

Annual Report 2012

A year of challenges



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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.

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; and
- delivering quality outcomes.

I am very pleased to present my Annual Report for the year 1 April 2011 to 31 March 2012. This is the fourth report I have presented about our work, and the 19th in the history of the Adjudicator's Office.

The Adjudicator's foreword

This year we had hoped to capitalise on the success of 2010-11, having cleared the backlog of work I inherited when I commenced my role. My intention was to make a significant dent into the volume of work remaining on hand and reduce waiting times.

However, this year we have seen a dramatic increase of 32% in the overall volume of complaints about HM Revenue & Customs (HMRC). Tax Credit complaints rose by over 20% but in addition Pay As You Earn (PAYE) complaints rose by 114% during the latter half of the year compared with 2010-11.

We expected an increase in complaints following the introduction of the new PAYE computer system due to the high level of customer interest. We are continually refining our forecasting but exact numbers and monthly flows are impossible to predict. As a demand-led service I know we will always be reacting a while after the event.

Despite careful planning and preparation in anticipation of an increased workflow, the volume and pace of new cases coming in since September 2011 far outstripped our capacity to investigate them all. Consequently, we wasted no time in seeking additional resources. We now have teams located in London, Nottingham, Derby and Peterborough.

Alongside our day to day investigations, we have continued to check and test the quality of our complaints handling and investigation processes. We have also used customer feedback to identify improvements, for example by designing a standard complaints form as an aid to customers on how to format their complaint and provide the information we need.

I would like to thank all my staff for their hard work in continuing to meet targets for case closures and ensuring waiting times did not slip, despite the increased work pressures. This was a real team effort.

I have also continued to feedback notable trends in errors or poor complaints handling to the departments, illustrating this by highlighting relevant cases where I feel significant learning can be acquired. Quality continues to be enhanced by our work with HMRC to expand the practice of sharing reports with customers. This offers customers an opportunity to comment on the department's rationale for their decisions, prior to my adjudication on the case, and reduces the need for lengthy exchanges. I very much appreciate the response we have had from across HMRC to developing the use of shared reports.

As an office we are very aware of our public duty under the new equality legislation. However, I have

seen an increase in the number of customers with disabilities where, HMRC in particular, has often fallen short of addressing identified needs. I am clear that there is a need for all departments to invest in training for front line operational staff, as well as ensuring all complaint handlers are more alert to these issues.

I am pleased to say that, to date, the departments have responded positively to my feedback. Senior leaders continue to show personal interest and I would like to thank Dave Hartnett CB, Permanent Secretary for Tax, HMRC; Stephen Speed, Chief Executive and Inspector General, The Insolvency Service (The IS); and Penny Ciniewicz, Chief Executive, Valuation Office Agency (VOA), for their time and commitment in meeting with me. In June 2011 the office hosted a visit by HMRC's then Chief Executive and Permanent Secretary, the late Dame Lesley Strathie DCB. It is with great sadness that I now look back on the loss of someone so supportive and passionate about improving customer service.

In analysing the challenges our customers face, I hosted my second round table debate with stakeholders in the autumn. I would like to thank TaxAid, Low Income Tax Reform Group and Tax Volunteers (TaxHelp for Older People) for attending. During the meeting



we agreed there was a need for customers to be aware of their own responsibilities, and in particular, the deadlines they are required to meet. We also highlighted that some customers would benefit from early engagement with departments to develop their own level of understanding. We discussed customers' perceptions of inconsistency, which manifests itself in many complaints of alleged unfair treatment. We agreed that alongside 'getting it right first time' there is a real need for departmental complaint handlers to take the initiative in getting to the heart of issues, in order to make quick and accurate corrections. This would increase customers' confidence in knowing that their concerns are being heard and acted upon.

During the year I also hosted a visit for my counterpart, the Independent Case Examiner for the Department for Works and Pensions (DWP) to discuss customer concerns and share good practice in investigation procedures. In addition I met with Karen Thomson from The Chartered Institute of Payroll Professionals to look at the long term implications for the introduction of Real Time Information in HMRC and its potential impact on customers. As an office we are already considering the implications of the introduction of Universal Credit and are proactive in engaging colleagues in both HMRC and

DWP to consider complaints handling during and after the transition period.

Throughout the year we have also continued to be active members of the British and Irish Ombudsman Association (now the Ombudsman Association (OA)), and I am looking forward to championing the role of the complaints handler as I join the OA Executive Committee.

Judy Clements OBE
The Adjudicator

15,264
enquiries handled
this year

1,133
complaints
resolved this year

"I will be sure to recommend this course of action to anyone who might find themselves in a compromised situation and who might benefit from a review by your office. Once again, my sincere thanks."

Customer

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 HMRC, the VOA and 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 service and would also give departments the opportunity to learn lessons and make improvements. There are no targets for the number of cases upheld and all final decisions on cases are made by The Adjudicator herself.

While there are some areas 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; or
- the use of discretion.

To support The Adjudicator there are 49 permanent staff in three locations; London, Derby and Nottingham. There are also temporary staff in our offices in London, Nottingham and Peterborough. The majority of our 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. The departments 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 seeks to add value to the way 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.

“Many thanks anyway to yourself, and your Office, for the time, effort and thoughtfulness you have given to our case, and coming up with a very fair conclusion. We are so grateful. I can only speak highly of the work you, and your office, do. Thank you.”

Customer

“Thank you for your comprehensive response to my complaint regarding HMRC. I consider that my complaint was dealt with extremely professionally by your department, and I understand the reasons it took some time to investigate as the issue was quite complex. Please pass on my thanks to those of your staff who were involved in resolving the issue for me. I am extremely grateful to you all.”

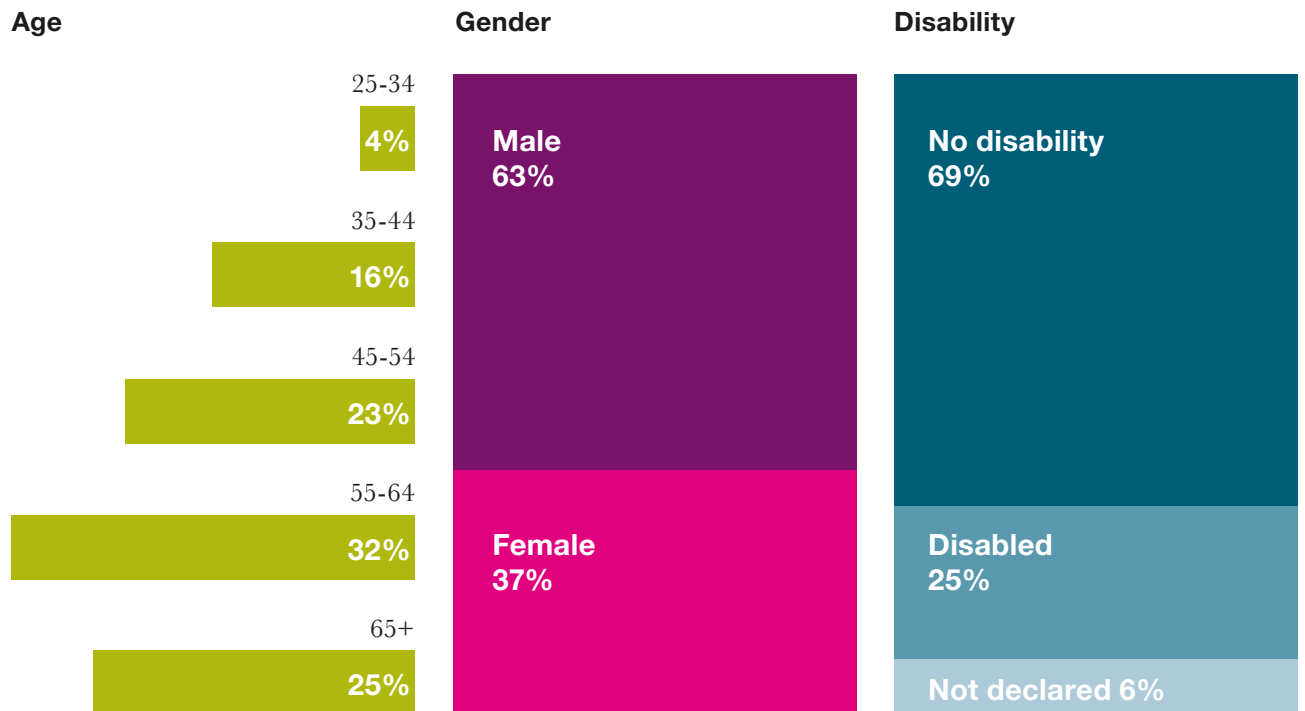
Customer



Equality monitoring survey

We have been actively monitoring our customer base since May 2011, following the introduction of the Equality Act in October 2010 and the general public sector equality duty which came into effect in April 2011.

From the responses received we can see:

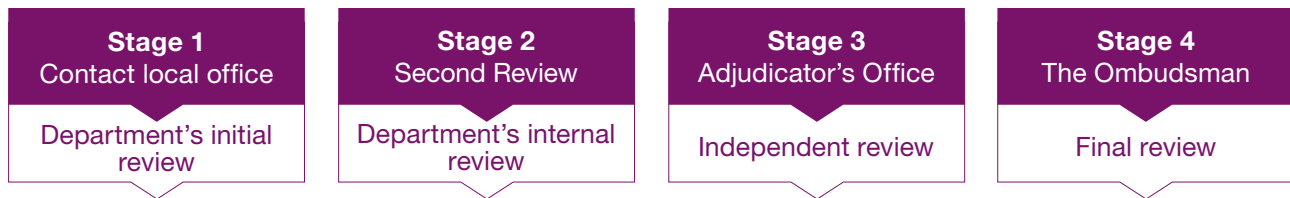


The current sample of responses is too small to draw firm conclusions but does provide some insight into our customer base. We plan to continue using this survey and will monitor the findings closely to ensure that no specific groups appear to be at a disadvantage.

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.

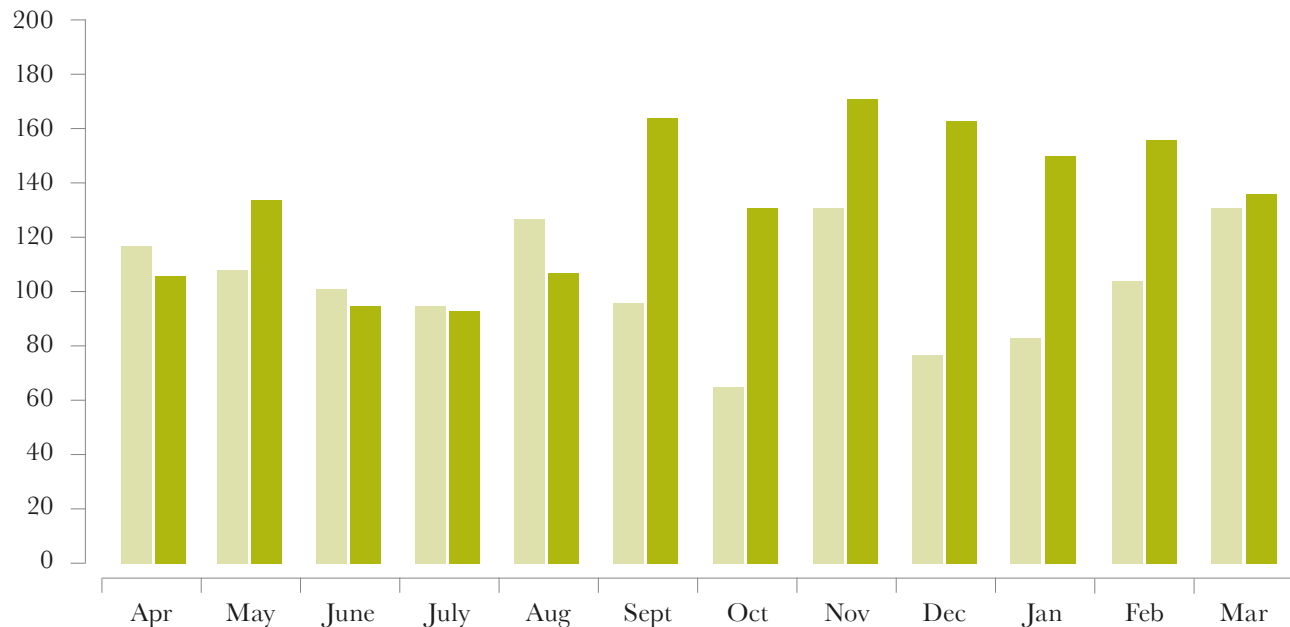
If the complaint is still not resolved, the customer may ask for a second review; which is a fresh look at their complaint and gives them the department's final response.

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.

Cases received

2010-11 2011-12



The process in the Adjudicator's Office

First contact

At this stage our staff give help, support and guidance on complaint issues relating to the departments and the role of our office. We assess the complaint to see if it is ready for our office. Many customers are referred back to the departments because they have not exhausted the department's own internal complaints process.

15,264

enquiries received
in 2011-12

Cases ready for investigation

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

1,606

new complaints for
investigation in 2011-12

Resolution by Mediation

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

20%

of complaints were
mediated in 2011-12

Resolution by Recommendation

Where there is little scope for mediation, 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 together with any recommendations.

1,133

cases closed in total
during 2011-12

Further review

Some customers 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 customer remains unhappy they can ask an MP to put their complaint to the Parliamentary Ombudsman.

Workload 2011-12

■ 2011-12 ■ 2010-11



Assistance cases by department*

HM Revenue & Customs**	3,040
The Insolvency Service	25
Valuation Office Agency	41
Total	3,106

New cases for investigation by department

HM Revenue & Customs**	1,572
The Insolvency Service	8
Valuation Office Agency	26
Total	1,606

*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	461 (42%)	359 (33%)	225 (20%)	24 (2%)	32 (3%)	1,101
The IS	8 (67%)	1 (8%)	2 (17%)	1 (8%)	0	12
VOA	12 (60%)	7 (35%)	1 (5%)	0	0	20
Total	481 (43%)	367 (32%)	228 (20%)	25 (2%)	32 (3%)	1,133

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

Methods of settlement

	Reconsidered	Recommendation	Mediation	Withdrawn	Total
HMRC	32	821	224	24	1,101
The IS	0	10	1	1	12
VOA	0	18	2	0	20
Total	32	849	227	25	1,133

Redress £

	Worry and distress	Poor complaints handling	Liability given up	Costs	Total
HMRC	22,205	20,480	968,782	321,269	1,332,736
The IS	375	0	0	0	375
VOA	825	75	0	1,140	2,040
Total	23,405	20,555	968,782	322,409	1,335,151

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.

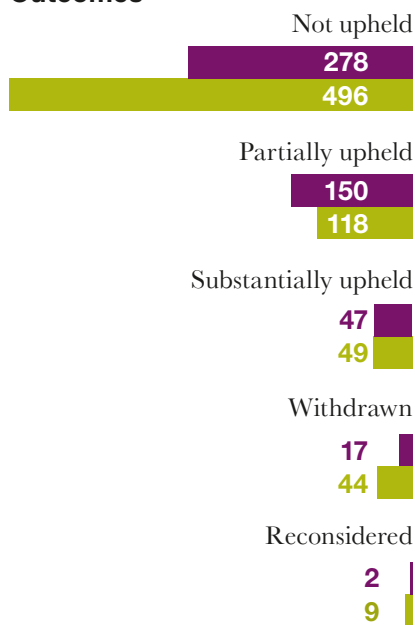
HM Revenue & Customs

Taxation

During 2011-12 we received 642 new complaints. We resolved 494, upholding 40% either partially or substantially. Our investigators mediated 8% of cases directly with customers and the department.

The Adjudicator reviewed a large number of cases under the provisions of HMRC's Extra Statutory Concession A19 (ESC A19).

Outcomes



2011-12 Total 494

2010-11 Total 716

Under the provisions of ESC A19, HMRC can give up arrears of tax where they have failed to make proper and timely use of information. However, there are strict conditions that must be met before the concession can be applied. The most difficult of these concessions to establish is the test of whether the customer could reasonably have believed that their tax affairs were in order. In considering such complaints, The Adjudicator will look to see if HMRC have applied the 'reasonable belief' test in accordance with their guidance.

During the year we worked with HMRC to begin providing information to the customer earlier by sharing the report HMRC provides to The Adjudicator. Our pilot of this process went well and the feedback from both customers and HMRC has been positive. This practice is now an integral part of complaints handling for a number of business areas in HMRC. The Adjudicator will be encouraging the department to adopt the process for all appropriate cases in the coming year. The Adjudicator hopes learning from customer feedback when reports are shared will help improve HMRC's complaint handling, as 2011-12 saw a significant rise in the percentage of complaints upheld.

Case studies 1 and 2 highlight some of the factors that are considered under ESC A19. Case study 3

describes The Adjudicator's review of a Debt Management case. Case study 4 illustrates an examination of evidence in a complaint about compensation. Case study 5 describes a review of a complaint about VAT advice.

HMRC accepted all The Adjudicator's recommendations.

On occasion, The Adjudicator may recommend that HMRC pay a monetary sum to customers 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 2011-12 £





Case study 1 – ESC A19 Conditions not met

Issues

Mr A had an underpayment of tax. He asked HMRC to write this off using the provisions of Extra Statutory Concession A19 (ESC A19) but HMRC decided the provisions of the concession had not been met.

Outcome

The Adjudicator did not uphold this complaint.

Even where HMRC have made a mistake which causes arrears, they only have a limited discretion to give up tax. They may only do this when they see that it would be right to apply ESC A19. The fact that HMRC did not collect enough tax at the right time does not mean that the tax is not legally due.

In some cases, details (such as the actual amount of income) may never be known accurately until after the end of the tax year. Tax codes are always provisional and the amount of tax collected through Pay As You Earn is estimated.

In Mr A's case, there was an underpayment of tax. This was because the age-related amount of the personal allowance given in his code number during the year did not correspond with the amount he was entitled to once his total income for the year was known.

HMRC had already explained to Mr A that they accepted their failure to make proper and timely use of the information provided, and considered his case under the provisions of ESC A19. However, they had notified Mr A of the arrears within the time tests of this concession and therefore the tax could not be waived.

The Adjudicator could see that Mr A felt HMRC's refusal to give up the tax underpaid appeared as though HMRC were blaming Mr A for their failure. However this was not the case; HMRC were doing no more than asking Mr A to pay the tax that was legally due.

Learning

The Adjudicator cannot ask HMRC to act outside the provisions of legislation or their Extra Statutory Concessions.

Case study 2 – ESC A19 conditions met

Issues

Ms B complained about the way HMRC dealt with her tax affairs. She underpaid tax because she had personal allowances in her tax code for both her employment and her pension income. She thought HMRC had told her employer to operate a tax code which included personal allowances and that HMRC should be accountable for the arrears.

Outcome

The Adjudicator upheld this complaint in part.

On retiring, Ms B's occupational pension commenced and the pension provider used the correct tax code. Ms B also started new work.

HMRC had issued a basic rate tax code for use by the new employer, however the employer continued to use duplicated tax allowances.

As there was sufficient evidence of employer error HMRC agreed to clear Ms B's liability for the tax underpaid in this year.

For the following year HMRC acknowledged that they did not change Ms B's record or her tax codes as a result of her contact. This was clearly a mistake. HMRC therefore agreed the provisions of ESC A19 were met.

However, the criteria they must consider when they look at tax under ESC A19 were not met in respect of the final year, and the unpaid tax remained due.

The Adjudicator recommended that HMRC repay the amount of tax Ms B had already repaid. HMRC were also asked to pay compensation for their poor complaints handling and for the costs Ms B had incurred in making her complaint. The Adjudicator brought two specific failings to HMRC's attention. Firstly, HMRC had failed to make proper use of information and to consider this under both ESC A19 and 'employer error'. Secondly, she established there were additional recordings of Mrs B's telephone conversations with HMRC which had not been traced when the complaint was reviewed at the earlier stages. She wrote to HMRC to express concern at these oversights.

Learning

HMRC reminded staff of the criteria for ESC A19 and that employer error, together with all available evidence, should be considered when reviewing tax codes.

Case study 3 – Debt Management

Issues

Mr C wrote to The Adjudicator because he was unhappy that he had received a Demand Notice for Immediate Payment (DNIP) and a phone call chasing a debt that he did not owe.

Mr C complained to HMRC about receiving a DNIP and they told him that this could not be correct as their records did not show that one had been issued.

Mr C also asked why he received a call chasing payment after he had already spoken to HMRC on this matter. He was particularly upset about this as he received this call during a funeral.

Learning

The Adjudicator reminded HMRC to ensure that their records are correctly maintained and to thoroughly review all evidence when investigating complaints from their customers.

Outcome

The Adjudicator upheld this complaint.

The Adjudicator asked HMRC to check their records for a copy of the DNIP. HMRC confirmed that they did in fact hold a copy and acknowledged that they made a mistake.

HMRC accepted that they had noted Mr C's call to the office and apologised for this oversight.

The Adjudicator asked HMRC why a DNIP was issued when a payable order had already been received for the amount due. HMRC confirmed that although they received the payable order, they did not update their banking record on the date of receipt. They could not say why it took four days for the record to be updated and it appeared that the DNIP was issued in the meantime.

HMRC agreed to pay Mr C compensation for the worry and distress experienced as a result of their mistakes. They also agreed to pay compensation for poor complaints handling and reimburse the costs of telephone calls and postage.

Case study 4 – Specialist Investigations

Issues

Mr D was unhappy that HMRC officers, in a joint operation with the police, had seized his vehicle for suspected criminal offences.

The vehicle was subsequently disposed of and Mr D complained that insufficient compensation was offered.

The Customs and Excise Management Act 1979 requires HMRC to take court proceedings for the condemnation of a seized vehicle where any person gives notice that he or she objects to forfeiture.

HMRC had already accepted that Mr D gave due notice of his objections and that a condemnation order was therefore necessary prior to disposal. This had not been obtained and the vehicle should not have been disposed of. However, HMRC took the view that the level of compensation requested was excessive.

Outcome

The Adjudicator did not uphold this complaint.

The Adjudicator explained the extent of HMRC's redress policy to Mr D and reviewed documentation regarding the claim for compensation. The Adjudicator established that the garage repair company which was referred to by Mr D to verify his claim for costs was no longer in existence and the telephone number on the invoice was unobtainable.

HMRC fully accepted that Mr D should be reimbursed for the loss of the vehicle. Mr D made it clear that all he wanted was his vehicle returned. Clearly this was not possible and HMRC was obliged to offer Mr D sufficient funding to purchase a replacement vehicle of a similar standard. The Adjudicator checked the offer made by HMRC and found that it exceeded the amount Mr D had actually paid for his vehicle. Having considered all of these facts, The Adjudicator found HMRC's offer to be reasonable.

HMRC agreed to reimburse Mr D for the incidental costs in making his complaint and for the worry and distress caused by the inappropriate disposal of his vehicle.

Learning

The Adjudicator was critical of the wording contained in HMRC's letter to Mr D. Their letter stipulated a condition requiring Mr D to withdraw his appeal as part of their compensation offer. Claims for compensation and an appeal against forfeiture are quite separate and independent matters, and The Adjudicator concluded that HMRC were not justified in including such a condition. HMRC confirmed that as a result of this case they will review and amend the wording of similar letters for the future.

Case study 5 – VAT

Issues

E Ltd complained that HMRC's National Advice Service (NAS) had given them misleading advice. They claimed this was compounded when a subsequent VAT inspection failed to identify that E Ltd had claimed tax that should have been disallowed.

Outcome

The Adjudicator upheld this complaint.

Initially HMRC did not accept they had made any errors for which redress should be considered.

The Adjudicator asked for a further independent review to be undertaken.

In addition, she asked one of her investigators to obtain and listen to recordings of the two telephone calls made to the NAS. Having reviewed this evidence, The Adjudicator found that a mistake had been made by HMRC and recommended that they pay the costs arising from their misleading advice. HMRC agreed and issued an apology for their poor complaints handling.

Learning

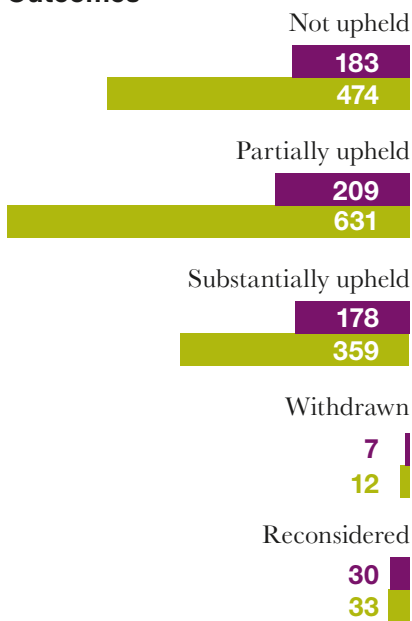
HMRC reminded staff that where records of telephone calls exist, it is essential that the content is considered in detail.

Benefits and Credits

Complaints relating to Tax Credits continue to be a substantial proportion of our workload, although due to the increased volumes from other areas of HMRC the percentage fell to just under 60% overall.

During 2011-12 we received 930 new complaints. We resolved 607, upholding 64% either partially or substantially. Our investigators mediated 30% of cases directly with customers and the department.

Outcomes



2011-12 Total 607

2010-11 Total 1,509

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 (often referred to as COP 26) – *'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 HMRC have followed their guidelines.

The process of sharing departmental reports with customers was developed with HMRC Tax Credit Office (TCO) and the approach has been refined further throughout the year. The vast majority of Tax Credit customers respond with comments on HMRC's report and this enables us to ensure we have all the key facts to hand at the start of our investigation.

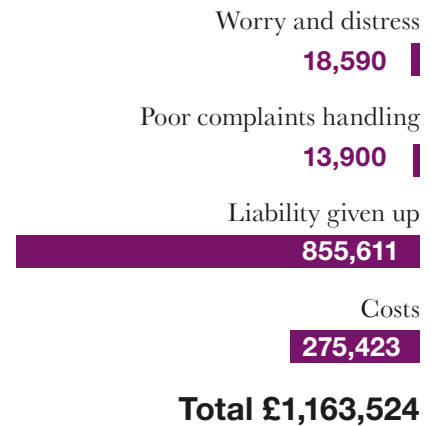
HMRC has continued to clarify escalation routes for customer complaints. However, more needs to be done to improve the decision making on complaints, as the percentage upheld by The Adjudicator remains well above 50%.

Case study 6 highlights the needs of customers with disabilities, case study 7 shows poor handling of a complaint and case study 8 illustrates the important responsibility placed on customers to notify HMRC promptly of changes in circumstances.

HMRC accepted all The Adjudicator's recommendations.

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

Redress paid 2011-12 £



Case study 6 – Customers with disabilities

Issues

Mr F complained about the way in which HMRC dealt with his Tax Credit claims, and subsequent recovery of overpaid amounts. He also took the view that they had failed to make reasonable adjustments to take account of his profound deafness.

Outcome

The Adjudicator upheld this complaint.

HMRC had not corresponded with Mr F regarding the debt that they intended to collect, despite Mr F writing to them on this matter. The Adjudicator took the view that they had not taken sufficient account of his disability when dealing with his case.

As HMRC had subsequently written off the overpaid Tax Credits under the revised Code of Practice 26, the focus of The Adjudicator's investigation was HMRC's handling of the case.

The Adjudicator was very concerned to hear about the difficulties Mr F had experienced in asking for consideration of a 'time to pay' agreement with HMRC's Debt Management team.

Mr F had been told during a visit to a HMRC Enquiry Centre that they could not accept a written income and expenditure statement. It was suggested that he telephone HMRC's Debt Management team to discuss this matter. The Adjudicator reviewed HMRC's records of this visit and saw that he was indeed told that there was no process to deal with income and expenditure 'by paper'. She felt that this was particularly insensitive taking into account Mr F's deafness.

It is not the case that HMRC have no process to deal with these matters in writing. Their guidance on dealing with time to pay requests clearly states:

"There may be times where using the telephone to discuss [time to pay] arrangements is not appropriate (such as, where there is a disability). In these cases you will need to consider the individual's requirements and tailor your approach accordingly."

The Adjudicator was critical of HMRC's handling of this case.

Following her investigation HMRC accepted that they displayed a lack of sensitivity towards Mr F's communication needs.

Learning

HMRC accepted that this case had raised issues about staff compliance with their guidance when dealing with customers who have particular needs. HMRC explained that they had contacted their Equality Team and were taking advice on this matter. They agreed that in Mr F's case they should have adjusted their procedures to enable him to deal with matters in writing. They agreed to look at their procedures to ensure customers with hearing difficulties receive fair treatment.

Case study 7 – Responsibility for a qualifying child

Issues

Mr G complained about the way HMRC handled his complaint. He said that HMRC failed to pay him the correct tax credit entitlement and had dealt with his case badly.

Outcome

The Adjudicator upheld this complaint.

Mr G received tax credits on the basis that he was responsible for one qualifying child and the amount he received was based on the level of his income.

Following an interview, HMRC ended Mr G's award because they believed he no longer had responsibility for any qualifying children and decided that all the payments should be repaid.

Mr G wrote to HMRC to notify them of the decision made by the Judge of the Upper Tribunal of the Administrative Appeals Chamber, confirming he did have responsibility for qualifying children.

After review, HMRC changed their decision and wrote off the amounts shown as overpayments and reinstated the claim.

By the time the decision was overturned the tax credit award had already been terminated. It was reinstated, but HMRC could not restart a terminated claim on their computer system. The outstanding entitlement therefore had to be paid by freestanding payments, none of which showed on the system in the usual way. This meant that anyone new looking at the case, for example on a helpline or dealing with an item of correspondence, would not see that the claim had been reinstated or that payments had been made.

In an attempt to reinstate the award, Mr G submitted a new application as requested by HMRC. They processed Mr G's form as a new claim rather than a continuation of an existing claim. This mistake meant that Mr G's award was backdated by only 93 days instead of to the date his previous award ended.

HMRC also told Mr G that he must make an appeal if he disagreed with the outcome. This advice was incorrect.

As a result of The Adjudicator's intervention HMRC corrected this position and paid Mr G his full entitlement.

Learning

The Adjudicator wrote to the Director of the TCO to point out her serious concerns regarding the handling of this case. She also asked HMRC to remind all staff of the need to respond promptly to letters and to ensure that the names of customers are spelt correctly. HMRC wrote to the customer to apologise for their shortcomings.

Case study 8 – Provision of income figures

Issues

Mrs H complained about the way HMRC dealt with her tax credit affairs. She was overpaid Tax Credits over two tax years and was unhappy with HMRC's decision to recover these overpayments.

Outcome

The Adjudicator did not uphold this complaint.

Although Mrs H did not dispute that she and her husband had been overpaid she was unhappy at being asked to repay this money. Mrs H believed that she had not been properly advised of the consequences of providing estimated income figures to calculate her Tax Credit entitlement.

Tax Credit awards are not finalised until after the end of the tax year when the actual income during the year, and any relevant changes of circumstances, are considered. This is generally the point at which under or overpayments of tax credits are identified. During the course of a tax year awards are provisional, until this final reconciliation takes place at the year end. Underpayments are then paid, and any overpayment is recovered.

The Tax Credit overpayment arose because Mrs H did not tell HMRC until she made her Annual Declaration, after the end of the tax year, that the estimated income figure used to calculate the award was too low.

The Adjudicator carefully considered HMRC's decision to recover the overpayment. The award notices that were sent to Mrs H and her husband asked them to notify HMRC if their joint household income figure went above £50,000. They were late in notifying HMRC that their joint household income was more than £50,000 and as such they did not meet their responsibilities under Code of Practice 26. The Adjudicator decided that HMRC's decision to recover the overpayment was reasonable.

The overpayment was not as a result of any failure on the part of HMRC, but was due to the increase in the joint household income.

HMRC told The Adjudicator that they accepted that Mrs H may not have understood the consequences of providing a low estimate for the award. However they also felt that it was clear, from a telephone conversation, that they had explained the implications of changes in household income, as Mrs H was near the threshold where the tax credit entitlement would cease.

Taking into account all of the facts, The Adjudicator concluded the recovery of the overpayment was reasonable.

Learning

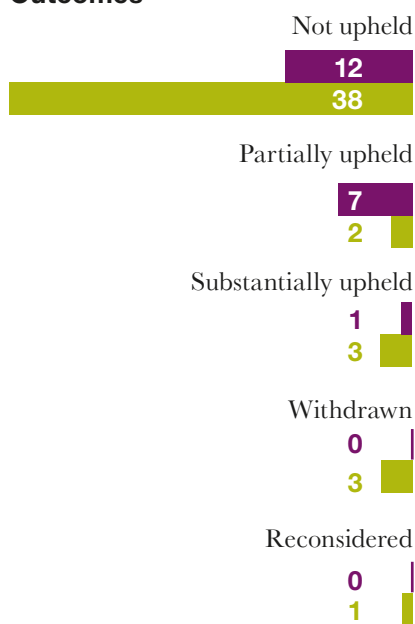
Following The Adjudicator's intervention, HMRC recognised that there were aspects of this case which could have been communicated more clearly to the customer. However, The Adjudicator concluded that the poor communication did not cause the overpayment and therefore it remained recoverable.

The Valuation Office Agency (VOA) is an executive agency of HMRC. The VOA provides the Government with the valuations and property advice required to support taxation and benefits.

Valuation Office Agency

During 2011-12 we received 26 new complaints. We resolved 20, upholding 40% either partially or substantially. Our investigators mediated two cases directly with customers and the department.

Outcomes



2011-12 Total 20

2010-11 Total 47

Of the cases we closed the majority were about council tax. Many of these included reference to decisions made by the VOA or the Valuation Tribunal about council tax banding. The Adjudicator is unable to consider these elements of customers' complaints because these are outside her remit.

The relationship between The Adjudicator and the VOA remains positive and the VOA complaints team is receptive to feedback. The upheld rate for the year did increase sharply from 2010-11, although this was due to a number of connected cases. Excluding these cases, the number upheld remains low.

Case study 9 highlights a case where The Adjudicator considered inconsistencies in council tax bandings and case study 10 describes a delay by the VOA in undertaking a review.

The VOA accepted all The Adjudicator's recommendations.

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

Redress paid 2011-12 £



Total £2,040



Case study 9 – Delay in undertaking a review

Issues

The VOA did not alter the council tax band when Ms J asked them to review it. However, they did decide to reduce it when they received a similar request from Ms J's professional representative a number of years later.

Ms J complained that she should not have had to instruct a representative to attain the reduction she had previously sought herself, and she wanted the VOA to compensate her for the fees she had paid to her representative.

Outcome

The Adjudicator upheld this complaint.

The Adjudicator could not consider the appropriateness of the council tax band because she cannot investigate the VOA's valuation judgements. Her investigation therefore focused on whether, as a matter of procedure, the VOA should have altered the band earlier.

The Adjudicator established that, when making a decision about a council tax band, the VOA should consider whether that decision created an inconsistency with other properties. The VOA published two distinct pieces of guidance about this.

After reviewing the guidance alongside the circumstances of Ms J's case, The Adjudicator established that the VOA should have undertaken a review before Ms J engaged her representative and that the VOA had numerous opportunities to reduce the band before Ms J's representative became involved in the case. The Adjudicator therefore concluded that Ms J would not have incurred the costs of her representative's fee if the VOA followed their guidance.

The Adjudicator established that neither Ms J's costs nor the costs themselves were unreasonable, and recommended that the VOA compensate Ms J accordingly. Further compensation was recommended for poor complaint handling and for worry and distress.

The Adjudicator wrote to the VOA's Chief Executive setting out her views on the VOA's departure from their guidance. The Adjudicator also took the opportunity to comment on apparent contradictions in different pieces of the VOA's guidance, and inconsistency in its application and interpretation by different members of the VOA's staff.

Learning

The VOA accepted and adhered to The Adjudicator's recommendations, and wrote to Ms J to apologise for their failings in this case. As a result of The Adjudicator's observations, the VOA also made significant revisions to their guidance on reviewing similar properties' bands as a consequence of making decisions about those of others.

Case study 10 – Inconsistency in council tax banding

Issues

Cllr K complained, on behalf of residents of five households, about the difference in the level of council tax banding applied by the VOA to apparently similar properties.

Outcome

The Adjudicator upheld this complaint in part.

Cllr K believed that the VOA should have publicised the Valuation Tribunal's decisions about the bands of properties that were similar to the residents' properties. This, Cllr K contended, would have prompted the residents to instigate appeals against their own council tax bands, which was no longer possible because the statutory time limits had passed.

The Adjudicator established that the VOA were not responsible for publicising Tribunals' decisions. She was therefore unable to conclude that the VOA acted inappropriately or outside of their guidance.

The Adjudicator could not consider the appropriateness of the council tax bands because she cannot investigate the VOA's valuation judgements.

However, the VOA's guidance on applying Tribunal decisions did suggest that there were some occasions where a decision about one council tax band should lead the VOA to alter the bands of other similar properties. The Adjudicator and the VOA discussed whether the Tribunal's decisions should have been applied to the residents' properties.

The VOA contended that applying the Tribunal's decisions to the residents' properties would contradict the relevant legislation. That legislation essentially provided that the VOA should only alter a band where they have been specifically directed to do so by the Tribunal or the High Court, or when their Listing Officer (the member of their staff with statutory responsibility for council tax banding) believes that a different band should apply. In this case, the Listing Officer believed the initial bands were correct. Therefore, the VOA took the view that, in the absence of a Tribunal or High Court decision to the contrary, it would be inappropriate to alter the bands.

During The Adjudicator's discussions with the VOA, she established that the Listing Officer considered the Tribunal's decisions to be flawed. The VOA accepted that, in such circumstances, they should have considered challenging the decision. In not doing so, the VOA allowed the perceived disparity in banding to exist and to continue. The Adjudicator asked the VOA to consider making a redress payment to the residents to acknowledge the worry, distress and inconvenience caused.

Learning

In addition to paying redress, the VOA amended their guidance on applying Tribunal decisions. This ensured that it was consistent with the relevant legislation and reflected their intentions in these circumstances more clearly.



The Adjudicator's meeting with stakeholders, Autumn 2011

“Thank you for your very fulsome letter of September 14 in respect of [my] clients’ complaint against HMRC. I am sure my clients will share my view that you have certainly given the case very detailed consideration and investigation.”

Customer

“After worrying for so long over my underpaid tax, I just wanted to say a big THANK YOU for your help in resolving my case. It’s such a relief it’s all over. Thank you again.”

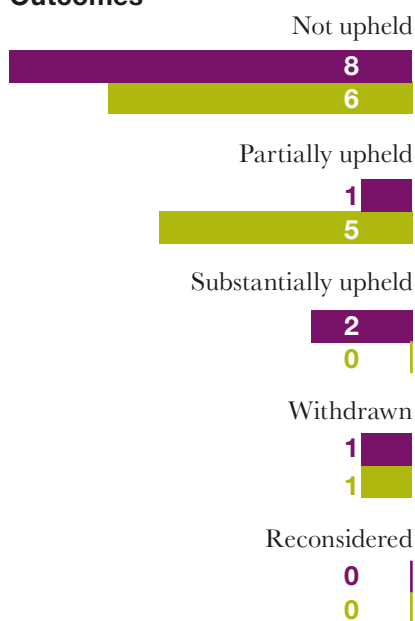
Customer

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

The Insolvency Service

During 2011-12 we received 8 new complaints. We resolved 12, upholding 25% either partially or substantially. Our investigators mediated one case directly with the customer and the department.

Outcomes



2011-12 Total 12

2010-11 Total 12

Official receivers are statutory office holders and as such they are directly accountable to the courts for a considerable portion of their actions. We therefore examine complaints about The IS very carefully to ensure we investigate only those matters which are within our remit, for example, those that cannot be resolved through the courts. Only the court can modify a decision about the administration of an insolvent estate.

The relationship between The Adjudicator and The IS remains positive and The IS is receptive to The Adjudicator's constructive feedback. The number of cases being referred to The Adjudicator about The IS remains small.

Case study 11 illustrates issues around assets in bankruptcy and case study 12 highlights the routes to insolvency practitioners.

The IS accepted all The Adjudicator's recommendations.

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

Redress paid 2011-12 £





Case study 11 – Assets in bankruptcy

Issues

Ms L had been made bankrupt and complained that The IS had given her incorrect information about what happened to the assets in her bankruptcy, specifically the items in her former business premises. Ms L also complained that The IS took too long to address her complaint correspondence.

Outcome

The Adjudicator upheld this complaint.

Ms L ran a business until she was declared bankrupt. The official receiver was appointed as her trustee in bankruptcy.

Ms L sent The Adjudicator a copy of an e-mail which clearly stated that many of the items in her former business had been collected by an agent for The IS. The Adjudicator established that this information was incorrect as only a few items had actually been removed and sold at auction.

Ms L suffered significant worry and distress as a consequence of The IS giving her the wrong information. Consequently, The Adjudicator upheld this aspect of the complaint.

The Adjudicator identified a number of unreasonable delays caused by The IS in their handling of the bankruptcy and subsequent complaint.

The Adjudicator found that a substantive response to Ms L was issued over six weeks late and another was over four weeks late. On another occasion The IS took over three months to respond to Ms L.

The Adjudicator concluded that The IS had fallen short of the guidelines in their complaints procedure when responding to Ms L's complaint.

The Adjudicator recommended that The IS should put matters right, send Ms L a letter of apology and pay compensation for the worry and distress their mistake had caused, in addition to a payment for the delays.

Learning

It is important that departments recognise the impact their mistakes have on customers and take appropriate steps to put matters right as soon as such issues come to light.

Case study 12 – Insolvency practitioner

Issues

Mr M, an insolvency practitioner, complained that The IS had failed to halt the dissolution of a company in liquidation when he notified them he had been nominated by the petitioning creditor to be appointed as the company's liquidator.

Outcome

The Adjudicator partially upheld this complaint.

The main aspects of this complaint were not upheld, but as a result of her investigation The Adjudicator found that The IS had lost a fax from Mr M. This loss meant that The IS were not able to give further consideration to the request for Mr M's appointment as liquidator, or to decide whether halting the dissolution of the company was appropriate. There had been previous correspondence between The IS and Mr M regarding such an appointment.

Because the fax was not considered by The IS, Mr M was not afforded the opportunity to detail the assets he wished to pursue. Consequently, the official receiver did not consider this matter, or decide whether to halt the dissolution process, before the company was dissolved.

The loss also meant that the creditors who requested Mr M's appointment did not have the opportunity to consider calling a general meeting of creditors, for the purpose of appointing a liquidator other than the official receiver.

In deciding on an appropriate remedy The Adjudicator considered the detriment caused by the loss of the faxed letter. She made enquiries with Mr M regarding the assets that he had planned to pursue if he were appointed as liquidator.

The Adjudicator asked The IS whether they had considered these assets and reviewed their response. The Adjudicator concluded that The IS had given due consideration to these assets and Mr M did not provide details of any new assets or information The IS had not already considered.

Because she identified there had been no detriment caused by The IS, The Adjudicator did not recommend that The IS apply for the restoration of the company to the register of companies as there would be no benefit to the company's creditors in doing so.

Following The Adjudicator's intervention, The IS offered to apologise to the customer and agreed to review their procedures surrounding the receipt of faxes. Additionally, The IS agreed to issue a new instruction to staff regarding dissolving companies when in receipt of a late request from an insolvency practitioner seeking an appointment.

Learning

The IS accepted that there were failings in their handling of this case. They accepted the need to review the way they deal with late requests for appointments. The IS subsequently issued a notice to all staff containing guidance on this matter to prevent similar problems occurring in the future.

“HMRC continues to value the role of the independent Adjudicator and her drive to improve learning from complaints. For example, we have worked with the Adjudicator's Office on sharing with customers HMRC's summary of facts before The Adjudicator's investigation commences. This has helped increase the customer experience and enabled our teams to translate learning from customer feedback into practical process improvement.”

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

“The Insolvency Service values an independent review of our complaints, giving us a useful additional scrutiny to our approach to complaint resolution. The review process gives customers a greater level of confidence and satisfaction in the way we handle complaints. Your role enables The Insolvency Service to offer an improved service to customers through the acceptance of any recommendations you make or as a confirmation that the current systems and processes are fit for purpose.”

Graham Horne, Interim Chief Executive, The Insolvency Service

“For our customers, being able to seek a further objective examination of our handling of their complaints when they remain unhappy is very important. For the Agency it is also essential that this additional step is available under our complaints process. The Adjudicator's independent view of our service is extremely helpful in assisting us to continually improve and meet our strategic objectives of driving quality and consistency through improved internal processes, and targeting and achieving customer trust.”

Penny Ciniewicz, Chief Executive, Valuation Office Agency

Last year was a very mixed year for our workload. However, it was still a year of significant progress and consolidation.

Office organisation

Development

A number of our customers need tailored support and, using the equality legislation as a backdrop, our new Quality Team ensured all staff were fully aware of different customer needs. This was further enhanced by specialist training from MIND on the mental health challenges one in five of all adults will face during their lifetime.

Resources

The temporary additional staffing ceased at the end of 2010-11 as planned and the move into new and distinct investigation teams went well. When it became apparent that we were experiencing a sustained peak of incoming volumes of cases towards the latter part of the year, additional resources were quickly identified. Since then there has been a sustained growth in staff numbers, using a mixture of permanent and temporary placements. The downside to recruitment is the time displaced on training and I would like to thank all of the staff, old and new, for their enthusiasm and drive in maintaining high standards in customer support. With such a sustained peak of work the resource levels are still not where they need to be and recruitment of further staff continues into 2012-13.

Communications

We consolidated customer feedback into one team to help us use it for process improvement. This approach has been very successful and we have documented and refined a number of procedures. We also redesigned our website. A recent independent review has rated this in the top six of over 300 government websites for performance, although we still need to improve accessibility for all customer needs.

Looking forward

As a provider of a demand-led service we cannot accurately predict the volumes or detailed types of complaints that will be referred to The Adjudicator. However, our triage of cases is now well established and I am confident we will recover quickly from the peak of work received at the end of 2011-12. We now have the opportunity to do more than simply get back to where we were and we will be seeking to achieve another step-change in performance during the coming year.

Margaret Allcock
Head of Office

“May I thank you for your role in helping to resolve this long-outstanding matter – it has taken 2 years and 9 months to reach this conclusion. Once again, thank you for your attention and considerations.”

Customer

“Thank you also for phoning me to explain the outcome of the complaint, these days it is not often we receive a personal approach from official organisations.”

Customer

“My reason for writing is simply to thank you and the people in your office for working so hard, and in particular for continuing to do so when you might have justified doing nothing more. Superb.”

Customer



Feedback about The Adjudicator's Office

We welcome feedback as it enables us to review our service and continue to improve the experience of our customers. In 2011-12 we set up a Quality Team and this has enabled us to independently review customer comments.

We separated this feedback into two specific areas:

Complaints about our service

During the year we received ten complaints about the level of service we had provided of which three were upheld. We analysed the comments made and considered where we could make improvements. For example, we have amended and clarified our telephone message following feedback from customers.

Queries about the outcome of The Adjudicator's recommendation

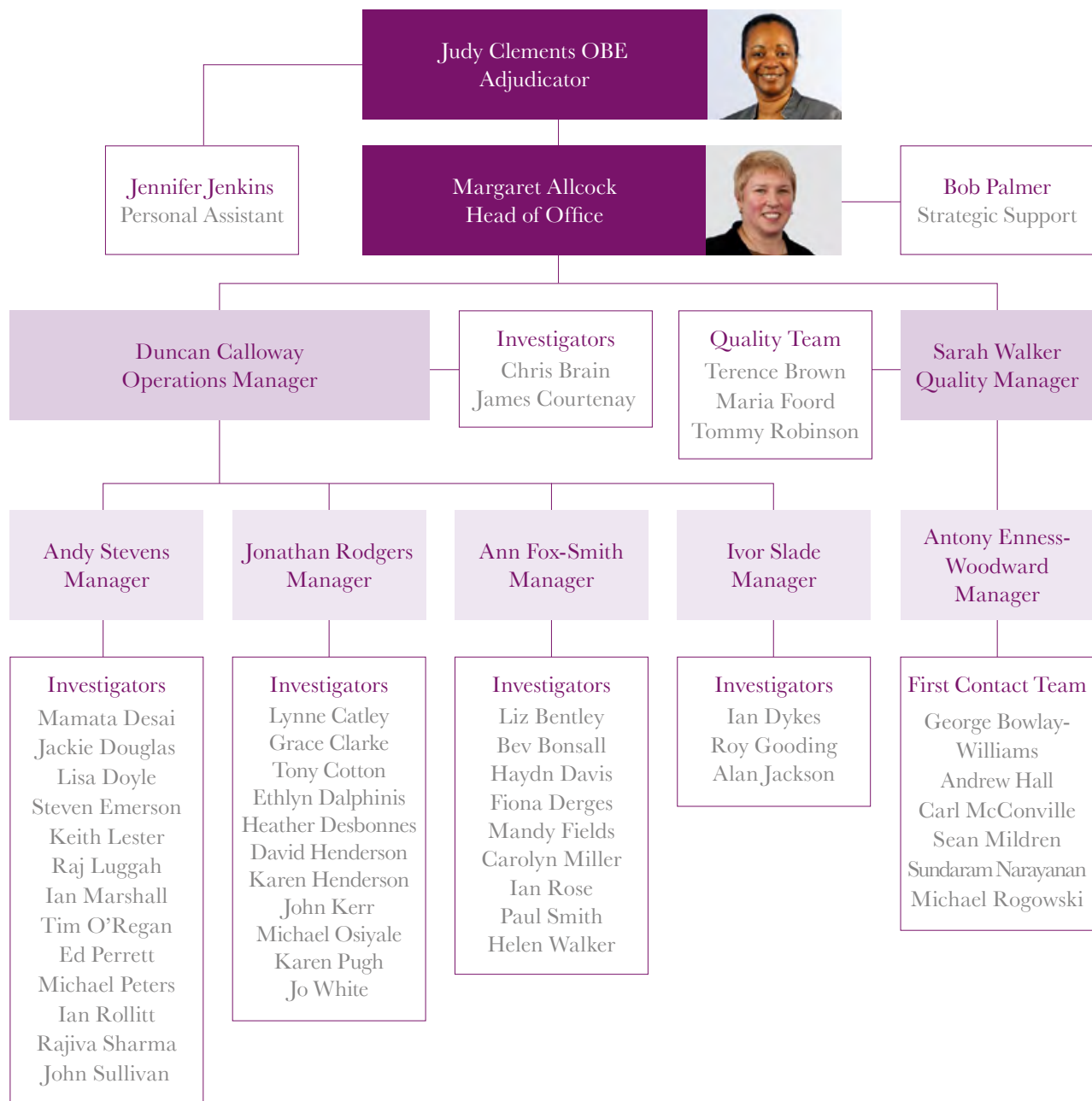
The Adjudicator will usually only reconsider a case where the customer provides new and relevant information or highlights inaccurate facts.

The vast majority of the queries received did not meet our criteria for re-opening cases. However, in some instances The Adjudicator did provide a further response to the customer where it appeared they may not have fully understood the contents of her recommendation letter.

The Adjudicator does not reconsider cases solely on the basis that the customer does not agree with her decision. In such cases customers must decide what their next course of action will be and The Adjudicator's recommendation letters all clearly explain the process by which a case can be referred to The Parliamentary Ombudsman.

How we are organised

Structure at 31 March 2012



Finance 2011-12

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.

2011-12	Budget	Actual
Staffing	£2,121,715	£2,120,379
Other operational costs	£60,000	£45,764
Total	£2,181,715	£2,166,143

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 2011-12 and the salary range remained at £120-125k.

How to contact us

Write to:

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)

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, Nottingham and Peterborough offices will contact customers directly about the complaints that they investigate.

Fax:

0300 057 1212 or **020 7667 1830**

Online

www.adjudicatorsoffice.gov.uk

We are unable to communicate with customers by e-mail.

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