

THE PARLIAMENTARY  
**OMBUDSMAN**

# Annual Report

2003-04







## Annual Report 2003-04

2nd Report – Session 2003-04

Presented to Parliament pursuant to Section 10(4)  
of the Parliamentary Commissioner Act 1967

Ordered by  
The House of Commons

to be printed on  
13 July 2004

# Parliamentary Commissioner Act 1967

In accordance with Section 10(4) of the Act I now lay before Parliament  
my Annual Report for April 2003 to March 2004

Ann Abraham

Parliamentary Commissioner for Administration

July 2004

# Contents

Foreword	i
Chapter 1 Creating a modern Ombudsman service	1
Chapter 2 The Department for Work and Pensions and its agencies	7
Chapter 3 Other departments and agencies	17
Chapter 4 Access to Official Information	27
Chapter 5 Our performance	31
Annexes	
Annex A Our governance arrangements	34
Annex B About the Parliamentary Ombudsman What we do and how to contact us	36
Annex C Publications and Select Committee reports	37



# Foreword



*Ann Abraham*  
*Parliamentary Ombudsman*

Today public bodies are being put under unprecedented pressure to improve and modernise. We demand a lot from them and sometimes they do not deliver. This is not surprising. But when it happens, people expect to have their concerns addressed appropriately and promptly by the body concerned. They expect government bodies to learn from mistakes and it is right that they should do so. But too often, as I show in this report, this is simply not the case.

Time and again I have seen examples of complaints which would never have come to me if they had been dealt with properly in the first place. Too often, complaints are not dealt with speedily, even when investigations are initiated by my Office. Although not a panacea, the roll out of Memoranda of Understanding with all government bodies, following a successful pilot with the Child Support Agency and JobCentre Plus, should make clear our mutual responsibilities. Equally there is a clear reluctance among some government departments and agencies to accept my findings and recommendations for redress. I will be looking for significant changes in mindset among such government bodies and, as a result, an improvement in their response in the coming year.

Importantly, I want to ensure that the feedback from our casework which we give to government will help the development of good administrative practice and result in real change. As one means of embedding that change, we will develop further the issuing of an annual letter to departments where there are significant issues to be addressed.

I am particularly disappointed this year to see large scale changes in government services, underpinned by significant IT projects, introduced yet again without abiding by the principles of good administration. Too little preparation time, not enough planning and no piloting has resulted in many people suffering stress and hardship. Criticism of government's approach to handling major changes with significant IT implications has already been made elsewhere and many of the complaints we received this year reveal the human cost. Importantly, when systems do go wrong, as in the introduction of New Tax Credits and at the Child Support Agency, robust plans should be put in place to ensure that redress is available where appropriate.

Finally I want to pay tribute to all those in government bodies who work hard to provide an excellent service and see that complaints can be a force for good. Equally I would like to thank my own staff who have maintained a high standard of complaints resolution whilst engaging with the changes we are putting in place to make our own service of the highest standard.

A handwritten signature of Ann Abraham in blue ink.

**Ann Abraham**  
Parliamentary Ombudsman



"It is very refreshing to know that there is a body that will look after the interests of the common people."





# Creating a modern Ombudsman service

## Putting citizens at the centre

Public bodies today are under unprecedented pressure to improve and modernise their services. A focus on the citizen as consumer is central to the Government's modernisation agenda. More than ever before, those planning and delivering services must take account of users' views and the increasing diversity of their needs. The way in which public services handle individual complaints is a key measure of how customer-focused they are. A complaint might be of small consequence in the workings of a large government department, but to the person making the complaint the outcome is of great significance. We have seen many cases during the year where error, misinformation or delay have had a profound and adverse effect on people's lives which has not been recognised or acknowledged by the service provider.

Complaints should be handled promptly and efficiently at the earliest possible opportunity whenever possible – that is, at the point of service delivery. Where local means of redress have failed, citizens also need access to a credible and impartial mechanism to resolve their complaint. The majority of complaints that come to us are those that have exhausted internal complaints procedures or are particularly complex and intractable. However, it is hard to escape the conclusion that some of those might never have reached us if they had been properly handled from the outset. During the past year we have seen too many examples of poor complaint handling and defensiveness about investigation and redress. Poor communication with service users and complainants, compounded by inadequate record keeping, are common and persistent themes. If departments made more strenuous and consistent efforts to tackle these failings, fewer people would have cause to complain to us.

It is also important that injustice is fully and appropriately remedied. Most complainants want to understand what went wrong and to receive an apology for the distress caused. The concept of financial redress is well established in the private sector but there is sometimes a reluctance to accept it as an appropriate response in the public sector, even when our investigations have clearly identified injustice resulting from maladministration. People should receive full and appropriate redress where administrative failings have caused them actual financial loss, hardship, anxiety or inconvenience. However, there have been a number of examples of less than adequate, one could say

derisory, financial redress being offered to individuals who have been significantly affected by departments' actions.

## Helping public services to improve

Those who deliver public services can learn much from complaints about how to improve services overall. Instilling a culture of learning from complaints is therefore a fundamental building block for modern and responsive public services. It is not enough for an Ombudsman service to be a centre of excellence in complaint handling: it also has an important role to play in helping public services to improve by disseminating more widely the lessons and learning from complaints. We must actively promote good practice in complaint handling and feed back lessons about service delivery. All those who use, pay for and deliver public services should benefit from our work, not just those whose complaints are under consideration. We share the view held by most complainants that no one else should suffer from a similar mistake in the future.

Identifying recurring themes and systemic issues that arise from complaints is a crucial part of our work. We have regularly followed up recommendations and reported on systemic issues. In addition, we are now considering issuing annual letters to the departments with which we have the most regular contact, drawing their attention to the key themes and lessons learned from the complaints we have received about them. The Commission for Local Administration in England already does this for local councils. We have therefore initiated a pilot annual letter with the Department for Work and Pensions for 2003-04, which we hope to extend to other departments.

This year we have taken steps with colleagues from the Commission for Local Administration in England to provide a more joined-up Ombudsman service, in anticipation of legislative changes that would allow greater co-operation and flexibility. Our jointly commissioned MORI survey is a good example of this. Joint promotion of the principles of good complaint handling and local resolution can only help to reinforce the message.

We are also keen to share learning and promote good practice internationally. We have therefore been pleased to welcome many foreign visitors this year. They include: the Ombudsman of Sindh, the Assistant Ombudsman of the Philippines, staff from the Offices of the Romanian Ombudsman and the Czech Ombudsman, a delegation

from the China State Council and visitors from Bermuda, Botswana, Japan, Korea, Nepal and South Africa.

## Key issues for government

Examples of investigated cases are provided throughout this report. However, there are specific cases and issues that are worthy of comment here. They also serve to illustrate some of the themes highlighted in the preceding paragraphs.



## Equitable Life Assurance Society

The Ombudsman presented to Parliament on 30 June 2003 the report of her investigation into the prudential regulation of the Equitable Life Assurance Society from 1 January 1999 to 8 December 2000. That report is subject to an application for judicial review brought by members of the Committee of the Equitable Members' Action Group. The Report of the Penrose Inquiry, which was established in order **'to enquire into the circumstances leading to the current situation of the Equitable Life Assurance Society, taking account of relevant life market background; to identify any lessons to be learnt for the conduct, administration and regulation of life assurance business; and to give a report thereon to Treasury Ministers'**, was published by the Treasury on 8 March

2004. I have invited representations from Members of Parliament, complainants and interested parties as to whether we should conduct a further investigation. I will announce my decision – which will be informed by the representations we have received – and the reasons for that decision, before the Parliamentary recess.

## New Tax Credits

We have had growing concerns over the past year about the operation of the new tax credits system, which we have raised directly with the Acting Chairman of the Inland Revenue. Its introduction was marred by significant problems, such that the Public Accounts Committee later described it as 'nothing short of disastrous'. Delays in commencing the payments, although affecting only a minority of the overall number of applicants, nevertheless caused many thousands of claimants considerable distress and frustration. The Revenue did put in place arrangements to make payments locally where there were such delays. However, a number of claimants also subsequently experienced significant financial hardship when their payments were later reduced to take account of the local payments made in the earlier part of the year. Again the Revenue was able to make additional payments of tax credit in order to recover the amount overpaid over a longer period. However, as those extra payments were in themselves recoverable, some claimants may continue to feel the effects of those initial problems for some time to come.

At the year end, two main areas of concern remained – the treatment of overpayments and the relationship between and interdependency of tax credits and other benefits. We are investigating a number of cases and will be looking very closely at the processes and systems involved to identify any wider issues that need to be addressed. We have also agreed with the Adjudicator that we will keep each other updated on the areas that appear to be causing particular difficulty to new tax credit applicants.

## Child Support Agency

The Child Support Agency's new computer system, rolled out in 2003, to support the reform of the child support scheme has been beset with problems from the outset. The problems seem to fall into two broad categories: problems associated with the new computer system itself;

and delays by the Agency in considering cases under the new rules. We have received complaints about this and will be monitoring the position closely to identify any common issues. We have also urged the Agency to ensure that it has robust plans in place to make redress to families for the impact of these failings.

## Access to Official Information

In the final year of operation of the Code of Practice on Access to Government Information (the Code), we have continued to experience difficulties in securing the co-operation of departments in Code investigations. We raised these issues with the Cabinet Office and the Department for Constitutional Affairs. The Cabinet Office subsequently issued a Memorandum of Understanding (MOU) to all departments, setting out their responsibilities in relation to Code requests and investigations. Since the MOU was issued on 22 July 2003, there have been fewer delays. However, there has still been a reluctance in some cases to provide to us the information sought by the complainant. If this information is not made available it is extremely difficult for us to carry out our own responsibilities under the Code. We find it both surprising and very regrettable that we are still having to remind departments of the Ombudsman's powers, particularly as it is now ten years since the Code came into operation. If good practice is not established in time for 1 January 2005, when individual rights of access under the Freedom of Information Act take effect, it does not bode well for the future.

## Promoting an accessible Ombudsman service

A modern Ombudsman service should make itself easily accessible. It must also provide an efficient and responsive service to individual complainants – in other words, place the principal focus on the customer, the complainant.

Last year, excluding those relating to the Code, we received 1,981 new complaints, which is surprisingly few given the millions of transactions and contacts with citizens that government departments and agencies have every year. We remain concerned that this is the tip of the iceberg. We live in an increasingly litigious society, yet people are still remarkably reticent about complaining. Providing an easily accessible service to all members of the

community must therefore be a prime objective of a modern Ombudsman service.

In 2003 we commissioned from MORI, jointly with the Commission for Local Administration in England, a public awareness survey and a survey of advisory organisations. We wanted to find out more about our customers and those whom we do not reach. The principal findings were:

- A quarter of the members of the public questioned had made a complaint to one of the organisations within the Ombudsmen's jurisdiction. Of those, 48% were dissatisfied with the final outcome, but only 2% of those subsequently contacted an Ombudsman.
- A further quarter had wanted to complain but could not be bothered, were put off by complaining unsuccessfully in the past, or feared that complaining would make little difference or even affect the standard of service they receive.
- More than half of those questioned said they had never heard of any of the Ombudsmen. This was especially the case among young people, black and minority ethnic groups and unskilled and unemployed people. Those who did know about the Ombudsmen's services, however, perceived them to be independent and fair.
- Advisory bodies, such as citizens advice bureaux, wanted to be better informed about our services so that they can more effectively advise those who may need to use them.



These findings tell us that we have a long way to go in order to reach all those who might need our services most and to reflect in ourselves the growing diversity of the community we serve. We will therefore work to make sure that information about us is readily available and people have easy access to us. An important part of this will be to promote greater awareness of our service with Citizens Advice and other advisory bodies as well as with voluntary groups, both locally and nationally. Through them, we should be reaching those who would like to complain but are afraid to or do not know how to go about it.

Members of Parliament continue to have a key role in supporting their constituents when they have problems with public service providers. However, to reinforce the principle of easy access, I believe that citizens should also be allowed direct access to the Parliamentary Ombudsman and I will continue to press for legislative change to allow this to take place. This is a view endorsed by the independent Policy Commission on Public Services, set up by the National Consumer Council, in their recent report on public service reform (Making public services personal: a new compact for public services, 2004).

Individuals should have the right of recourse to an Ombudsman across the full spectrum of public services. An important step in promoting accessibility is therefore to ensure that all public bodies that deal with citizens are covered by an appropriate, statutory Ombudsman service. New bodies are being created all the time and an essential part of the process should be the consideration of Ombudsman coverage. In 2003, a number of new bodies, including the Learning and Skills Council and the Northern Ireland Legal Services Commission, were brought within the Parliamentary Ombudsman's jurisdiction. We will continue to work closely with the Cabinet Office to ensure that Ombudsman coverage is comprehensive and up to date.

## Providing an efficient and responsive service

During the past year we have introduced a number of initiatives aimed at making our own service more speedy, responsive and flexible to the needs of our customers. Our Customer Service Unit became fully operational in 2003. We set up the Unit to be a first port of call for the public and to expedite the initial handling of enquiries and complaints across both sides of the Office – the Parliamentary Ombudsman and the Health Service Ombudsman.

Complainants tell us that they want their complaints dealt with quickly. A major objective therefore has been to reduce the time it takes us to complete investigations. We have explored other forms of resolution before launching a statutory investigation. We resolved a record 919 complaints by enquiries of the department concerned without the need to resort to a statutory investigation. It is now usually only the more difficult cases that are taken forward in this way. This year, of the 1,981 new complaints we received we completed 84 statutory investigations in an average of 48 weeks and two days. However, a handful of investigations took more than a year to complete and we will continue to work to reduce throughput times.

Our ability to carry out investigations efficiently and speedily is significantly affected by the responsiveness of departments. Sometimes inadequate record keeping by departments makes for difficulties in investigating complaints. We are also concerned at some departments' and agencies' tardiness in responding to our enquiries, and in accepting our findings and recommendations for redress. In last year's annual report we reported particular problems with Jobcentre Plus and the Child Support Agency (CSA). As a result of these concerns, we have drawn up Memoranda of Understanding with the Agency and with Jobcentre Plus, clarifying our working arrangements and expectations. We are pleased to report that liaison arrangements with the Agency have improved significantly as a result. As a result of the success of those arrangements, we plan to put similar agreements in place with other departments within jurisdiction during 2004-05.

The acid test of a modern Ombudsman service must be that our decisions about individual cases are appropriate and stand up to scrutiny. Inevitably, customer satisfaction with our service is affected by whether a positive outcome has been achieved in the complainant's view. We are receiving feedback that the recent initiatives we have put in place, such as earlier and more regular contact between investigation staff and complainants, are having positive results. However, we are clear that we can still do better. Complainants tell us they want their complaint dealt with thoroughly, impartially and quickly. We are committed to further improvement and have set out new service standards publicly.

There were three applications for judicial review against the Parliamentary Ombudsman during the year. The first, in respect of an investigation report, was refused. The second, which was a challenge to a decision not to investigate a complaint, was refused and the claimant is

appealing to the Court of Appeal. The third application was in respect of the report on the Equitable Life Assurance Society, referred to above. In addition, two people commenced proceedings against the Parliamentary Ombudsman in the county court but in both cases the claim was struck out.

## This year's annual report

The chapters that follow present the main findings from our work this year and provide examples of completed investigations. Chapter 2 covers the Department for Work and Pensions and its agencies, our biggest source of complaints. Chapter 3 describes our work on complaints about other departments and agencies. Chapter 4 deals with work carried out under the Code of Practice on Access to Government Information. The final chapter looks at how we have performed in terms of the speed and responsiveness with which we handle complaints.



"I was delighted with my case officer who was diligent and informative. To get the outcome we did was [in] a very large part due to his input."



## The Department for Work and Pensions and its agencies

### Introduction

The Department for Work and Pensions (DWP) provides an extensive service throughout the country to almost all parts of the population. It is by far our biggest source of casework, accounting for some 41% of all complaints received by the Parliamentary Ombudsman this year. During 2003-04, the Ombudsman received 821 complaints about DWP and its agencies, an increase of around 10% on the previous year (see Figure 1). A particular feature has been the increase in the number of complaints about Jobcentre Plus and the Pension Service.

As in previous years, we have continued the trend towards resolving complaints by means other than investigation. It is often possible to achieve a speedy and satisfactory outcome by making enquiries of the department and we resolved 469 complaints against DWP in this way during the year. For example, in the case of Mr Y (C.794/04), DWP had delayed reinstating his disability living allowance (DLA) following his release from a prison sentence. When it was reinstated, the amount was incorrect and the girocheque had to be returned. Following our enquiries DWP reviewed Mr Y's case and paid him arrears and an ex gratia payment of £200.35 for the gross inconvenience and severe distress that he had suffered.

Last year's annual report drew attention to problems in working relationships between the Ombudsman's Office and parts of DWP, in particular with Jobcentre Plus and the Child Support Agency (the Agency). These problems included delays in providing an adequate response to our enquiries and a reluctance to accept our findings and recommendations for redress, particularly on the part of the Agency. It is therefore pleasing to report this year that liaison arrangements between the Ombudsman's Office and the Agency in particular have improved significantly. We agreed a Memorandum of Understanding (MOU) with the Agency on 1 September 2003, setting out agreed procedures and timescales for dealing with complaints to the Ombudsman. So far, it seems to be having a positive impact. A similar MOU has been agreed with Jobcentre Plus and came into operation at the end of the business year. We will continue to monitor the impact of these Memoranda on working relationships.

Another initiative introduced during the year was the development of a pilot annual letter from the Ombudsman to the Permanent Secretary of DWP. The letter aims to provide an overview of work carried out on DWP cases

during the year, mostly on an agency-by-agency basis, to review existing liaison arrangements and to highlight some general themes and the lessons that can be learned from them. One of our key objectives is to assist departments in learning from complaints to improve services overall and we hope to develop a similar letter for all the major departments with which we deal. We therefore appreciate DWP's willingness to pilot the letter.

### General themes

A number of general themes have arisen from our work on individual cases this year and run across DWP agencies and services. Examples of cases that illustrate these themes are given overleaf. More detail on individual agencies is provided in the relevant sections that follow.

First, there is a need to establish and maintain good practice in dealing with customers. Many complaints that come to us might have been avoided if the agencies concerned had minimised delays, errors and misunderstandings, and had taken prompt and appropriate action.





### **Child Support Agency: miscalculation of monthly maintenance liability** c.683/04

Mr H complained that the Agency asked him to repay arrears of child support maintenance which arose as a result of an error they made in 1999. Our enquiries showed that on 30 July 1999 the Agency notified Mr H that they had assessed his maintenance liability as £38.30 per week. On 9 September they wrongly notified him that his monthly maintenance liability was £134.42 per month: the correct monthly figure should have been £165.97. Over the next three and a half years Mr H made regular monthly maintenance payments of £134.42, and never missed a payment. On 20 February 2003 the Agency noted that they had set up Mr H's accounts incorrectly, and that as a result of that error arrears of £1,262 had built up. They amended Mr H's monthly maintenance liability accordingly, and asked him to pay the arrears. Following our intervention, the Agency:

- agreed to suspend all of Mr H's arrears;
- wrote to him to apologise for the inconvenience he had suffered as a result of their error; and
- made him a consolatory payment of £150 in acknowledgement of the poor service he had received.

Citizens should be able to rely on the accuracy and relevance of the information that is given to them by departments and to plan their affairs accordingly. However, many complaints across all the agencies concern both oral and written misdirection, which has caused considerable inconvenience to the individuals concerned. This could be reduced if staff ensured that customers have fully understood what is said to them and made a note of what was said, if letters were written in plain and straightforward terms and if information notices and leaflets about entitlements were written clearly and unambiguously.

"It is the first time in my dealings with government departments over nearly five years that I have received friendly treatment."

### **The Pension Service: misdirection about retirement pension** c.1021/03

The Benefits Agency failed to answer properly Mrs T's enquiry about her retirement pension when she contacted them in 1994. In 2001, when Mrs T contacted them again, the Benefits Agency realised that she was not receiving her full entitlement. They advised her how to make a claim and subsequently awarded her a pension based on her husband's national insurance contributions, a category B pension. They did not, however, accept that Mrs T had been misdirected. Following our intervention, The Pension Service, which had taken over responsibilities for Mrs T's case, accepted that the Benefits Agency had misdirected Mrs T by omission in 1994 by failing to check her claim properly at that time. They therefore:

- paid Mrs T a special payment of £1,844.68 for the category B pension she would have been entitled to between November 1993 and January 2001 and paid interest of £463.47 on that sum; and
- awarded Mrs T a consolatory payment of £100 for gross inconvenience and £25 for her out-of-pocket expenses.

Thirdly, agencies need to operate effective complaints handling processes that focus on resolving complaints as near as possible to the point of service delivery. We have drawn attention on several occasions to the lack of an independent complaints tier for Jobcentre Plus, which would allow us to concentrate on the more complex and intractable cases. This situation is inconsistent with the arrangements in place for the Agency, which has an Independent Complaints Examiner (ICE). I have raised this with the Permanent Secretary of DWP and I understand that the DWP Board has decided to consider the matter.

### Jobcentre Plus: inadequate complaint handling

C.2078/02

Mr D, who was referred by the Employment Service to an Employment Zone contractor, queried the reasons for his referral. He complained about how his representations had been handled. Our investigation found that the Employment Service could have been more helpful in providing him with information on his eligibility. We found that Mr D should not have been interviewed about his complaint during a restart interview, and should have been offered the opportunity to discuss his complaint with another officer. Following our intervention, Jobcentre Plus:

- made an apology to Mr D; and
- clarified their procedure for dealing with complaints about Employment Zones.

They are also considering the best means of publicising the complaints procedure to jobseekers referred to Employment Zone programmes.

## Jobcentre Plus

In 2003-04, we received 324 new complaints against Jobcentre Plus, an increase of 13% on the previous year. The majority of these complaints were resolved without the need for investigation.

Recurring themes include: handling errors, especially when assessing new claims and processing appeals; failure to follow procedures; inadequate complaints handling; and delay, for example in correcting errors and in making clerical payments. The cases below illustrate these themes. They also show how matters were rectified by the agency, by providing financial or other redress to the complainant, and/or by changing policies and procedures.

“Although it took some time to reply it was quite evident that the complaint was dealt with thoroughly and fairly.”

### Misdirection leading to loss of entitlement to incapacity benefit C.1820/03

Mrs C's entitlement to statutory sick pay ended in August 1998. Jobcentre Plus incorrectly advised her then that a pension which she was due to receive from an income replacement plan would mean that she would not be eligible to receive incapacity benefit. That was incorrect. Mrs C made a claim for incapacity benefit two years later, but the claim failed because she no longer had the necessary national insurance contribution record to qualify. Following our intervention, Jobcentre Plus accepted that had Mrs C received the correct advice she would have been entitled to incapacity benefit continuously from August 1998. They therefore:

- paid Mrs C £22,130.81, with £2,289.91 in interest;
- agreed to continue making payments in line with the incapacity benefit which she would have received for as long as she remains eligible; and
- made a consolatory payment to Mrs C of £200 for the inconvenience caused.

### Jobcentre Plus: failure to follow procedures

C.434/03

A local office failed to tape record an interview under caution with Mrs L. They mishandled her request for interview notes and other information gathered during the fraud investigation. One of Mrs L's letters of complaint was lost and went unanswered for nearly a year. As a result of our enquiries, Jobcentre Plus apologised to Mrs L for their errors and awarded a consolatory payment of £100 to her. In addition, they also said that:

- since December 2000 all investigation staff have been required to undergo a training programme leading to a qualification, “Professionalism in Security”; and
- they intended to remind staff of the correct procedures to be followed if a request for disclosure of information is received during the course of a fraud investigation.

### Jobcentre Plus: delay in dealing with a customer

C.145/04

Mrs V complained that she did not receive her widow's payment and that Jobcentre Plus refused to reissue the girocheque. Mrs V had made a claim in April 1996 but had not chased for payment until April 2002. Jobcentre Plus identified that a cheque for £1,000 had been issued in April 1996 and told Mrs V that they would not re-issue it because of the time taken to report the loss – that was not in accordance with their procedures. Mrs V provided a statement about the loss. It was eight months before Jobcentre Plus's special payments team considered that statement. They once again determined that the cheque would not be issued. Following our enquiries, Jobcentre Plus interviewed Mrs V. They subsequently:

- agreed to re-issue the girocheque to Mrs V;
- paid Mrs V interest on the sum; and
- made her a consolatory payment for the inconvenience caused by their mishandling of her case.

"I was impressed by the thoroughness of the investigation and to my delight the officer requested an increase in the amount of compensation initially offered."

## The Child Support Agency

We received 222 complaints about the Agency during 2003-04, an increase of 5% on the previous year. The complex nature of child support complaints means that we are more likely to initiate statutory investigations into complaints about the Agency than about other agencies and departments. We completed 21 statutory investigations during the year.

We have liaised with the Agency's Independent Complaints Examiner (ICE) to ensure that there is close working and minimal duplication between our organisations. In about a third of cases, it appears that complaints received by us had previously been considered by ICE. In addition, we noted that on occasions the Agency had failed to respond adequately to ICE's recommendations (see the case below). We will continue to monitor the situation to determine why complainants who had previously involved ICE pursued their complaints with the Ombudsman.

### Child Support Agency: failure in customer service

C.939/03

The Agency handled Mrs J's case poorly over a prolonged period. Moreover they did not complete the action which they had agreed, following a report by the Independent Case Examiner, until July 2003 despite an undertaking that the Agency would bring the case up to date by 12 August 2002. The Agency did not raise an assessment against which payment could be sought for more than four years, and having done so they were only in a position to pursue the non-resident parent for maintenance for two months. As a result Mrs J lost the opportunity to receive timely payment of maintenance. Following our intervention, the Agency:

- agreed to make a payment to Mrs J of £5,874.73 – a sum equivalent to the outstanding arrears, including interest, subject to her foregoing the maintenance if they were subsequently able to collect payment from the non-resident parent; and
- made consolatory payments totalling £330 to Mrs J.

At the beginning of March 2003, the Agency rolled out a new computer system to support a major and long-promised reform of the child support scheme. Defects in the system have caused considerable problems for the Agency and its customers but this has not yet been reflected in a significant increase in the number of complaints we receive. We have kept in close touch with the Agency about its efforts to resolve the problems. These fall into two broad categories: problems associated with the Agency's new computer system; and delays by the Agency in considering cases under the new rules. We will monitor this situation closely to identify any common issues emerging from complaints associated with the child support reforms. We have also urged the Agency to ensure that it has robust plans for making redress for the impact of these problems on families.

As in previous years, common themes from complaints included failure to pursue effective enforcement, delay and mishandling, failure to keep customers informed and compensation issues. Such problems can have a serious impact on the Agency's customers: one or both parents may feel that they have been unfairly treated and that the system has failed them and their families.

#### **Child Support Agency: failure to pursue effective enforcement** c.525/03

Although the non-resident parent (Mr X) had proved unco-operative, our enquiries revealed that the Agency could have done far more to try to secure his compliance. They had failed to monitor progress properly and their enforcement strategy had been weak. That had contributed to Mr X's lack of co-operation. The Agency had also failed to liaise effectively with the complainant, Mrs R (the parent with care), and had incorrectly suspended collection of monies owed to her. Following our intervention, the Agency:

- awarded Mrs R a consolatory payment of £200 for gross inconvenience, having originally offered £100;
- paid Mrs R interest of £136.28 on arrears that they had obtained from Mr X; and
- gave an assurance that they would make every effort to obtain the non-resident parent's compliance.

“Preferably it would have been more satisfactory if the complaint could have been handled in a shorter period of time. But I do appreciate that these investigations do take time.”

#### **Child Support Agency: delay in maintenance assessment** c.885/03

The Agency took more than two years to make the first maintenance assessment and did so only after prompting by Ms A. They were also slow to conduct a periodic review of her case. During this period, the non-resident parent continued to make voluntary payments. However, the Agency's delay in providing an assessment meant that, for a long time, Ms A did not know what her child support maintenance entitlement would be. The Agency subsequently failed to monitor properly the non-resident parent's compliance with the maintenance assessments allowing him to accrue substantial arrears, which might have been avoided had they pursued him more quickly and strenuously. Following our intervention, the Agency:

- apologised to Ms A for their poor service;
- made Ms A consolatory payments totalling £350 in respect of the distress and gross inconvenience they had caused her, together with £45 for her out-of-pocket expenses; and
- gave an undertaking to monitor, on a monthly basis, the non-resident parent's compliance with his agreement to clear his outstanding arrears over a period of seven months, and to take immediate action should he break that agreement.

## The Pension Service

During the year we received 173 complaints about the Pension Service. This represents an increase of 35% on the previous year and we are monitoring these complaints closely to identify any recurring themes. The majority of complaints have not required an investigation. They include a small, but continuing stream of complaints about information regarding the amount of SERPS (State Earnings Related Pension Scheme) individuals can expect to receive and pass on to their spouse if they die first.

Many of the complaints we received during the year related to misdirection about retirement pensions, failure to follow procedures and delays, for example in correcting errors or in responding to customers. The two cases below are examples of a number of instances of maladministration combined in a single complaint. These cases also revealed the need to make general improvements to procedures.

### The Pension Service: failure to follow procedures

C.231/03

In April 1999, the Benefits Agency acted on instructions to pay Mrs V's retirement pension into a bank account. However, the request had come from Mrs A, Mrs V's niece, who had no legal authority to act on Mrs V's behalf. Mrs V's benefit was therefore paid into an account that was not hers and the Benefits Agency had not fulfilled their legal obligations to Mrs V.

We criticised further instances of maladministration, including incorrectly discussing Mrs V's affairs with a third party, failure to answer correspondence fully, missing opportunities to put matters on a correct footing, using the wrong forms and delay in investigating allegations of fraud. Following our intervention, The Pension Service, which had taken over responsibilities for Mrs V's case:

- agreed to pay Mrs V the benefit that was owed to her, as well as a payment of £1,691.48 for loss of use of arrears of that money; and
- indicated that, as a result of our report, there were a number of areas where it would make improvements.

### The Pension Service: delay in responding to a customer C.1010/03

The Pension Service mistakenly sent Mrs K's entitlement notice and personal details to a third party. Mrs K complained to The Pension Service on 2 May 2002, asking for an investigation into how the unauthorised disclosure had occurred. Despite chasing by Mrs K, a substantive reply was not sent until 26 July 2002. The letter apologised for the error, explaining it as an 'honest mistake' which occurred as a result of 'putting the wrong documents in the wrong envelope'. It explained that staff had since been advised to be more vigilant to prevent such a thing happening again. They also apologised for the delay in responding to Mrs K's complaint. Mrs K remained dissatisfied with that response. Following our intervention, The Pension Service:

- agreed to make Mrs K a consolatory payment; and
- took steps to ensure that lessons were learned and improvements made.

"I am so grateful that your office and my MP are at least taking an interest in the case after so many years of trying to obtain a fair hearing... I would rather wait longer for a considered opinion, and I am sure now that this will be the case."

## Other services

The 59 new complaints received against the **Disability and Carers Service** mostly concerned misdirection and delay. Five of these were taken forward to investigation, and we have launched a statutory investigation into two of those. Delays and errors have a particularly detrimental effect on people who are already disadvantaged by ill health or disability. It is unacceptable that those people should be subjected to the additional distress caused by mishandling, misdirection or unnecessary delay. The case of Mrs W below illustrates the importance of providing appropriate and timely explanations of what is happening and why.

### Disability and Carers' Service: mishandling of a claim to disability living allowance c.1905/02

Ms K complained on Mrs W's behalf that the Benefits Agency (a former agency of DWP) unnecessarily subjected Mrs W to a medical examination in connection with a review of her claim to disability living allowance. She also complained that the examining medical practitioner had caused Mrs W pain during the examination, had added to a statement already signed by Mrs W and Medical Services had not adequately addressed her complaint about the medical report.

We found that there was no evidence of maladministration in deciding that Mrs W should undergo a medical examination, nor that Mrs W had complained about pain at the time of the examination or that the signed statement had been altered. We criticised Medical Services for not providing Mrs W with a full explanation of how the medical report would be used, prior to the examination. However, we were pleased to note that since April 2002 customers are provided with an information sheet giving this information.

DWP accepted that Medical Services had been at fault in delaying notification of a problem relating to the examination to DWP and Mrs W, and the delay had resulted in Mrs W paying for a further private examination. DWP therefore made special payments totalling £380 to Mrs W in recognition of the failings in handling her complaint, the distress she had experienced and to cover the costs of the private medical examination.



In most of the 26 new complaints received against the **Appeals Service**, the main complaint was about one of DWP's other agencies. We did not carry out any investigations during the year. Complaints specifically against the Appeals Service were mainly about mishandling and delay.

"I intimated to the officer who telephoned me that all I wanted was justice and if it took her longer than anticipated as far as I was concerned that was acceptable."



Figure 1a  
Complaints against the Department for Work and Pensions 2003-04

	Caseload			Outcome						Work in progress at 31.3.04
	Work in progress at 31.3.03	New cases opened	Total casework	1	2	3A	3B	4	5	
Department for Work and Pensions <sup>1</sup>	142	821	963	5	179	267	202	46	45	219
Appeals Service	2	26	28	1	10	6	4	0	0	7
Child Support Agency	60	222	282	0	29	68	52	27	21	85
Jobcentre Plus	53	324	377	3	71	119	73	9	14	88
The Pension Service	16	173	189	1	45	51	47	7	8	30
Debt Management	0	2	2	0	2	0	0	0	0	0
Disability and Carers Service	8	59	67	0	14	23	23	3	2	2

<sup>1</sup> DWP totals exceed the sum of cases against the named agencies, because some cases included in the total have been recorded only against DWP.

Figure 1b  
Completed statutory investigations of complaints against the Department for Work and Pensions 2003-04

	Justified	Partly justified		Total
		Not justified		
Department for Work and Pensions	27	13	5	45
Appeals Service	0	0	0	0
Child Support Agency	14	6	1	21
Jobcentre Plus	7	4	3	14
The Pension Service	6	1	1	8
Debt Management	0	0	0	0
Disability & Carers Service	0	2	0	2



“Whatever the outcome, we will most certainly feel that you have been thorough in your investigation and that you have tried to help us in every way possible.”

"After appealing for three years and encountering endless red tape, it has been quite refreshing to deal with someone who has shown me such consideration in keeping me updated on events."



## Other departments and agencies

### Introduction

This year 59% of the complaints we received were about departments other than the Department for Work and Pensions (DWP). As in previous years, we handled complaints about a wide range of departments and issues. However, complaints to a small number of large departments formed the bulk of that caseload and examples are shown in the sections below. Figure 2 shows the number of complaints we handled during 2003-04 by department or public body.

### General themes

The general themes highlighted for DWP – handling errors and delays, misdirection and poor complaint handling – also emerge as themes from our work with most other departments. By no means all complaints are found to be fully justified, but many illustrate how maladministration can have a serious effect on people's lives, often causing financial hardship and distress. Poor complaint handling in particular is often at the root of the complaints that come to us. We have had cause to criticise several departments for the way in which they handled complaints, a number of which could otherwise have been resolved without our intervention.

The vast majority of departments and agencies have written complaints procedures and, in many cases, problems have arisen from a failure to follow these procedures. For example, we upheld a complaint from Mrs D (C. 1042/03) that the **Legal Services Commission** had mistakenly awarded her public funding when she was ineligible for it. The Commission apologised to Mrs D for their errors and reduced the contribution due from her by £100 as a recognition of the confusion and distress which she had experienced. They also reviewed their work practices in relation to reviewing eligibility for public funding and agreed to carry out a fundamental review of their complaints procedure. In the course of enquiries of the **Strategic Rail Authority** it emerged that they did not have a written complaints procedure at all (C.1149/04, Mr B). The Authority accepted that Mr B's complaint had highlighted deficiencies in their complaint handling procedures. They therefore carried out a fundamental review and have produced a written complaints procedure as a result. We reviewed a draft version and suggested some minor adjustments.

Encouraging departments to improve their handling of complaints has been an important part of our work during the year. We have commented on revised complaint handling processes or guidance for a number of different departments and have given talks to staff in other departments on the work of the Ombudsman's office and our expectations of good complaint handling.

Achieving full and appropriate redress for justified complaints has also been an increasing feature of our work. In some instances, departments had already offered financial redress, but at a level that we considered to be inadequate recompense for the actual financial loss or inconvenience caused. Many of the cases given as examples in this chapter include an element of financial redress as the outcome. One case in particular (C.1580/03) shows the serious financial effect that maladministration can have on complainants.

#### Court Service: delay in issuing a correctly-worded court order C.1580/03

Company T complained that the Court Service took six attempts and almost eight months to issue a correctly-worded court order. The delay, along with a further delay in obtaining an accurate warrant of execution, prevented them from recovering the judgment debt from the defendant. We found that Company T would have been very likely to recover part or all of the judgment debt from the defendant had they not experienced delay and mishandling on the part of the Court Service. The Court Service therefore:

- made an apology to Company T; and
- offered Company T ex gratia payments of £5,253.75 in respect of the judgment debt and £1,000 for the stress and inconvenience caused to them and the costs of making the complaint.

Working relationships can sometimes be a problem with some departments, particularly when relevant liaison staff change, and we frequently experience delays in getting departments to respond to our enquiries and draft reports. We therefore intend to establish Memoranda of Understanding with most of the departments with which we deal over the next business year, in the same way as with parts of DWP. However, there are some good

examples of departments taking seriously the lessons learned from our work. For example, our finalised reports are considered by the Audit Committee of the Legal Services Commission, which uses them to inform plans for service improvements.

## Inland Revenue

During the year there were 186 new complaints against the Inland Revenue, compared with 145 the previous year, an increase of 30%. A number of these cases involved the operation of the new tax credits system, the introduction of which was marred by significant problems. The complaints referred to us demonstrated the huge impact on families of delays in commencing the payments. Although these cases formed only a small proportion of the overall number of applications handled by the Revenue, nevertheless, many thousands of people were significantly affected. The Revenue quickly put in place arrangements to make payments locally where there were delays. However, we then became aware that some families had further difficulties, and in some cases suffered considerable distress, when their payments were subsequently adjusted to recover those local payments. The Revenue were again able in some instances to make additional tax credit payments to alleviate hardship. However, those additional payments were also recoverable, which could cause some families further difficulties in the next award period. We will therefore be looking closely at complaints received to ascertain any longer term impact of these initial problems. There was added frustration for some because they were unable to determine exactly what their award should be, particularly where they had received a number of conflicting award notices. The initial delays in payment were largely remedied in the first three months of the scheme's operation. However, at the year end there remained two areas of particular concern – the treatment and recovery of overpayments and the interdependency of tax credits with other benefits, particularly Housing and Council Tax Benefits. Tax credits awards are annual and payments are set to pay out the right amount over the year based on the latest information on entitlement. Automatic adjustment of payments in the year to ensure that the right annual amount was paid caused some dramatic reductions in the tax credits payable in the latter part of the year, which led to financial hardship and distress for some complainants. The Revenue again made arrangements to make additional payments where hardship was claimed, so that the amount overpaid was

recovered more slowly. However, those additional payments are also of course recoverable, which might again cause difficulty to some families in the next award period. In addition, some claimants did not understand the full implications of claiming tax credits rather than benefits and that, once they had done so, they could not revert back to benefits. We have launched investigations into several of these cases. We will look closely at how the Revenue have been approaching situations which caused hardship to families. We will also identify if there are wider issues thrown up by the systems and processes that need to be addressed.

As in previous years, other complaints have concerned delays in dealing with customers or insufficiently clear guidance on policy.

“We found your knowledge of the complex file impressive and felt that it demonstrated the thoroughness of your investigations.”

## HM Customs and Excise

We received 34 new complaints against HM Customs and Excise during 2003-04, a slight reduction on the 38 complaints received the previous year. Some cases, such as that of Mrs B (C.1676/03), have shown how mistakes and omissions on the part of officials can cause considerable anxiety and distress to individuals.

## HM Customs and Excise: a case of mistaken identity C.1676/03

Mrs B complained that she received a letter from HM Customs and Excise (Customs) enclosing a tax demand for £1,550.35 from the Austrian Customs Administration. She had no idea what the demand was about. Since it arrived on a Saturday and she was unable to make enquiries about it until the following Monday, she was extremely distressed. Customs then failed to address her complaint and Mrs B had to pursue her own enquiries with the Austrian Customs authorities. They took three weeks to provide assurances that she was not the debtor they were seeking. The mistake arose when Customs' European Community Mutual Assistance team received a request from the Austrian Customs authorities for details of a target debtor, Mr X. On-line interrogation of the electoral roll came up with Mrs B's name and address and the officer concerned seems to have accepted that Mrs B must be the target debtor, ignoring the fact that the target debtor was male and that other facts provided for verification did not tally.

We suggested to Customs that their offer of a consolatory payment of £100 did not sufficiently acknowledge either their failures in this case or the considerable anxiety and distress that Mrs B had suffered. The Chairman of Customs therefore:

- added his personal apologies to those already given; and
- agreed to offer Mrs B a total of £250 for the inconvenience and distress caused and £25 to cover her out-of-pocket expenses.

Customs also tightened up their internal procedures to avoid similar mistakes happening in the future.

"A very comprehensive explanation was given to me and I can only thank you for your efforts."

## Department for Environment, Food and Rural Affairs

During the year we received 43 new complaints against the Department for Environment, Food and Rural Affairs (Defra), compared with 44 in the previous year. Complaints relating to the outbreak of foot and mouth disease in 2001 continued to arrive. Those still under investigation include a complaint about disposal of animal carcasses on the complainant's land without adequate records and the environmental risks involved.

We also received a number of complaints about the implementation of Defra's decision to impose a ban on the feeding of pigswill to pigs at the time of the foot and mouth disease outbreak. Former swill processors and swill feeders (some of whom also process pigswill) contended that the decision to ban swill feeding, combined with the limited consultation prior to the ban and the speed with which it was implemented, caused them to suffer severe financial loss. They said that other feeds were more expensive and that the three-week period allowed to change feeds was insufficient. Defra had indicated that the government would not compensate pig farmers for changes to the feed material available to their livestock following the swill ban. These cases, which have wider implications, attracted considerable media attention as well as giving rise to Parliamentary debates and questions.

Following on from the previous year, we dealt with six complaints about the administration by Defra and their agents of the Warm Front scheme. This is a scheme providing grants for heating and insulation to eligible householders. Defra oversee and fund the scheme, which is administered on their behalf by two scheme managers, Eaga Partnership and Powergen Warm Front Ltd. The complaints we received were mainly about delays in the first year of the scheme in making arrangements for surveys and installation work. In most cases Defra and the scheme managers had already taken steps to address this. One particular case, however, showed that the rules of the scheme had not been made clear to the complainant.



### Department for Environment, Food and Rural Affairs: omissions in information to a customer regarding entitlement to the 'Warm Front' scheme C.1751/03

Mrs T applied for a grant to replace her faulty heating system. At the time of Mrs T's application, the scheme suffered from long delays due to the lack of heating engineers and the great demand for the scheme. Because of these delays Mrs T eventually decided to carry out the work privately.

The primary legislation for the scheme sets out that work under the Warm Front can only be organised by the appointed scheme managers. Installers are appointed by the scheme managers through open competition to ensure that financial propriety is maintained and work is carried out to the required standard.

At first Defra consistently told Mrs T she had forfeited her grant because she had used private installers. However, they later altered their stance and said that they could not give Mrs T a grant because she had not provided evidence that her previous heating had been faulty – despite the fact that they had not asked her for this evidence. Following our intervention Defra accepted that they had not made it clear to Mrs T that she would forfeit her grant if she used private installers and they agreed to pay her £2,500 to reimburse the cost of the private installation.

## Home Office

This year we received 159 new complaints against the Home Office, a reduction on the 185 we received last year.

Some complaints have exposed the need to review administrative systems and procedures, which were potentially misleading or which led to delays in dealing with customers. In an example of the former, the Home Office agreed to review their exhumation application form, which related to objections from others regarding the removal of remains, when a complaint (Mrs N, C.1402/04)

revealed that one question on the form was relevant only in a minority of cases and could be misconstrued in others. In that case, although Mrs N had only learnt of the exhumation of her mother's remains after the event, we found no evidence of maladministration. In another complaint, the Home Office acknowledged that there had been significant delays in dealing with Mr P (C.105/04) and that the protracted correspondence with him, in respect of his appeals under the Human Rights Act, could have been avoided from the outset. They have since introduced a new system for electronically storing correspondence from members of the public for easier future retrieval.

## Prison Service

The Prisons and Probation Ombudsman normally deals with complaints from prisoners about their treatment and we will often refer to him any such cases if we believe that this will more promptly deliver the remedy sought. The Parliamentary Ombudsman can currently look at complaints about the Prisons and Probation Ombudsman's handling of complaints. This will, however, change during the course of the next business year if the Prisons and Probation Ombudsman is placed on a statutory footing, and his Office removed from the Parliamentary Ombudsman's jurisdiction. There is a commitment on the part of the Home Office to make this change as soon as parliamentary time allows.

Another development during the past year also affects the future handling of complaints relating to the Prison Service. From April 2003 the Department of Health took over budgetary responsibility for prison health care. By April 2006 NHS primary care trusts will commission all health services for prisoners and the first wave of 20 prisons came under NHS responsibility in April 2004. The Health Service Ombudsman will therefore be responsible for investigating complaints about prison health care that have exhausted the first two stages of the NHS Complaints Procedure.

We are working closely with the departments concerned and the Prisons and Probation Ombudsman to ensure that the transition is smooth and the processes clear and open.

## Home Office: Immigration and Nationality Directorate (IND)

We completed 99 IND cases during 2003-4, a reduction on the 110 we received last year, the majority without statutory investigation. Most of the complaints against IND were about delays in processing applications for leave to remain and to enter the UK. There were also a number of complaints about delay in forwarding appeals to the Immigration Appellate Authority. Other complaints related to lost documents, especially passports. Some of the complaints we have dealt with have had a profound and adverse effect on people's lives, as the cases of Mr T and Mrs L below demonstrate.

### Failure to endorse a passport correctly C.841/03

We received a complaint made on Mr T's behalf that the immigration authorities had failed to endorse his passport with leave to enter and remain in the UK when he arrived in 1999 as a minor to settle with his parents. As a result, in 2000, he was detained in Turkey while returning from a holiday and sent back to China. We also found that Mr T's file had been passed between different units within IND for almost 18 months with no substantive action being taken and that during that time Mr T was unable to return to the UK. Mr T was thus separated from his family for a long time and experienced considerable distress and anxiety. We upheld Mr T's complaint. The Home Office therefore:

- apologised to Mr T;
- offered him an ex gratia consolatory payment of £1,000;
- arranged for his immigration position to be regularised; and
- agreed to consider a further claim from him for actual financial loss he may have suffered as a result of their poor handling of his case.

### Delay in preparing appeal submissions C.968/04

Mrs L complained that IND delayed for over five years in preparing the appeal submissions in respect of her two sons' appeal against the refusal of entry clearance to join her in the UK. Not only did this cause distress to Mrs L and her sons, but also Mrs L had to incur expenses in travelling to see her sons. Following our intervention, IND accepted that they had unreasonably delayed in preparing the appeal submission. IND therefore:

- offered Mrs L an ex gratia consolatory payment of £200;
- offered to consider a further payment to cover any additional legal costs arising directly from their maladministration and to consider making a contribution to Mrs L's additional travelling costs if her son's appeal to the Immigration Appeals Tribunal was successful and they were granted entry clearance to the UK; and
- reviewed their procedures to ensure that entry clearance appeals were acknowledged on receipt.

## Foreign and Commonwealth Office (FCO)

During the year we received 17 new complaints against the FCO. As in previous years, most of these related to decisions or actions taken by Embassies or High Commissions. In one case (C.356/04), we found that a High Commission had incorrectly issued Mrs S with a British passport in 1992, which had led her to make financial and other decisions in the belief that the passport had been correctly issued. Mrs S was offered a consolatory ex gratia payment of £750. The FCO also agreed to consider a claim from her for actual financial losses.

"I fully understand why the investigation took so long. Nine years of correspondence to check and go through, much of which consisted of very lengthy, detailed letters."



Figure 2a  
Analysis of complaints by department or public body

Bodies complained about <sup>1</sup>	Total casework	Not taken forward	Resolved informally	Taken to statutory investigation	Work in progress at 31-3-04
Arts Council for England	1	0	0	0	1
Biotechnology & Biological Sciences Research Council	1	1	0	0	0
Broadcasting Standards Commission	1	0	1	0	0
The Cabinet Office	1	0	0	0	1
National Care Standards Commission	19	6	8	0	5
Charity Commission	18	9	4	0	5
Children and Family Court Advisory and Support Service	9	5	2	0	2
Civil Aviation Authority	2	1	0	0	1
Coal Authority	1	0	0	0	1
Department for Constitutional Affairs	73	42	15	2	14
Construction Industry Training Board	1	0	1	0	0
Criminal Injuries Compensation Authority	14	6	4	0	4
Department of Culture, Media and Sport	2	1	1	0	0
HM Customs and Excise	48	20	11	11	6
Ministry of Defence	28	13	5	1	9
Office of the Deputy Prime Minister	54	36	7	1	10
South East England Development Agency	1	1	0	0	0
Disability Rights Commission	2	0	2	0	0
Department for Education and Skills	14	7	5	0	2
Special Educational Needs Tribunal	2	1	1	0	0
Employment Appeals Tribunal	4	3	0	0	1
English Heritage	2	2	0	0	0
English Nature	2	1	1	0	0
English Partnerships	3	2	1	0	0
Environment Agency	29	15	9	0	5
Department for Environment, Food and Rural Affairs	49	7	18	3	21
Office of the Director of Fair Trading	12	2	2	0	8
Food Standards Agency	3	1	1	0	1
Foreign and Commonwealth Office	18	4	8	1	5
Forestry Commission	1	1	0	0	0

Office of Gas and Electricity Markets	1	0	0	1	0
Department of Health	19	13	3	0	3
Health & Safety Executive	16	7	5	0	4
Home Office	196	33	133	6	24
Horserace Betting Levy Board	1	1	0	0	0
Housing Corporation	3	3	0	0	0
Office of the Immigration Service Commissioner	1	1	0	0	0
Information Commissioner's Office	22	6	10	0	6
Central Office of Information	1	1	0	0	0
Inland Revenue	221	76	86	14	45
Department for International Development	1	1	0	0	0
HM Land Registry	19	13	6	0	0
Legal Services Commission	69	19	30	6	14
Lord Chancellor's Department <sup>2</sup>	35	17	5	7	6
Medical Research Council	1	1	0	0	0
Northern Ireland Court Service	2	1	1	0	0
Northern Ireland Office	3	2	1	0	0
Pensions Ombudsman	6	5	1	0	0
Postwatch	1	0	1	0	0
Qualifications and Curriculum Authority	1	0	1	0	0
Commission for Racial Equality	10	2	6	0	2
Strategic Rail Authority	3	1	2	0	0
Rail Passenger Council for North East England	1	0	1	0	0
Regional Development Agency	3	2	1	0	0
Government Offices for the Regions	5	2	3	0	0
National Endowment for Science, Technology and Art	1	0	1	0	0
Standards Board for England	5	2	3	0	0
Office for Standards in Education	8	1	4	1	2
Office for National Statistics	2	0	1	0	1
Teacher Training Agency	1	1	0	0	0
Office for the Director General of Telecommunications	2	1	1	0	0
Department of Trade and Industry	50	31	10	1	8
The Certification Officer for Trade Unions	1	0	1	0	0
Department for Transport	49	27	15	1	6
HM Treasury	103	96	5	1	1
Treasury Solicitors	2	2	0	0	0
Office of the Director General of Water Services	10	5	4	0	1
Department for Work and Pensions	961	184	469	91	217
Others (Outside Jurisdiction)	68	66	2	0	0
<b>Total</b>	<b>2319</b>	<b>810</b>	<b>919</b>	<b>148</b>	<b>442</b>

<sup>1</sup> This does not provide a comprehensive list of bodies within the Ombudsman's jurisdiction.

<sup>2</sup> The Lord Chancellor's Department became the Department for Constitutional Affairs on 12 June 2003.

Figure 2b  
Analysis of completed statutory investigations

Bodies complained about	<i>Wholly or partly justified</i>	<i>Not justified</i>	<i>Discontinued</i>	<i>Total</i>
Department for Constitutional Affairs	0	0	2	2
HM Customs and Excise	5	2	4	11
Ministry of Defence	0	1	0	1
Office of the Deputy Prime Minister	1	0	0	1
Department for Environment, Food and Rural Affairs	0	0	3	3
Foreign and Commonwealth Office	1	0	0	1
Office of Gas and Electricity Markets	1	0	0	1
Home Office	4	1	1	6
Inland Revenue	6	5	3	14
Legal Services Commission	4	0	2	6
Lord Chancellor's Department	4	1	2	7
Office for Standards in Education	0	0	1	1
Department of Trade and Industry	1	0	0	1
Department for Transport	0	1	0	1
HM Treasury	0	1	0	1
Department for Work and Pensions	40	5	46	91
<b>Total</b>	<b>67</b>	<b>17</b>	<b>64</b>	<b>148</b>

“We are disappointed by the fact that you are unable to investigate our concerns but we fully understand your position and accept that the matter lies outside your jurisdiction.”

"With the intervention of the Ombudsman, details of my case were suddenly available and my questions were answered where previously they were ignored."



## Chapter 4

# Access to official information

During the year we received 47 complaints that information had been wrongly withheld under the Code of Practice on Access to Government Information (the Code). This is an increase on the 42 complaints received in 2002-03 and the highest number since 1996. Therefore, as we enter the final year of operation of the Code, there is a higher caseload of Code investigations than ever before. We have also commented on the information element of 66 complaints of maladministration.

We issued 21 statutory investigation reports during the course of the year and discontinued two investigations, one of which has subsequently been re-opened. We also published a volume of anonymised completed cases (Access to Official Information: Investigations Completed November 2002 - June 2003, HC951). A further volume of cases was published in June 2004 [HC 701].

Figure 3 (page 29) shows Code complaints received and how they were resolved.

## Freedom of Information

The Freedom of Information Act 2000 will be fully implemented from 1 January 2005. The Code will then cease to operate and the Information Commissioner will be responsible for dealing with complaints about a failure to provide information under the Act. We have been working closely with the Information Commissioner during the year to provide his office with any advice and guidance that might be useful to them. Staff from the Information Commissioner's office have also visited the Ombudsman's Office to learn about our approach to complaint investigation under the Code.

During summer 2004, we expect to agree a Memorandum of Understanding between the two offices. This will set out how the relationship will operate up to, and after, the time the Code ceases to exist. The full details have yet to be finalised, but we anticipate that those Code investigations still uncompleted by the end of the calendar year will be finished in full despite the commencement of the statutory regime. The Ombudsman continues to be represented on the advisory group set up by the Department for Constitutional Affairs to take forward the implementation of the Act.

We intend to publish in due course a full report on our role in monitoring the operation of the Code since its inception in 1994.

"We were very grateful to be given the opportunity to discuss our problems at length with someone who actually listened and understood our concerns."

## The year's investigations

The Code was launched in 1994 with the expectation that it would provide a means for ordinary members of the public to obtain more comprehensive information from the Government about its policies. In practice this has only happened to a very limited extent. In recent years, the two most identifiable groups making Code complaints have been the media and Members of Parliament: complaints from those sources constituted more than half of the investigations completed last year and constitute about half of those cases currently under investigation. The referral of complaints by Members of Parliament is a particularly recent development. It stems in part from the decision (following a recommendation by the Select Committee on Public Administration) that a refusal to provide information in response to a Parliamentary Question should be couched in terms of Code exemptions.

This development has also had an impact on the kind of cases coming to us. Complaints involving information personal to the complainant have substantially decreased, due mainly to the extension of data protection legislation. However, complaints involving matters of current political interest and high political sensitivity have greatly increased. Departments may not have a particularly strong case under the Code for refusing to release information but may nevertheless be unwilling to comply with the Code's requirements.

Such cases, two examples of which follow, have caused considerable difficulties for us during the year and have featured prominently in the press.

### Refusal to release information relating to gifts accepted by Ministers A7/03

The Lord Chancellor's Department and the Cabinet Office refused to release information relating to gifts accepted by Ministers in their official capacities between January 1998 and April 2001. I found that the Code exemption cited was inapplicable and recommended that the information be disclosed in full. The Cabinet Office said that gifts received since June 2001 and valued at over £140 would be disclosed. However, they again declined to release the specific information sought. This was the second occasion on which a department had not found itself able to comply with my recommendations for disclosure under the Code.

### Information relating to potential Ministerial conflicts of interest under the Ministerial Code of Conduct A16/03

A complainant sought information relating to potential Ministerial conflicts of interest. Both the Lord Chancellor's Department and the Cabinet Office issued notices under section 11(3) of the Parliamentary Commissioner Act 1967 to the effect that disclosure of this information would not be in the public interest. Such notices had never previously been resorted to in respect of a Code complaint. We felt obliged to discontinue our investigation. Following an application for judicial review by the complainant against both departments they decided, after some months, to withdraw the notices. As a result we have now re-opened our investigation.

## Memorandum of Understanding

In last year's Annual Report, we drew attention to the continuing difficulties in securing co-operation from departments during Code investigations. Discussions had taken place between the Ombudsman's Office, the Cabinet Office and the Lord Chancellor's Department (now the Department for Constitutional Affairs) about the issuing of a Memorandum of Understanding (MOU) to all bodies within the Ombudsman's jurisdiction. The MOU would remind departments of their responsibilities when dealing with a Code request and, in particular, of our requirements when investigating a Code complaint.

The Cabinet Office issued the MOU on 22 July 2003. Since then we have been monitoring the performance of departments against the MOU in respect of complaints to the Ombudsman. Our review of the first nine months (September 2003 - May 2004) published on 30 June (HC 701) shows that in most cases the requirements of the MOU have been met. However, delays have continued to occur in two areas. The first is in responding to statements of complaint and draft reports issued by us for comment. The second, which is of greater concern, is in providing to us the information sought by the complainant. It is impossible for us to carry out our responsibilities under the Code if we are not provided with the relevant information. The focus now, of course, is moving towards the implementation of individual rights of access to official information under the Freedom of Information Act 2000. We have been in regular contact with the Information Commissioner and his staff in order to put in place arrangements for a smooth transition between the Code and the Act. Our aim is to ensure that nobody who has been refused information to which they think they have a right is denied the opportunity to have their complaint considered by an appropriate body. We will continue to monitor adherence to the requirements of the MOU until January 2005.

"I should like to express my admiration and appreciation for the careful way in which you handled my complaint and compiled your overall report... I am a great supporter of your Office and have campaigned for some years for a direct right of public access..."



Figure 3  
Access to official information complaints 2003-04

Bodies complained about	Work in progress at 1-4-03	Caseload		Outcome						Statutory Investigations (Outcome 5)			Work in progress at 31-3-04
		New cases opened	Total casework	1	2	3A	3B	4	5	Justified	Partly justified	Not justified	
Cabinet Office <sup>1</sup>	4	3	7	0	1	0	0	0	3	2	1	0	3 <sup>2</sup>
Charity Commission	0	1	1	0	0	0	0	0	0	–	–	–	1
Coal Authority	0	1	1	0	0	0	0	0	0	–	–	–	1
Commission for Racial Equality	0	1	1	0	0	0	0	0	1	1	0	0	0
Department for Constitutional Affairs <sup>3</sup>	1	3	4	0	2	1	0	0	1	0	1	0	0
Construction Industry Training Board	0	1	1	0	0	1	0	0	0	–	–	–	0
Department of Culture, Media and Sport	0	1	1	0	0	0	0	0	0	–	–	–	1
HM Customs and Excise	1	0	1	0	0	0	0	0	1	0	1	0	0
Ministry of Defence <sup>4</sup>	1	5	6	0	0	0	0	0	2	1	0	1	4
Office of the Deputy Prime Minister	0	3	3	0	0	0	2	0	0	–	–	–	1
Department for Education and Skills	0	2	2	0	0	0	0	0	1	1	0	0	1
Department for Environment, Food and Rural Affairs	0	1	1	0	0	1	0	0	0	–	–	–	0
Export Credits Guarantee Department	0	1	1	0	0	0	0	0	0	–	–	–	1
Foreign and Commonwealth Office <sup>5</sup>	1	3	4	0	0	0	0	1 <sup>6</sup>	0	–	–	–	4
Department of Health	1	2	3	0	0	1	0	0	0	–	–	–	2
Higher Education Funding Council for England	0	1	1	0	0	0	0	0	1	0	0	1	0
Home Office	1	6	7	0	1	0	1	0	2	2	0	0	3
Department for International Affairs	0	1	1	0	0	0	0	0	0	–	–	–	1
National Care Standards Commission	1	1	2	0	0	0	1	0	0	–	–	–	1
NESTA	0	1	1	0	0	0	0	0	1	0	0	1	0
Standards Board for England	0	1	1	0	1	0	0	0	0	–	–	–	0
Office for Standards in Education	0	2	2	0	0	0	0	0	1	0	0	1	1
Strategic Rail Authority	0	1	1	0	0	1	0	0	0	–	–	–	0
Department of Trade and Industry	3	1	4	0	0	0	0	0	3	0	1	2	1
Department for Transport	1	0	1	0	0	0	0	0	1	1	0	0	0
HM Treasury	0	3	3	0	0	1	0	0	2	1	0	1	0
Department for Work and Pensions	1	1	2	0	1	0	0	0	1	0	1	0	0
<b>Total</b>	<b>16</b>	<b>47</b>	<b>63</b>	<b>0</b>	<b>6</b>	<b>6</b>	<b>4</b>	<b>0</b>	<b>21</b>	<b>9</b>	<b>5</b>	<b>7</b>	<b>23</b>

<sup>1</sup> Two of these complaints were against both the Cabinet Office and the Department for Constitutional Affairs.

<sup>2</sup> This figure includes one complaint that was discontinued on 7/7/03 but re-opened 25/3/04.

<sup>3</sup> The Department for Constitutional Affairs was created on 12/6/03 and some of these complaints were against the former Lord Chancellor's Department.

<sup>4</sup> One of these complaints was against both the Ministry of Defence and the Foreign and Commonwealth Office.

<sup>5</sup> One of these complaints was against both the Foreign and Commonwealth Office and the Department of Trade and Industry.

<sup>6</sup> The investigation of this complaint was discontinued.

"I have been very satisfied with the service received. It has been a relief after the poor service which has led to the complaints."



## Our performance

### Workload

New complaints from MPs during 2003-04 in addition to work in progress from the previous business year amounted to an overall workload of 2,319 cases. This is fewer overall than the 2,567 cases we handled in 2002-03, but there were more new complaints. Figure 4 shows the caseload for 2003-04 compared with previous years.

There is a range of possible outcomes of a complaint to the Ombudsman. Figure 5 shows how many cases were resolved by each of these means during the year. Whichever route a complaint takes, our overall objectives are to respond promptly when we receive a complaint, to keep complainants informed of progress and to handle cases as quickly and efficiently as possible.

### Responsiveness

Our Customer Service Unit became fully operational during the year. It handles enquiries in the form of telephone calls, letters and emails. This year we received 6,834 enquiries in total. In line with our overall objective to respond promptly, the Customer Service Unit has to fulfil

exacting standards, for example acknowledging all enquiries within one working day.

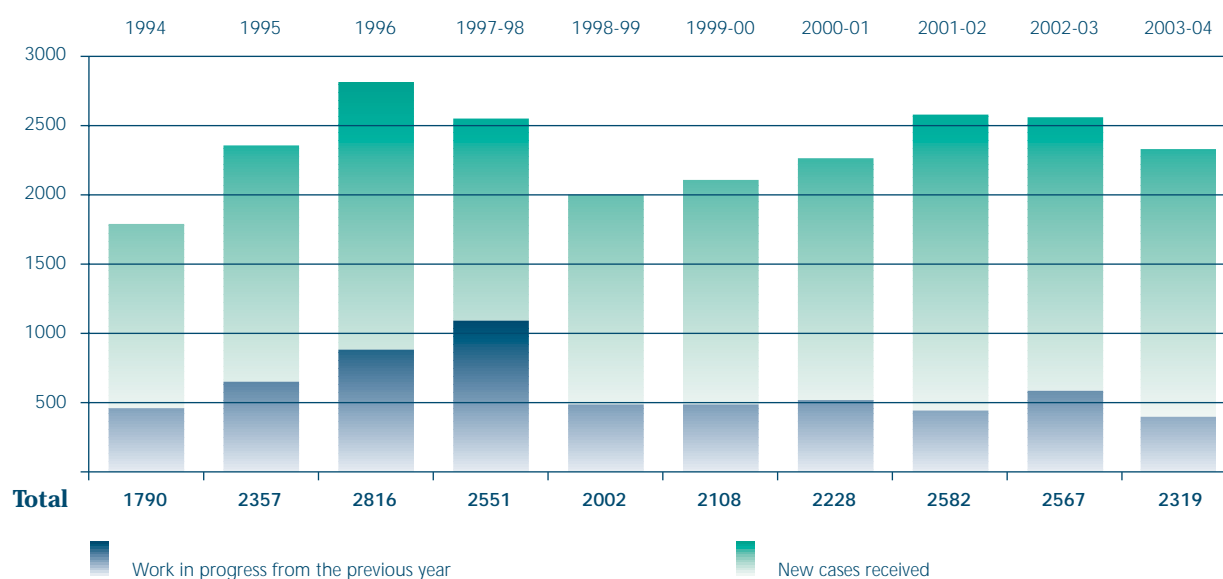
Our Business Plan for 2003-04 set tight response standards for handling complaints made to the Parliamentary Ombudsman. For cases clearly out of the Ombudsman's jurisdiction the referring MP must be notified within two weeks in 100% of cases. As last year, we fully met this target in 2003-04. We received 60 such cases, 55 of which concerned a body, and five of which related to subject matter, not within the Ombudsman's jurisdiction.

For those complaints not clearly out of jurisdiction, our target was to achieve an appropriate outcome for all such complaints, or to put a statement of complaint to the body concerned, within an average of five weeks of receiving the complaint. We achieved this in only 53% of cases, although 96% of complaints had an appropriate outcome or a statement of complaint within 13 weeks of receiving them.

We have also instituted improvements to our customer service, including greater contact between investigation staff and complainants, particularly to keep them

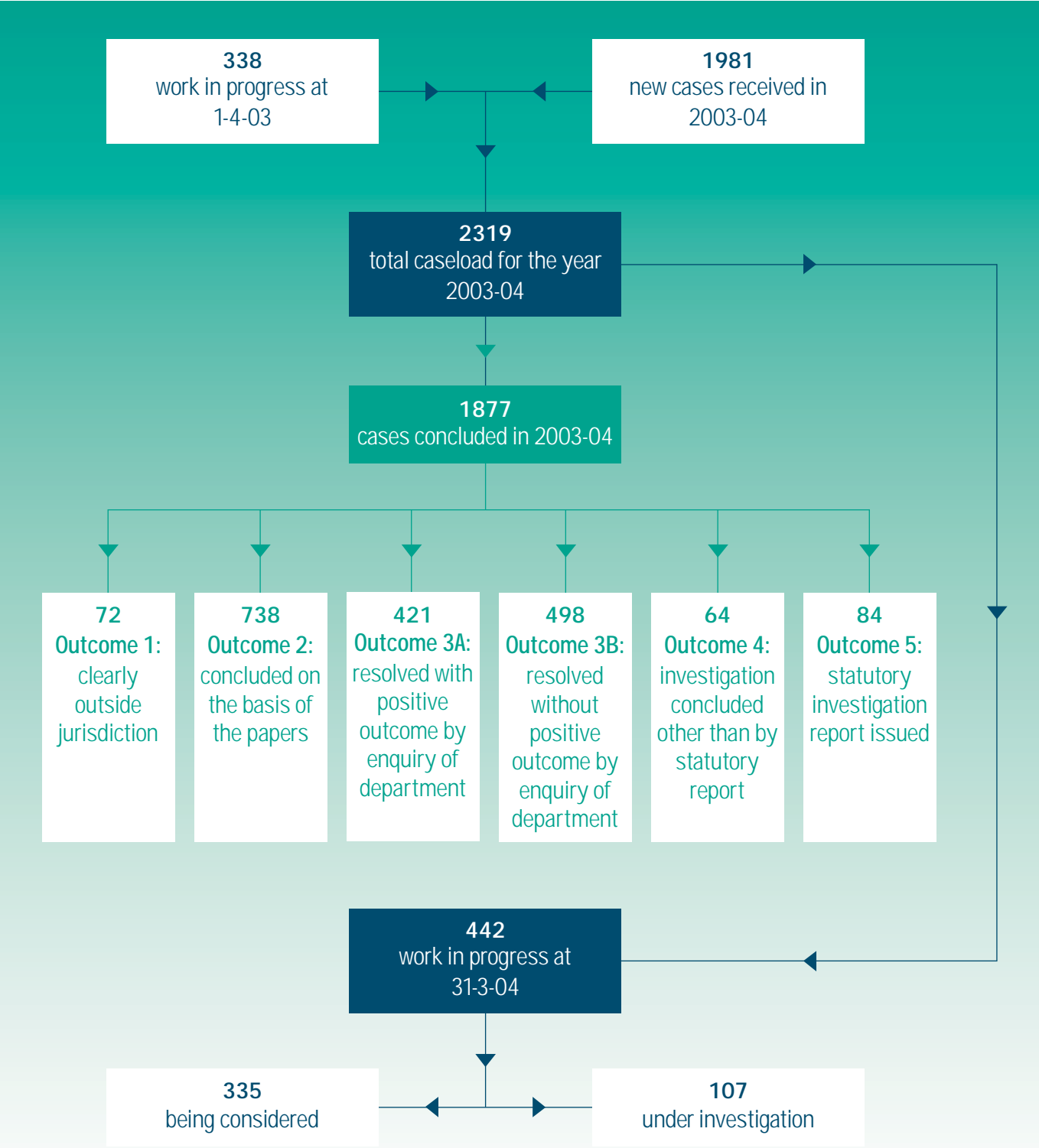
Figure 4

### Workload 1994 to 2003-04



Back row left to right: Sarah Sleet – Strategy and Communications Director,  
 Trish Longdon – Deputy Ombudsman, Bill Richardson – Deputy Chief Executive,  
 Tony Redmond and Cecilia Wells – External Board Members.  
 Front: Ann Abraham – Parliamentary and Health Service Ombudsman.

Figure 5  
Cases received, considered and investigated 2003-04



informed of the progress of their complaint on a regular basis. Early signs are that this has had a positive impact on customer satisfaction.

### Throughput

We have done much to improve throughput times in recent years, although they remain longer than we would wish in some areas. An important feature has been the continuing use of means other than statutory investigation to resolve complaints. There has been a steady decline in the number of statutory investigations launched since 1997-98 and a corresponding increase in the use of enquiries of the department concerned to resolve complaints. In 2003-04 we issued 84 statutory reports (4.5% of the total workload) compared with 376 in 1997-98 (18% of the total workload) – see Figure 6.

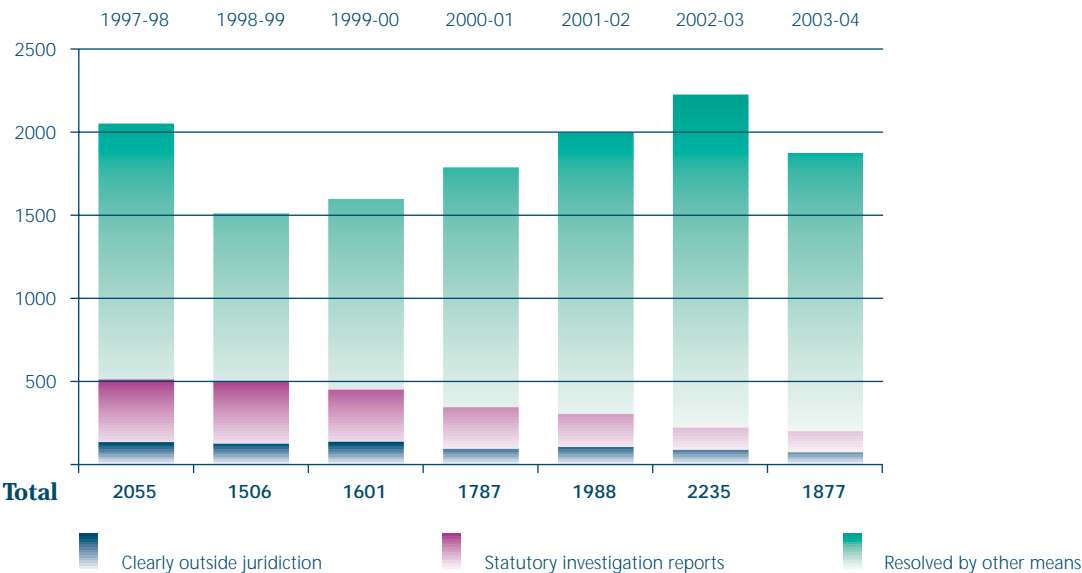
The number of positive outcomes achieved by enquiry of the department concerned, 421, is roughly the same as last year, 425. This means that it tends to be the more

complex and difficult cases that go through to statutory investigation. Of these, our objective was that completion should take no longer than 41 weeks from the time when we receive sufficient information to enable us to issue the statement of complaint. We achieved an average of 48 weeks and two days. This partly reflects continuing difficulties in getting some bodies to respond promptly to our investigation findings. None the less we can and will do better.

In addition, we set ourselves a target that only exceptionally should uncompleted investigations be over 12 months old. At the year end, 11 uncompleted cases were over 12 months old, the same number as the previous year. In future years we will work to reduce the numbers of such cases even further.

For 2004-05 we have made our service standards even tighter. Our aim is to provide a continuously improving service that achieves appropriate outcomes for complainants as speedily as possible.

Figure 6  
Cases concluded 1997-98 to 2003-04



## Our governance arrangements

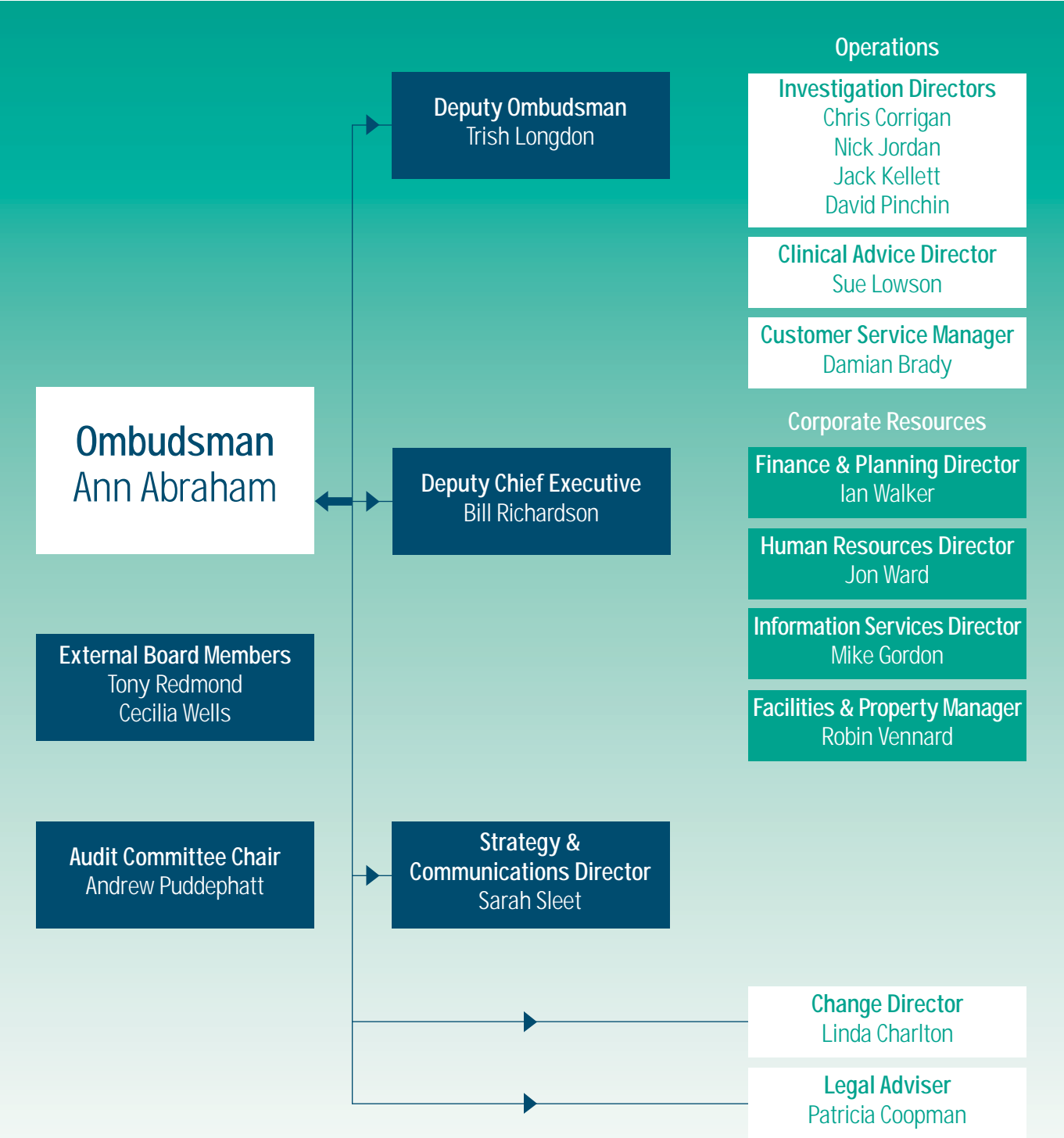
We recognise that appropriate governance arrangements are not only an essential source of assurance in public service delivery, but are also central to the development of an organisation's culture and values. To signal our commitment to openness and transparency, during the year we put in place a Board which includes two external members. We have also appointed an external Chair of our Audit Committee.

The Board assists the Ombudsman in setting the strategic direction of the Office, monitoring the organisation's progress in achieving its strategic objectives and ensuring that risks to those objectives are clearly identified and properly managed. We have therefore already established a clear risk management policy and framework and will continue to work to embed this approach in all that we do during the coming year. In addition, we will ensure that the work needed to manage risks effectively is integrated within our business planning process.

"The Parliamentary Ombudsman was my last resort, I was very satisfied with the outcome."



Office of the Parliamentary and Health Service Ombudsman:  
Organisation Structure as at June 2004



## Publications and Select Committee reports

### Parliamentary Ombudsman

#### Session 2002-2003

First Report: AOI Investigations Completed May – October 2002, HC115

Second Report: Equality Under the Law? Treatment of Widowers by the Inland Revenue and the Department for Work and Pensions, HC122

Third Report: Individual Learning Accounts 2002-2003, HC 633

Fourth Report (Part 1): The Prudential Regulation of Equitable Life: overview and summary of findings, HC 809-I

Fourth Report (Part 2): The Prudential Regulation of Equitable Life: full text of representative investigation, HC 809-II

Fifth Report: Annual Report 2002-2003, HC 847

Sixth Report: Access to Official Information: Investigations Completed November 2002-June 2003, HC 951

### Select Committee on Public Administration – Reports concerning the Parliamentary Ombudsman

#### 2003-04

The work of the Ombudsman: access to information: minutes of evidence Thursday 15 January 2004, HC 41-ii  
Evidence from the Guardian; the Campaign for Freedom of Information and the Department of Constitutional Affairs

The work of the Ombudsman: minutes of evidence Thursday 27 November 2003, HC 41-i  
Evidence from Ann Abraham Parliamentary Commissioner for Administration and Health Service Ombudsman.

#### 2002-03

The work of the Ombudsman: minutes of evidence Thursday 6 March 2003, HC 506-i  
Evidence from Ann Abraham Parliamentary Commissioner for Administration and Health Service Commissioner for England.

Ombudsman issues: report and proceedings of the Committee. 3rd report, HC 448  
Considers the review of the Public Sector Ombudsmen and the Government's failure to act, worrying trends and access to official information.

Printed in the UK for The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office  
07/04, 170577



Published by TSO (The Stationery Office) and available from:

**Online**

[www.tso.co.uk/bookshop](http://www.tso.co.uk/bookshop)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich NR3 1GN

Telephone orders/General enquiries 0870 600 5522

Fax orders 0870 600 5533

Order through the Parliamentary Hotline *Lo-call* 0845 7 023474

E-mail [book.orders@tso.co.uk](mailto:book.orders@tso.co.uk)

Textphone 0870 240 3701

**TSO Shops**

123 Kingsway, London WC2B 6PQ

020 7242 6393 Fax 020 7242 6394

68-69 Bull Street, Birmingham B4 6AD

0121 236 9696 Fax 0121 236 9699

9-21 Princess Street, Manchester M60 8AS

0161 834 7201 Fax 0161 833 0634

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

18-19 High Street, Cardiff CF10 1PT

029 2039 5548 Fax 029 2038 4347

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

**The Parliamentary Bookshop**

12 Bridge Street, Parliament Square,  
London SW1A 2JX

Telephone orders/General enquiries 020 7219 3890

Fax orders 020 7219 3866

**TSO Accredited Agents**

(see Yellow Pages)

*and through good booksellers*

