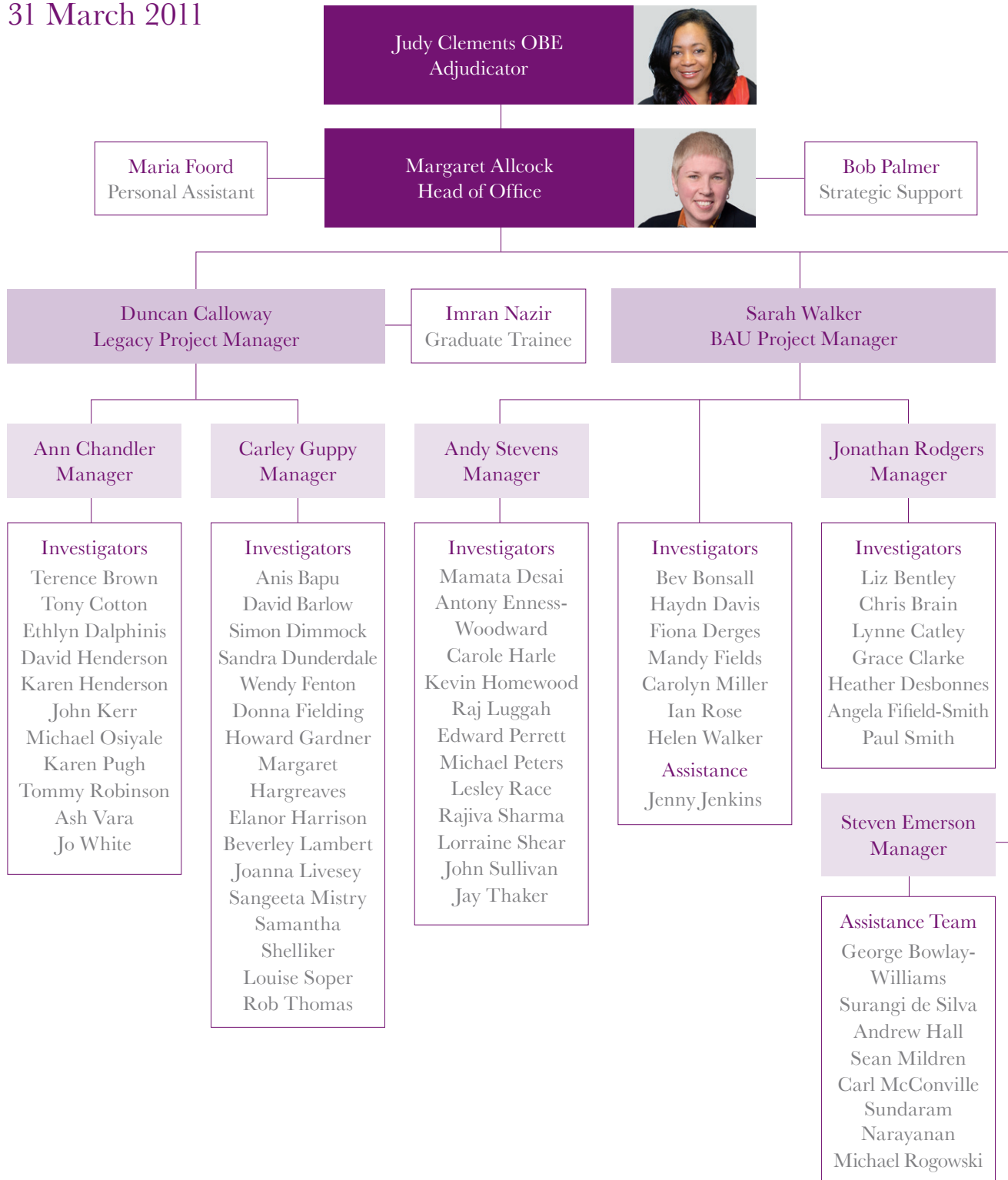
### Our Vision

We are recognised as experts in our field, who act professionally, efficiently and add true value to the complaints handling process.

# How we are organised

## Structure

31 March 2011



# Finance 2010-11

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 her to provide an independent review of unresolved complaints.

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

2010-11	Budget	Actual
Staffing	£2,580,199	£2,470,004
Other operational costs	£80,025	£64,495
<b>Total</b>	<b>£2,660,224</b>	<b>£2,534,499</b>

The Adjudicator's salary is set by reference to the Ministry of Justice pay scales. There was no change to judicial salaries for Group 6.2 for 2010-11 and the salary range remained at £120-125k.

# 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](http://www.adjudicatorsoffice.gov.uk)**

Unfortunately we are unable to accept complaints by email.



In memory of  
Dame Barbara Jean Lyon Mills DBE QC  
**Adjudicator**  
**1999-2009**



Issued by The Adjudicator's Office  
July 2011 © Crown Copyright 2011  
[www.adjudicatorsoffice.gov.uk](http://www.adjudicatorsoffice.gov.uk)