



ODF

Ombudsman for the Defence Forces
Annual Report 2008



Ombudsman for the Defence Forces

Customer Charter

The Ombudsman for the Defence Forces strives to provide a fair, user-friendly and accessible means of adjudicating cases, as speedily as possible.



I hereby submit my Annual Report as Ombudsman for the Defence Forces for 2008 pursuant to Section 7 of the Ombudsman {Defence Forces} Act 2004.

This is the third Annual Report submitted in relation to the work of the Ombudsman for the Defence Forces since it was established on 1st December 2005.

A handwritten signature in blue ink, reading 'Paulyn Marrinan Quinn', is written over a horizontal line.

Paulyn Marrinan Quinn, SC
Ombudsman for the Defence Forces



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Introduction by the Ombudsman for the Defence Forces, Paulyne Marrinan Quinn S.C.



2008 was the third year of operation of the Office of the Ombudsman for the Defence Forces. I was pleased to be re-appointed in September 2008 for further term of three years.

At the third anniversary it was timely to reflect on the underlying aims and objectives of the Office of the Ombudsman for the Defence Forces; assess how far it has gone towards the fulfilment of its role; and chart how it has served and met the expectations of its stakeholders.

The function of the ODF is to act as the ultimate point of appeal and investigation into complaints made by members and former members of the Defence Forces against another member or former member of the Defence Forces, or against a Civil Servant of the Department of Defence. Like all Ombudsman systems, the ODF is an Office of last resort: this means that all existing internal grievance procedures must be exhausted where the Complainant is a serving member of the Defence Forces.

Under the provisions of the Ombudsman (Defence Forces) Act, 2004 the findings and recommendations, which I make in my Final Reports, having examined or investigated a case, are issued to the Minister for Defence. These Final Reports will cover matters specific to the case in question and may include recommendations for redress where I have found that a Complainant has been unfairly treated. It is not unusual for these Final Reports to also include observations and findings in relation to systemic matters

that I have identified in the course of my investigation of a case. I am pleased that the Office of ODF has assisted the Defence Forces in the revision of a number of Human Resource procedures including the 'Selection Procedures for Career Courses and Overseas Service'. I am also pleased that the recommendations, which I have made in my Final Reports to the Minister for Defence, have informed the revision of selection processes for promotion, a new version of which is currently being progressed with the representative associations through the Conciliation and Arbitration Forum.

In going about the job of setting up this Office in 2005 and putting down its foundations, one of the many objectives was to inform the stakeholders about the principles of Ombudsmanship. I sought to specifically define the role and responsibility of ODF so that members and former members of the Defence Forces could be confident that grievances referred to the Office would be considered in an impartial and fair manner.

In 2008, the number of cases accepted for investigation by me increased by 39% over 2007. This trend provides evidence of increased awareness of the role and function of the Office.

Although the increase in cases accepted for investigation places additional demands on ODF resources, my Office remains committed to providing stakeholders with speedy resolution of cases. The length of time taken to issue a Final Report often relies upon stakeholders replying to a Preliminary View Report in a timely fashion. I was pleased that in 2008 the Minister for Defence took on board my concerns regarding the length of time taken to reply to some Preliminary View Reports and I look forward to continued improvements in this area in 2009.

One of the most difficult jobs, which an Ombudsman has to do, is to be the bearer of the disappointing news to a Complainant if his or her case does not fall within the remit of the Office or that the nature of their complaint or grievance is such that no remedy can be provided. In 2008, 123 cases fell outside my jurisdiction and were deemed Outside the Terms of Reference (OToR). I have attempted in this Annual Report to convey why it is universally accepted that, on some occasions, decisions by an Ombudsman as to whether a case comes within the jurisdiction of the Office can be more difficult than the decision on the case itself.

In 2008, I refined and expanded the categories under which complaints and appeals are recorded. The new categories now mirror the categorisation used in the Second Report of the Independent Monitoring Group, published in December 2008.

The new categorisation provides a more accurate reflection of the reasons why members or former members bring cases to me for adjudication and a detailed explanation of the refined system is included in the Analysis of Complaints and Appeals section of this Annual Report.

I reported in my Annual Report for 2006 that I had been invited to become a member of the Expert Group convened by the Organisation for Security and Co-Operation in Europe's Office for Democratic Institutions and Human Rights (ODIHR) and the Geneva-based Centre for the Democratic Control of Armed Forces (DCAF) in creating the *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel*. It was, therefore, an honour to be invited to speak at the launch of the publication on the 28th May 2008 and to address the meeting on *The Role of Ombudsman Institutions in Protecting Human Rights of Armed Forces Personnel*. The involvement of the ODF in the Expert Review process is an important milestone and demonstrates the growing international interest in the philosophy that underpins my Office.

During the course of 2008, I was invited to address the Independent Monitoring Group's review of progress and the implementation of its recommendations from its first report published in 2004. I was also pleased to be invited by the Law Reform Commission to assist in the *Consultation Paper on Alternative Dispute Resolution*.

In keeping with the EU Directive on Alternative Dispute Resolution (ADR) and related matters (issued in April 2008), there is a widespread recognition of the value of ADRs as a non-adversarial alternative to potentially complex and lengthy legal proceedings. It is rewarding to see Ombudsmanship being recognised in that Consultation Paper and it is gratifying to see ODF now included in the number of Ombudsman Offices which have emerged in Ireland over the last decade which significantly contribute to providing a non-adversarial means of resolving a myriad of disputes and, as such, contribute to widening access to justice. This is timely as the concept of Ombudsman is celebrating its 200th anniversary this year.

It is well established internationally that, in order to be effective, any Office of Ombudsman must have relevant powers and be adequately resourced to carry out its function. It is also widely accepted that such an Office must be independent, so that its ability to be impartial and fair is never undermined. As a Statutory Ombudsman, I am not empowered to make binding awards. The continued achievement of such an Office of oversight depends largely on the cooperation which it receives from the institution or body over which it exercises that oversight. In this regard, I must convey my acknowledgement to the Defence Forces under the command of the Chief of Staff, Lieutenant General Dermot Early; the Minister for Defence, Willie O'Dea T.D.; and his officials at the Department of Defence for the cooperation and regard which they have extended to my Office.

In my 2007 Annual Report, I stated that it was reasonable to forecast that the demands on my Office would increase over the coming years. The number of cases processed through the Defence Forces Redress of Wrongs (RoW) procedures more than doubled between 2006 and 2007, increasing from 76 to 168. In 2008, this increased by another 55% with a total of 261 complaints processed through the RoW procedure.

In both 2006 and 2007, approximately 30% of all grievances processed through the Defence Forces RoW procedure were subsequently referred to me by way of appeal. In 2008, a total of 153 complaints, which were originally processed through the RoW process, were appealed to my Office. This represents 58% of all RoW cases.

These headline figures illustrate the growing confidence and trust that members and former members of the Defence Forces place in my Office to fairly and independently adjudicate on complaints and appeals. Despite the obvious additional workload it places on my Office, this is a welcome development.

It has been clear from the establishment of this Office that one of the main challenges for the Defence Forces is recognising the difference between the historic concept of a "wrong" - as perceived in the Redress of Wrongs (RoW) procedures - compared to the wider prism of unfair treatment introduced by the legislation establishing ODF.

There is ample evidence that the Defence Forces have taken on board a number of recommendations contained in my Final Reports and accepted by the Minister for Defence. I welcome this openness to change and hope that the coming years will see an even greater synergy between ODF recommendations and Defence Forces practice so that persistent sources of grievance that have been identified are comprehensively reformed.

In October, I visited the Department of National Defence and Canadian Forces Ombudsman. There I observed the opportunities available for informal resolution of individual complaints referred to the Ombudsman. In Canada, the Ombudsman engages, at an early stage, in the lifecycle of a complaint, with designated Armed Forces personnel authorised to resolve the case informally. It is a process that provides a non-adversarial means of dispute resolution and delivers benefits for both the Complainant and the institution involved. This is one aspect of international best practice that may well deserve close attention in Ireland.

I fully appreciate that finding a suitable remedy to compensate an individual who has, on the balance of probabilities, been adversely affected by unfair procedures or maladministration presents significant challenges to the military chain of command. Of continuing cause of concern to me is that the remedy for one wrong might create a further wrong to another member and I regard this as an ongoing challenge.

This challenge, along with so many other issues regarding civilian oversight of military procedures, is far from straight forward. However, based on the work record of my Office to date, it is clear that the decision to provide an independent process of appeal and adjudication has been of value to all stakeholders.

It is often said that the role of an Ombudsman is multi-faceted: It is a safety net, an early warning system and a catalyst for change. In these roles, an Ombudsman ensures that no unfair practices hide in the shadows as the Office monitors the progress of every complaint initiated by the Complainant. Because ODF is complaint-focused, it can provide feedback and identify areas in need of review and reform.

Last year, the Defence Forces gave a number of undertakings to review and reform some Defence Forces' Regulations and administrative practices. It is our aim to follow up and monitor these reforms in the coming year and to assess the positive benefits that flow from these changes. The Office assists the Defence Forces in its pursuit of administrative fairness and as the Department of Defence and Defence Forces Annual Report, 2006 recorded has become '*firmly established within the culture of the Defence Forces*'. In addition to dealing with issues arising in specific cases, an Ombudsman is likened to 'a Sleeping Policeman': By its very presence it is acting as an agent of change and guardian of fairness.

I am pleased to report that the output of the Office in 2008 increased from the previous year. This could not have occurred without the support and work of my staff. I was pleased to welcome into the office, in May 2008, Mr. Patrick Mulhall who joined Mr. Wesley Graham and Ms. Geraldine Keegan. In the past three years, I have studied the working of other Ombudsman Offices having regard to the ratio of staff per case and outputs. The figures speak for themselves and give testimony to the workload of my small team; so for the commitment and quality which they have invested in this Office, a great deal of gratitude is owed to them.

All dispute resolution processes, whatever their nature, are both precious and fragile. One of the pillars of Ombudsmanship is accountability. I hope this third Annual Report will provide a comprehensive and accessible account of the work undertaken in 2008. Consistent with my two previous Annual Reports. I have included anonymised case histories to give some insight into the human dimension of the statistics which are provided. Consent was sought from the Complainants to include their cases, and every effort has been made to conceal their identity. I wish to record my thanks to them for their willingness to allow the cases to be reported.

I wish to record my thanks to the Office of the Comptroller and Auditor General and Mr John Crean in particular, who managed his own schedule and resources to meet my deadlines to ensure that I could include the Certificate from the Comptroller and Auditor General.

Producing an Annual Report is rather like writing a new book every year and is a significant production involving many sections of work along the way. To all of those who have assisted in the production of this report, I extend my thanks and recognition of their contribution.



Paulyn Marrinan Quinn, SC
Ombudsman for the Defence Forces

Highlights of 2008:

- 🕒 106 cases accepted for investigation, a 39% increase on 2007.
- 🕒 48 Preliminary View Reports (PVRs) issued, a 23% increase on 2007.
- 🕒 34 Final Reports issued, a 17% increase on 2007.
- 🕒 261 Notifications of Complaint through the Defence Forces' RoW procedure received by ODF, a 55% increase on 2007.
- 🕒 Introduction of new categories which provide a more accurate reflection of the grounds for complaints and appeals investigated by ODF.
- 🕒 Undertakings given by Defence Forces and Minister for Defence for review and reform of administrative practices and promotion procedures.
- 🕒 Evidence that the role and remit of the ODF is well established with a continued reduction in the appeals deemed Outside Terms of Reference (OToR) due to time limitations or the necessity to use Defence Forces' RoW procedure in the first instance.
- 🕒 Completion of OSCE's 'The Citizen In Uniform' project with the publication in May 2008 of *The Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel* and a keynote address by the Ombudsman for the Defence Forces at the launch.
- 🕒 Continued international interest in the establishment and role of ODF.
- 🕒 Successful working visit to Department of National Defence and Canadian Forces Ombudsman which built new relationships between ODF and that organisation.

“Before referring a complaint to me serving members of the Defence Forces must first exhaust the RoW procedure. Former members of the Defence Forces may contact me directly in writing or by printing off a complaint form from www.odf.ie”



In 2008 I received 261 Notifications of Complaint lodged through the RoW procedure. I also received 16 complaints directly from former members of the Defence Forces.

Analysis of Complaints and Appeals:



Notification of Complaints (NoCs) under Section 114 of the Defence Act:

An internal grievance process - known as the Redress of Wrongs (RoW) procedure - operates within the Defence Forces. Before a serving member of the Defence Forces can refer an appeal to the Office of the Ombudsman for the Defence Forces, s/he must first have processed the grievance through the RoW procedure. If, 28 days after that complaint was made, there is no resolution of the dispute then a serving member of the Defence Forces is entitled to refer the complaint to ODF directly.

Section 13 of the Ombudsman (Defence Forces) Act, 2004, requires that the Ombudsman for the Defence Forces and the Minister for Defence are notified of all such complaints. This mechanism provides important civilian oversight of the internal grievance process within the Defence Forces and ensures the safeguarding of all complaints submitted by members.

My Office closely monitors the Notifications of Complaint (NoCs) received from the Defence Forces and actively follows up with the military authorities to establish the status of a complaint. I require written confirmation from a Complainant that they are withdrawing a complaint before closing it in my system.

In 2008, I received 261 Notifications of Complaint made through the RoW procedure by Permanent and Reserve members of the Defence Forces. This represents a 55% increase on the 168 complaints I was notified of in 2007.

Of these 261 complaints, 153 were appealed to my Office, though not all of these warranted a full investigation as some were deemed to be Outside the Terms of Reference (OToR) of my Office.

When a complaint has gone through the RoW process, it will have had the benefit of a thorough investigation within the internal grievance procedures of the Defence Forces through the chain of command culminating in a written Considered Ruling by the Chief of Staff. The Complainant may request that it be referred to me and when accepted for examination or investigation by my Office it is termed 'an appeal'.

Operational Activity 2008

Active from 2007	Nature of Complaint	Received in 2008				Cases for Examination/RoW	Case Outcomes for 2008					Active at end of 2008
		NoCs	RoW Appeals	Direct Referral	Total		OToR	Withdrawn	PVRs Issued	Final Report	Closed	
16	Maladministration (alleged administrative unfairness)		103	6	109	125	112	1	6	5	118	7
4	Alleged Inappropriate Behaviour/Bullying		28	3	31	35	2	1	4	1	4	31
4	Career Related Administrative Procedures		9	4	13	17	3	1	7	5	9	8
16	Selection procedures for Promotion		18	0	18	34	0	1	24	18	19	15
4	Selection procedures for Career Courses		9	3	12	16	2	0	6	5	7	9
2	Selection procedures for Overseas Service		0	0	0	2	0	0	1	0	0	2
0	Sexual Harassment		0	0	0	0	0	0	0	0	0	0
46	Total Referrals		167	16	183	229	119	4	48	34	157	72
0	Contacts/Enquiries				110	110					110	0
49	Notification of RoW	261			261	310					246	64

Complaints received directly by the Ombudsman for the Defence Forces:

Former members of the Defence Forces can bring their complaint directly to the ODF provided they were a serving member at the time of the alleged action and they are within the twelve month time limit – that is to say they must refer the complaint no later than twelve months after the date of the alleged action or of becoming aware of the action.

The person against whom the complaint is made must also have been a serving member at the time of the alleged wrong. Subject to these conditions, former members of the Defence Forces can refer complaints directly to my Office.

In addition, a complaint that concerns the actions of a civil servant employed by the Department of Defence, which have affected a current or former member of the Defence Forces, is referred directly to my Office.

In 2008, 16 complaints were referred directly to my Office, an increase of one in comparison to 2007.

Total number of complaints or appeals referred in 2008:

In 2008 my Office investigated 106 complaints or appeals, this represents a 39% increase on the 76 complaints or appeals investigated in 2007. Of these 106 complaints or appeals:

- ☉ 44 cases, consistent with the ODF's terms of reference, were accepted for investigation having first gone through the RoW process.
- ☉ 16 complaints were referred directly to me.
- ☉ 46 cases were carried over from 2007.

Complaints or appeals deemed Outside Terms of Reference (OToR):

In addition to the 106 cases referred to above, my Office examined 123 other cases which were ultimately deemed to be outside the terms of reference of the ODF, or were withdrawn by the Complainant.

This represents a significant increase on previous years: In 2007, 38 cases were examined and deemed outside the terms of reference, while the corresponding figure for 2006 was 29 cases. Some cases may be readily identified as falling outside the jurisdiction of an Ombudsman's remit but often a case may require considerable examination before such a conclusion is drawn. It is well established in this field of work, that the decision as to whether a case falls outside an Ombudsman's jurisdiction can be more difficult than the decision in a case itself.

A significant number of the OToR cases in 2008 originated from one Complainant and this, in large part, explains the exponential rise in the number of cases referred to my Office where an investigation could not be conducted. The decision to find a case OToR is one that is not taken lightly by ODF. An extensive examination of the file is undertaken and considerable work is involved in explaining to a Complainant why ODF cannot become involved or be of help.

Sometimes, however, a case which is clearly outside the jurisdiction but which presents with facts showing that an intervention by ODF may prevent more harm merits some action. In one such case (*Case Summary 7*), I was pleased to assist in acting as the catalyst to have settlement terms concluded.

Of these 123 cases, four were withdrawn by the Complainant. In relation to the other 119 cases the reasons they were deemed OToR were as follows:

- ④ 106 cases related to actions that were the subject of Defence Forces disciplinary proceedings.
- ④ 5 cases were referred by serving members who did not first submit their complaint through the RoW process.
- ④ 3 cases involved an alleged action that occurred before 1st December 2005. In these circumstances, the Act provides that a serving member may refer the matter directly to the Minister for Defence.
- ④ 3 cases related to issues such as pay and pensions, over which the ODF had no jurisdiction.
- ④ 2 cases were referred by Complainants who were not current or former member of the Permanent or the Reserve Defence Forces.

Status of complaints or appeals investigated in 2008:

There are four main stages in an ODF investigation of a complaint or appeal.

- i) Preliminary examination of the case to ensure it comes under the ODF's remit.
- ii) Detailed investigation of complaints or appeals over which my Office has jurisdiction.
- iii) The issuing of a Preliminary View Report (PVR) to interested parties which sets out the preliminary findings and requests clarifications or additional information.
- iv) Following on from the replies to the PVR, a Final Report, setting out the ODF's findings is sent to the Complainant, the Chief of Staff and the Minister for Defence.

The Lifecycle of a Complaint diagram on page 54 sets out the routes a referral travels while within the ODF process.

In 2008 my Office considered 229 complaints and established jurisdiction in 106 of these cases.

In relation to these 106 cases:

- ☉ 48 PVRs were issued – a 23% increase on the number of PVRs issued in 2007.
- ☉ 34 Final Reports were issued – a 17% increase on the number of Final Reports issued in 2007.

Reasons for complaints or appeals:

In 2008, ODF refined and expanded the categories under which complaints and appeals are recorded. In my previous Annual Reports the category *Maladministration* has been the general heading under which we have recorded complaints in relation to issues such as annual leave, personal records, processing of a RoW complaint and processing of claims for payments and allowances and other complaints about administrative unfairness.

This year we have extracted complaints under this general heading which are more closely connected to *Career Related Administrative Procedures*. This new category includes complaints and appeals related to issues such as discharge, recognition of qualifications, performance appraisal reports, reassignment, postings and re-grading.

Definitions Revisited

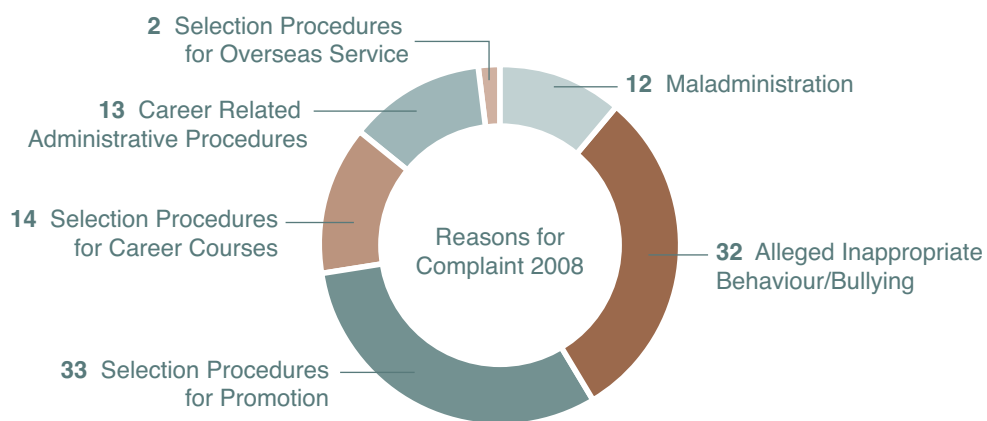
This year, I have also introduced two further new categories: *Alleged Inappropriate Behaviour/Bullying* and *Sexual Harassment*. These categories includes many cases that would previously have been categorised under *Harassment or Bullying*, but have been refined to focus on the spectrum of actions that can give rise to complaints of this nature. These new categories are consistent with Defence Forces Administrative Instruction A7, which sets down policy and procedures regarding interpersonal relationships in the Defence Forces. This instruction outlines and categorises a range of unacceptable behaviours and details the manner in which they may be addressed.

Sexual Harassment – this category has been introduced in my 2008 Annual Report to ensure that any complaints or appeals of this nature are recorded separately. This category covers a range of unacceptable behaviours of a sexual nature cited in the A7 Instruction including unwelcome conduct, which is offensive, humiliating and/or intimidating. No complaints about *Sexual Harassment* were received by my Office in 2008 or in previous years.

Alleged Inappropriate Behaviour/Bullying – is now recorded separately in the interests of clarity, and to keep our information in line with the categorisation used in the Second Report of the Independent Monitoring Group (IMG 2) launched in December 2008. This category covers a range of unacceptable behaviours cited in the A7 Instruction such as verbal or physical abuse, unreasonable scrutiny or criticism and undermining the authority of a colleague in the workplace. In 2008, 32 complaints about *Alleged Inappropriate Behaviour/Bullying* were received by my Office.

The new categorisation provides a more accurate reflection of the reasons why members or former members bring cases to the ODF for adjudication. I hope the new categorisation will be of assistance in our analysis of the causes of complaint.

The Breakdown of the Complaints:



The breakdown of the complaints were as follows:

- 🕒 33 related to Selection Procedures for Promotion.
- 🕒 32 related to Alleged Inappropriate Behaviour / Bullying.
- 🕒 14 related to Selection Procedures for Career Courses.
- 🕒 13 related to Career Related Administration Procedures.
- 🕒 12 related to Maladministration.
- 🕒 2 related to Selection Procedures for Overseas Service.

Outcome of cases where a Final Report was issued:

34 Final Reports were issued by me in 2008. Of these:

- 🕒 20 cases (58.8%) were upheld.
- 🕒 5 cases (14.7%) were not upheld.
- 🕒 6 cases (17.6%) were partially upheld.
- 🕒 3 cases (8.8%) were investigated and deemed Outside Terms of Reference at this stage of investigation.

Multiple complaints or appeals received in 2008:

Of the 106 cases accepted for investigation in 2008, 27 cases emanated from one Complainant. This was the first time my Office has dealt with a high number of multiple complaints from one individual. In outlining the statistics below in relation to the gender, service area and service status of Complainants, we work from the basis of the 80 individuals who submitted complaints, rather than the 106 individual cases investigated.

Complaints by Permanent, Reserve and Former Members of the Defence Forces:

Of the 80 individual Complainants who submitted complaints in 2008:

- ☞ 71 (88.7%) were members of the Permanent Defence Forces.
- ☞ 3 (3.7%) were members of the Reserve Defence Forces.
- ☞ 6 (7.5%) were former members of the Permanent or Reserve Defence Forces.

The percentage of complaints or appeals emanating from members of the Permanent Defence Forces has remained consistent at approximately 88% for each of the years 2006, 2007 and 2008.

Gender of Complainants:

Of the 80 individual Complainants who submitted complaints in 2008:

- ☞ 74 (92%) were male members or former members of the Defence Forces.
- ☞ 6 (8%) were female members or former members of the Defence Forces.

The percentage of male/female members or former members of the Defence Forces referring appeals or complaints to my Office has remained relatively consistent over 2006, 2007 and 2008.

For comparison purposes the Defence Forces Annual Report 2007 notes that as of 31st December 2007 there were 560 female members serving in the Permanent Defence Forces, equating to 5.4% of the total membership.

Service area of Complainants:

Of the 80 individual Complainants who submitted complaints in 2008:

- ☞ 66 (82.5%) were members or former members of the Army.
- ☞ 11 (13.8%) were members or former members of the Air Corps.
- ☞ 3 (3.7%) were members or former members of the Naval Service.

2008 saw an increase in the percentage of complaints and appeals emanating from the Army compared to the previous year, up from 75% of cases in 2007 to 82.5% of cases in 2008.

“When I receive a complaint or appeal the first step is to conduct a preliminary examination of the facts. One of the first decisions which has to be made is whether the complaint or appeal comes within my jurisdiction.”



In 2008 a total of 229 cases were referred to my Office for consideration and 106 of these were within the terms of reference of the ODF.

Commentary on Cases:



Policy changes following on from ODF recommendations:

Playing a part in instigating and guiding reform is an important objective for an Ombudsman. In the course of the examination and investigation of individual cases, an Ombudsman often identifies administrative procedures and practices that are out-of-date, badly administered or in need of reform. Systemic issues which require attention also come to light. When I issue a Final Report, the administrative unfairness or flawed procedures highlighted in the course of my observations, findings and recommendations, are brought to the attention of the Minister for Defence, the Chief of Staff and the person who brought the complaint.

In my two previous Annual Reports, I recorded a number of policy changes that the Defence Forces had introduced following recommendations contained in ODF Final Reports. One of the far-reaching benefits of this administrative oversight is that a decision in one case, not only vindicates the Complainant's case, but ensures that the underlying causes are addressed so that other people are not the subject of similar flawed practices or anomalies. It has been my experience that, even in cases where the Complainant has not been provided with the remedy sought, the investigation of the case has identified policies or administrative procedures that do not accord with best practice and are in need of review.

It is a measure of the wisdom and strength of an institution that it is open to the benefits of external oversight. During 2008, the Defence Forces undertook to initiate reform in a number of areas which were identified in my Final Reports and where my recommendations were accepted by the Minister for Defence. These include:

Failure to provide reasons for cancellation of leave or the cancellation of leave without hearing compelling reasons why leave should not be cancelled:

This issue arose from a case which was investigated in 2008. It highlighted the manner in which the cancellation of leave is, at times, dealt with within the Defence Forces. The Minister for Defence accepted the recommendations contained in the my Final Report on this case and the issue is addressed in the new draft of Defence Force Regulation A. 11 which is currently under review through the Conciliation and Arbitration Forum. See *Case Summary 1*.

Communicating interview results to candidates who are on leave:

A Final Report issued in 2008 highlighted this area of poor practice. The lack of consistent procedures for notification of non-selection for promotion and career courses and the failure to provide reasons for non-selection was also raised in my Annual Report 2007. I hope improvements will ensue in light of the undertaking of the Chief of Staff to direct the revision of regulations, procedures and instructions in relation to these practices.

Feedback from selection boards:

I have been very concerned in the course of the last year to find that arrangements for feedback from selection boards vary significantly. It is the case that Officer promotion boards provide written feedback to candidates under the headings “*strengths identified*” and “*areas for development*”, and that marks are awarded opposite the selection criteria. I understand that the new promotion selection system for enlisted personnel will mirror the system of the candidate being scored against the specific selection criteria.

As matters stand, feedback to enlisted personnel on the selection process is by way of assessment report, which records the candidates in order of merit. It has been of concern to me that copies of the assessment reports are not furnished to candidates in all cases.

I was very pleased to note that, in November 2007, administrative access was given to all ranks to review their personal files, particularly in view of the fact that I have been, and remain to be, concerned to find that some Complainants continue to inform me that they have sought this information by way of a Freedom of Information application. It would be beneficial if the decision to provide administrative access to review personal files was more widely promulgated within the Defence Forces.

Reference in an interview to membership of a representative organisation:

An individual's membership or involvement in a representative organisation should not be a relevant matter for discussion in an interview nor should it properly be recorded on an appraisal report unless circumstances require it to be mentioned. The Chief of Staff undertook to direct the revision of procedures to ensure that this issue is not raised at any stage during an interview.

Continued use of Administrative Instruction Part 10 and the failure to introduce a marking matrix to demonstrate openness in interview procedures:

In spite of many adjudications and recommendations for reform in relation to this issue, it has continued to cause difficulties in cases investigated in 2008.

Transparency is an essential part of any promotional competition. In 2004 the Equality Steering Group in its recommendations to the Independent Monitoring Group (IMG1) stated that there should be a new system whereby candidates would receive a breakdown of the marks they received in an interview process.

The introduction of this reform is still awaited and the present system of NCO promotion competitions and selection lacks transparency. In the Second Report of the Independent Monitoring Group (IMG 2), published in December 2008, this matter is addressed, and page 68 the Report notes, *"The IMG supports the greatest possible transparency in relation to the criteria and processes used by the PDF. Transparency promotes fairness."*

There can be no doubt, from the proportion of cases appealed to my Office that the prevailing promotion and selection procedures give rise to an ongoing source of grievance and perceived unfairness within the Defence Forces. I addressed this matter in my Annual Report 2007 and related problems arose in two cases in which I issued Final Reports in 2008.

The Minister for Defence has assured me that new draft "A" Administrative Instruction A2, which will introduce a new promotion model, is in the final stages of consideration at the Conciliation and Arbitration Forum. This is a welcome development that has the capacity to remove a regular source of complaint about promotion within the Defence Forces. As I am at pains to point out in my adjudications, it is not the function of the Ombudsman to 'second guess' or sit in the place of an interview or selection board but it is my job to ensure that the procedures used were fair.

Of course, as has often been observed by me in Reports, and noted in the IMG 2 Report, human nature being what it is and particularly in circumstances where there are more candidates than there are promotions or places on career courses, people may continue to feel a sense of grievance that they were not promoted or selected. But a more open process should provide a clearer view of how a member was marked/assessed and thereby eliminate some perceptions of bias, favouritism and unfairness. See *Case Summary 2* and *Case Summary 3*.

This issue was also highlighted in Case Summary 3 in ODF Annual Report 2007.

Potential conflict of interest between membership of a Selection Board and individual reporting on the merits of a RoW:

This arose in one case which I considered in 2008 and the Chief of Staff has undertaken to review selection procedures to avoid circumstances where a person who has reported on the merits of an RoW brought by the candidate is also on the selection board before which the RoW Complainant is appearing.

Standardisation of assessment reports and inclusion of all desirable qualifications and criteria when appointments are advertised:

A number of cases investigated in 2008 demonstrated the need for a review of the performance appraisal system used in the Defence Forces for NCOs.

Performance assessment reports and the completeness of information provided therein, together with the need for clarity about criteria for selection when posts are advertised, continued to be the cause of complaints in 2008.

I have continued to raise this matter in a number of Final Reports and I have for some time now been concerned at the appraisal report system and strongly recommended that the process be reviewed.

The Minister has give his assurance that he fully supports the efforts of the Chief of Staff to standardise assessment reports and to ensure that all desirable qualifications and criteria are provided when appointments are advertised.

Filling of Acting Appointments:

Following a recommendation contained in a Final Report issued in 2008 the Chief of Staff has undertaken to direct an internal review of the regulatory position with regard to the filling of Acting Appointments in the NCO ranks. Cases related to this issue continued to arise in 2008 in spite of many previous cases in which I had commented upon the lack of clarity.

In one case, a member was concerned he would not qualify for a permanent post, as he failed to satisfy the requirements for an Acting Appointment to the post. A second case related to the extension of an Acting Appointment arrangement in what had been described as 'exceptional circumstances'. See *Case Summary 4*.

In view of the difficulties and anomalies which were revealed in my review of these cases, I upheld the complaints. In both of the cases there were unsatisfactory delays in the implementation of the remedies in spite of the Minister accepting my findings and recommendations. I have conveyed my concerns about this. It is of utmost urgency that when a Complainant's complaint or appeal is upheld that every effort is made to rectify the wrong doing and provide the resolution as expeditiously as possible.

Three year review of cases before the ODF:

This is the ODF's third annual report and after three full years of operation it is timely to comment on those areas which are a regular source of complaint for individual members and former members of the Defence Forces.

As the previous section notes, significant change has occurred within the Defence Forces in relation to recommendations contained in Final Reports issued by my Office and accepted by the Minister for Defence.

However, in reviewing ODF case files for the past three years a number of areas which are the source of persistent grievance emerge. In some of these areas the principle of reform has been accepted, however the practical implementation of reform has been slower than I would like.

Performance Appraisal Reports:

Performance Appraisal Reports – known as AF 667s – are an important element of the promotion system and performance development structure within the Defence Forces.

In the course of 2008, I dealt with a number of cases in which difficulties had arisen and challenges were raised about the performance appraisal reports – See *Case Summary 3*.

In some instances, the Complainant's AF 667s were not up to date and/or were not in their files. A number of cases in 2006 and 2007 also highlighted this issue.

The question also arose about which of the appraisal reports had been considered by selection or promotion boards. In some instances, there appeared to be lack of consistency in understanding what was necessarily before the selection or promotion board and which files would or should be perused by the board and/or the President of the board.

The IMG's First Report drew attention to the fact that, as part of its strategic plan, the Defence Forces Human Resource Management Section had planned a review of the NCO Performance Appraisal System. The IMG2 Report recommended that this review should now take place. It is of concern to me that in spite of the fact that IMG in its First Report in 2004 had noted this commitment, so much time has elapsed without this review being actioned.

In light of this and the cases referred to me where this matter has given rise to difficulties, dissent and dispute there is a clear need for a review of the Performance Appraisal System and the procedures governing which records should be properly before selection or promotion boards.

Transparency in the Selection Procedure for Promotions or Career Courses:

A recurring difficulty highlighted by the cases which were referred to me in 2006 and 2007 and, indeed, in 2008 centred around non-selection for promotion or career courses. See *Case Summary 5*.

From my experience of reviewing the cases which have come before me over the last three years, I remain strongly of the view that there is no perfect promotion or selection process which will avoid the sense of grievance that naturally arises out of disappointment at a failure to be selected. Disputes tend to be based on allegations about flaws in the system or that rules were not properly applied in the conduct of the selection or promotion. There will always be a disappointed candidate in a competitive appointment system. There can be no doubt, however, from the submissions and the stories behind the grievances which I have received that transparency in the processes will significantly diminish the perceptions of bias, favouritism and unfairness.

There are a number of issues arising as to whether it is appropriate for members of an interview board to have had a connection with the candidates. I was pleased to see that, as a result of one case, the Chief of Staff agreed to review the establishment of interview and selection boards to avoid circumstances where an Officer who had conducted the candidate's performance appraisal was on the selection board. At present, no timeframe for the conclusion of this review has been provided.

It was a significant step in the very early days of ODF, in early 2006, that the then Deputy Chief of Staff (Sp) took account of the cases which were being adjudicated by me and the recommendations contained therein and brought in the *New Interim Selection Procedures* with immediate effect on the 31st July 2006.

These new procedures were in respect of career courses and overseas postings only and not promotion competitions and procedures. I have been advised that a new promotion and selection system for enlisted personnel is nearing agreement at the Conciliation and Arbitration Forum. I have indicated that I welcome proposed improvements to the promotion and selection procedures and hope that they will contribute to a meaningful test of objectivity.

I am, however, concerned at the length of time being taken to bring the anticipated reforms in relation to promotion procedures to fruition.

Since the introduction of the new interim selection procedures there has been a substantial reduction in appeals regarding selection for career courses and overseas postings. Cases of this nature represented 46% of all complaints in 2006 and this decreased to 15% in 2008. Regrettably complaints and appeals regarding promotion still remain high, accounting for 35% of all cases in 2006 and 31% of all cases in 2008.

I welcome proposed improvements to the promotion selection procedures in the expectation that they will introduce an enhanced level of transparency into the process.

Exercise of Discretion by Commanding Officer in making recommendations:

This issue was noted in my Annual Report 2007 and again arose in 2008.

It is acknowledged that the Commanding Officer must retain certain discretionary recommending powers as this is the Defence Forces' practice and tradition.

However, it is clearly necessary that the exercise of that discretionary power to recommend candidates for career courses and/or promotions is exercised fairly and be seen to have been so exercised.

I welcome the fact that the Chief of Staff has agreed to review how this Commanding Officer discretion to recommend candidates is exercised and what policies should inform this process. The Chief of Staff is to make proposals to address this matter and I welcome the commitment to bring clarity to this area of potential grievance.

Independent Person on all interview panels:

In 2004 the Equality Steering Group recommended that all interview panels should comprise at least one non-member of the Defence Forces. In my Annual Report 2007, I highlighted the fact that this recommendation had not always been followed. The issue arose again in 2008. See *Case Summary 3*.

Unfortunately, due to practical and financial constraints this recommendation has not been adopted in the redraft of the current A Admin Instruction.

Corps status and promotional opportunities following restructuring of the Defence Forces:

There have been difficulties highlighted which arise from ambiguities and misunderstandings regarding Corps status and rights of promotional opportunities for those affected by the restructuring of the Defence Forces in 1998.

DFR A10 provides for the general conditions for the promotion of NCOs between different Units and I am pleased that the Chief of Staff has agreed to revise Admin Instr Part 10 which concerns eligibility/access of such members to promotional opportunities to ensure objectivity and transparency within the promotion process.

A number of difficulties arose and it is clear to me that there is misunderstanding in circumstances where promotion to Acting Rank (paid) may be sanctioned in “*exceptional circumstances*”. I am therefore pleased that the Chief of Staff has agreed to direct D/Admin to revise the regulations and procedures and instructions regarding these circumstances. I am also pleased that D/Admin is to review the regulatory position with regard to the filling of Acting appointments in the NCO ranks in light of my observations regarding the requirement for clarification of the rotation of the Acting post which has given rise to misunderstandings and perceptions of unfairness.

Outcome of promotion and selection processes:

I have noted the observation contained in the IMG 2 Report that progression on an updated system of career advice has been slow to date notwithstanding that a Military Career Planning Office was established within HRM Section in 2005. It has been my experience from the cases which have been referred to me from NCOs that sometimes they are left for a very long time without any news of the outcome of their promotion or selection procedure. Furthermore, the news of that outcome has been random, sometimes heard through the grapevine or, indeed, from the person who has been selected or promoted.

It has therefore been my finding and recommendation that there should be clarity and consistency about the processes to be applied in advising candidates of the outcome and that they should receive their assessment reports and be offered the opportunity of advice and guidance about the opportunities available to them for improvement in their career development.

“After a detailed examination of the complaint or appeal I issue a Preliminary View Report (PVR) which sets out findings so far and requests further information or clarification, providing four weeks for replies.”



In 2008, I issued 48 Preliminary View Reports, a 23% increase on the number of PVRs issued in 2007.

Case Summaries



This section contains summaries of a cross section of cases on which I adjudicated in 2008.

Permission to use these selected cases was obtained from the people who referred their cases to me. Their assistance is greatly appreciated. As far as possible, specific details related to the cases have been deleted to maintain the anonymity of the Complainants.

I hope these summarised reports of the cases will provide an insight into the nature, range and complexity of the complaints and appeals which I considered in 2008.



Case Summary 1 - Complaint Upheld

Leave – Cancellation of leave – Services of member required for exercise – Not interviewed and given reasons – Lack of clarity as to provisions relating to cancellation of leave of Privates and NCOs.

The Complainant applied for annual leave and was granted leave for a specific period the following month. However, the grant of leave was subsequently withdrawn as the Complainant was required to participate in an exercise during the period of leave. The Complainant submitted a Redress of Wrongs application.

Although the Defence Forces' internal investigation of the grievance stated that the Complainant's Commanding Officer had not been aware, at the time of the grant of leave, of the commitment that would be required for the exercise, the Chief of Staff, in his Considered Ruling, found that the Complainant had been wronged as she had been refused an interview with her Commanding Officer (CO).

I concurred with the view of the Chief of Staff that such an interview would have presented a means of managing the concerns of the Complainant by clarifying the reasons for the withdrawal of the grant of leave. This was a missed opportunity to diffuse the complaint at the lowest possible level.

I found that there had been a shortfall in personnel in the Complainant's unit available for the exercise, particularly of the Complainant's qualifications, and that, as a result, it was necessary for the Complainant to participate in the exercise. As regards providing a remedy for the Complainant, I found that the disappointment and inconvenience deserved recognition particularly in light of the fact that the Complainant had not been afforded an interview with her CO. I recommended that the complaint be duly acknowledged.

Furthermore, in the course of the examination of the complaint, I found that there was a lack of clarity as to which provisions applied to the cancellation of leave for Privates and NCOs and I recommended that it be clearly stated in what circumstances cancellation of leave can arise and what procedures were to be followed in notifying those affected by such cancellation.

Following my Final Report I was advised by the Minister that he had asked his officials to ensure that clarification of the position regarding cancellation of leave in respect of Privates and NCOs be included in the next revision of the relevant Defence Forces' Regulation.



Case Summary 2 - Complaint Not Upheld

Promotion – Interview Board – Whether all qualifications and experience considered by board – Marking system – ‘Conduct rating’ of successful candidate in error.

The Complainant took part in a promotion competition but was placed third out of five candidates. He was disappointed with this result, given his career to date and his experience relative to the successful candidate, and brought a Redress of Wrongs application challenging the decision.

In my Preliminary View Report (PVR), I pointed out that in such cases if I found that the interview board in question had been properly constituted, and had been in possession of and duly considered all relevant records and information, on a consistent basis, under the headings of the promulgated selection criteria, there was nothing I could do to alter the outcome. If the interview board had supported its decision with sufficient and rational reasoning, then it was not appropriate for me to second-guess or place myself in the role of the interview board.

The Complainant claimed that the interview report did not properly reflect his qualifications, courses and overseas appointments. However, the Defence Forces confirmed in its response that the sub-file presented to the board contained all of the relevant information and that the fact that everything was not contained in the interview board's report did not mean that the information had not been available or considered by the board in the course of its considerations.

In my PVR, I also reminded the Defence Forces of the recommendations of the Equality Steering Group (2004) as regards marking systems in promotion competitions, and requested details of any such system applied in this case.

I was informed that the board had not applied a marking system, but rather a system of “bench marking” every candidate against the other following a detailed study of the sub-files and in particular the interviews. Further, it was the considered opinion of the board that the use of a maximum points system of marking would not in any way have changed the outcome.

The Complainant also highlighted the fact that the interview report stated that the successful candidate had an “exemplary” conduct rating and had received “excellent” overseas reports. The Complainant submitted that this was not correct as the successful candidate had been charged whilst overseas and, as a result, his conduct rating should have read “good”. In response, the Chief of Staff stated that the performance appraisal report (AF 667) completed for interview was in error as regards that candidate’s conduct rating and this error had been replicated in the interview report, but that the interview board was aware of the offence as it was in the candidate’s AF 667 for the relevant tour of duty, and this document was before the board. The description of that candidate’s overseas reports as “excellent” was, it was claimed, a poor choice of words and was meant as a reference to the general tenor of the reports, rather than the actual rating. In any event, it was submitted that the successful candidate was so much the superior candidate in other respects that the result would still have been the same.

Notwithstanding the administrative errors and shortcomings which the Complainant had highlighted, and which had been duly acknowledged by the Defence Forces, I found that there were no grounds sufficient upon which to set aside the decision of the interview board. I was satisfied that there was credible material before the board to support its conclusions.

In accepting my conclusions, the Minister advised me that the Chief of Staff had indicated his support for agreed marking systems, the benefits of which had been highlighted by this case. I was further advised that the promotion module of the new draft Regulations was at the final stage of drafting.



Case Summary 3 - Complaint Not Upheld

Promotion – Unsuccessful in competition – Claim that two essential pieces of documentation not before interview board – Claim that statements of interview board inconsistent and contradictory – Whether Complainant’s experience properly considered – Use of maximum points table.

The Complainant was unsuccessful in a promotion competition, coming third out of 22 candidates. He issued a Redress of Wrongs (RoW) application, making a number of complaints regarding the conduct of the interview and the selection process.

Firstly, the Complainant contended that two pieces of essential documentation were not placed on his interview sub-file and/or were not before the interview board. The first piece of documentation consisted of letters of commendation in relation to an overseas mission which had been lost and were, as a result, not present on his personal file and therefore not in his interview sub-file. Secondly, he claimed that an overseas performance appraisal report (AF 667A) on his interview sub-file was incomplete as a page was missing.

There was no dispute that the letters of commendation were missing, however, the Chief of Staff found that consideration by the interview board of such letters of commendation was not required. It was submitted that the President of the interview board was permitted to visit the relevant Area Records Office and view the personal file of a candidate, however in this case, he did not avail of this opportunity. The Chief of Staff further pointed out that, while the letters were not in the sub-file, their existence was known to the board as they were documented as part of an AF 667A before the board, and the board had specifically asked the Complainant to discuss his experience on that overseas mission. This was clear from the interview report, which noted the Complainant's "outstanding Overseas Report" from that mission.

It was safe to conclude that the interview board had been aware of the Complainant's considerable achievements on the overseas mission and of the existence of the letters of commendation in relation to same. Further, his experience on that tour had been discussed at the interview and his outstanding rating acknowledged. The second part of the Complainant's case consisted of a contention that some of the statements of the interview board were contradictory and incorrect and that the board had been incorrect in finding that the Complainant had less experience than the successful candidate in certain respects.

From a perusal of the interview report, I agreed with the finding of the Chief of Staff that the Complainant had somewhat misquoted the board and taken its statements out of context. When read in their full context, the statements highlighted by the Complainant were not contradictory.

It was not my role to make an assessment on the merits of one candidate over another, but rather to ensure that the principles of fair procedures and natural and constitutional justice were adhered to. In the present case, the interview board appeared to have considered all the necessary and relevant information and provided detailed and sufficient reasoning for its decision. While it was understandable that, as a strong and highly recommended candidate for the position, the Complainant felt aggrieved, I could not find that he had suffered a wrong as a result of the actions of the interview board.

I recommended that a maximum points table should be considered to assist in creating transparency in the workings of selection processes. The Minister acknowledged that the issue of a maximum points table would be addressed in the redraft of the relevant regulations.



Case Summary 4 – Complaint Upheld

Promotion – Acting up – Application for extension of Acting Rank (paid) refused – Reasonable expectation that would continue as still same duties and responsibilities – Unfair administrative practices – Ineligible for necessary course due to injury – Whether entitled to waiver.

The Complainant was a Corporal, but, for two years, held an Acting Rank (paid) as Sergeant. An application to extend the Acting Rank for a further year was not approved. The General Officer commanding the Brigade (GOC) indicated that the Complainant was not qualified to be promoted substantively as he had not completed a Standard NCO Course, but that the staffing levels would be reviewed at a later date and the application reconsidered.

The Complainant brought a Redress of Wrongs application, claiming his promotional opportunities within the Defence Forces had been unfairly hindered and curtailed, culminating in the non-approval of a further Acting period. Since the re-organisation of the Defence Forces under the Defence Forces Reorganisation and Implementation Plan (DFRIP) in 1998, the number of positions in the Complainant's unit had been significantly cut down and never replaced, despite an increasing workload.

The Complainant who had performed the duties of a Sergeant, was highly regarded by his superiors and had an exemplary record of employment. In recognition of these exceptional circumstances, he had been promoted for two years on an Acting Sergeant (paid) basis.

When he re-applied for the position, his application was refused on the basis that no vacancy existed in the unit, a requirement considered necessary under Defence Forces' Regulations. The Complainant submitted that he had a reasonable expectation that the Acting arrangement would continue in circumstances where his workload and responsibility had not altered but, arguably, had increased. He contended that the decision to reject the extension of the Acting Rank was contrary to fair and sound administration as he was expected to undertake the same level of responsibility and duty at the lower rank and pay.

The Complainant had been unsuccessful in several applications, over a number of years, for the Standard NCO Course necessary for promotion to the rank of Sergeant. Several of the Complainant's applications had been refused on the basis of staff shortages, no appointments in establishment for Sgt's and in latter applications, to an injury sustained on overseas service. The Complainant had applied for an exemption from certain tests owing to his long-term injury and a waiver was recommended. However, when he heard nothing further, the Complainant was told that the authorities were not aware of any such application.

While the Complainant had applied, pursuant to Defence Forces' Regulations allowing for Acting promotions on an "exceptional basis", the Defence Forces submitted that that these provisions were only applicable where an Acting promotion had to replace a Non-Commissioned Officer. The Chief of Staff submitted that the Complainant's two previous applications for the Acting position had been "incorrectly" granted and he rejected the Complainant's contention that there were other members currently in receipt of Acting Rank (paid) not replacing other members within the unit.

On examination of the Regulations relied upon, there was no evidence provided to support the submission by the Chief of Staff that Acting Rank (paid) could not be sanctioned where there was "no appointment in the establishment for that rank". Some of the Regulations actually referred to promotions to Acting Rank (unpaid). In any event, the requirement of an existing position under that section did not appear to conflict with the Regulations allowing such promotions on an "exceptional basis".

I found that there was such a lack of clarity between the various provisions cited to require a review of the administration of Acting role appointments.

As regards the Complainant's grievance, I found that, at the very minimum, he had a reasonable expectation that this Acting (paid) status arrangement would continue due to 'exceptional circumstances'. It was unfair that the Complainant was expected to undertake the same duties and responsibilities at lower rank and pay.

The Chief of Staff suggested that a letter signed by the Complainant's superiors in support of his application "should be viewed with some degree of circumspection", as one of those who signed had, apparently, misunderstood the purpose of the letter. I questioned the merits of this submission which purported to question the *bona fides* of the letter when it had been signed off by both of the Complainant's superiors. No information or evidence was produced to support the submission.

The Chief of Staff had questioned my jurisdiction in this case, submitting that the alleged unfair hindering and curtailing of the Complainant's promotional opportunity was directly related to a "matter concerning the organisation, structure and deployment of the Defence Forces" as outlined in s. 5(1)(d)(ii) of the Ombudsman (Defence Forces) Act 2004.

Having regard to all of the circumstances of this case, I held that the complaint concerned matters of unfair administration. While the Complainant's additional duties and responsibilities might have arisen from the fact that positions were significantly reduced and never replaced post DFRIP in 1998, it was the manner in which his promotional opportunities within the Defence Forces had been unfairly hindered that had given rise to the complaint.

I concluded that the Complainant had been unfairly treated as a result of administrative inconsistency and maladministration. I recommended that the Complainant should be reinstated to the position of Acting Sgt (paid) and all relevant pay and associated benefits and accruals should be backdated to the material date. I also recommended that serious consideration should be given to the question raised by the Complainant in relation to his eligibility to do the Standard NCO Course and his application for a waiver in relation to the "Run" module should be dealt with as a matter of some priority in light of his injury.

The Minister accepted my recommendation that the Complainant be reinstated to the position of Acting Sgt (paid), backdated to the material date. This arrangement would continue until such time as the review of staffing levels took place and the resulting decision implemented. As regards a waiver for the "Run" module of the career course, the Minister took the view that there was no provision for a waiver.

It was of some concern to me that the Complainant had not received his backdated acting pay over three months after the Minister had accepted my recommendation.

I contacted both the Defence Forces and Soldiers Pay Section in the Department of Defence who provided assurances that Claimant would receive immediate payment of the Acting allowance (including back money).



Case Summary 5 - Complaint Upheld

Non-selection – Selection process – Extension of closing date for competition – No notification of extension – Promotion – Supernumerary basis

The Complainant made a Complaint in relation to his non-selection for the 22nd Standard NCO Course as per "*Selection for Career Advancement Courses and Selection for Overseas Service*" document. The Complainant raised a number of queries about the conduct of the selection process and alleged errors in relation to the manner in which his Branch Assessment Report had been compiled and sought a number of remedies.

As evidence of this, the Complainant submitted that he had been awarded two points for military courses successfully completed in spite of the fact that he had completed a minimum of 15 courses in his career.

The Complainant also submitted that his performance appraisal reports (AF 667A) were not all used when compiling his score. He alleged that when he brought this to the attention of local Commanding Officer in an interview with him, he failed to change the score. The Complainant contended that during this meeting he was advised that the section had been changed in respect of Naval Service personnel to provide a score of a maximum of five points.

In relation to the range of military experience on overseas service, the Complainant alleged that he had only been scored for one overseas mission in spite of the fact that he had served on two occasions in two different ranks. Though the Complainant requested to see the branch scoring guidelines, he contends that he has never been given the scoring guidelines as applied.

The Complainant submitted an appeal in relation to the selection procedure and at the time he had submitted his Redress of Wrongs application, he had not received any written reply in respect of his appeal. Before he submitted his appeal, the Complainant had reviewed his personal file and had noted that having been recommended for the 21st NS Standard NCO Course, he received no AF 677B and that his Branch Assessment Report only contained his number, rank and name with the scores remaining blank.

The Report of the appeal had found that the proper procedures had been followed and that the Complainant had not been unfairly treated. Further to this, the Military Investigating Officer (MIO) produced a Report in which it was concluded that the Complainant was not wronged by virtue of the manner in which the marks were allocated using the criteria applied.

However, it was found that the Complainant should have received one additional mark for the *"Range of Military Experience on Overseas Service"*. The comment was added that this additional mark would not have moved the Complainant out of fourth place on merit.

Having received the Considered Ruling of Flag Officer Commanding the Naval Service (FOCNS), the Complainant then requested that his Complaint be submitted to the Chief of Staff. In the intervening period, FOCNS, in response to a letter from the Complainant seeking clarifications, concluded that the Assessor had acted incorrectly in arbitrarily modifying the top mark that can be awarded under each criterion. While it was conceded that the method of arriving at a mark was technically flawed, it was found that the mark awarded reflected the relative importance of the two overseas criteria to the particular assessment and that it had been consistently applied to all of the candidates involved.

An apology was tendered on behalf of the Naval Service for the uncertainty and upset which had been caused by the error.

The Chief of Staff had ruled that the Assessor had acted incorrectly in modifying the top mark that can be awarded under each criterion and concluded that he did not have the authority to have done this. In this light, it was considered that the Complainant had suffered a wrong requiring redress. The Chief of Staff also found that due to a clerical error only one overseas report had been included in the assessment and found that the inclusion of the additional Report may have altered the results of the assessment.

The Chief of Staff found however that the Complainant did not meet the specified criteria for the Standard NCO Course and was not professionally qualified to compete and in this regard had not been entitled to a complete assessment. The Chief of Staff considered that to provide redress, he would direct that, subject to the acceptance of the Ruling, the Complainant should receive a place on the next Standard NCO Course which would be subject to his meeting the criteria to undergo the course. He also recommended that the Complainant's application for any vacancies up to his completion of the next Standard NCO Course would be considered as if he had successfully completed the Standard NCO Course. This suggested remedy was however subject to the Complainant being recommended for promotion and that he would not be promoted until such time as he had successfully completed the next Standard NCO Course.

The Complainant contended that he had been unfairly treated and severely disadvantaged in that he had no prior notice that he could apply for an advertised vacancy until he was informed of the determination of the Chief of Staff by which time it was too late.

I expressed concern in my Final Report that the Chief of Staff had submitted that the closing date for the vacancy was specifically extended for the Complainant and that the Complainant had elected not to accept the ruling of the Chief of Staff and requested that his grievance be referred to me. I had sought confirmation as to whether the Complainant had gone forward for the competition with the benefit of the extended closing date. The Complainant advised me that at no time did he receive notification from the Defence Forces that the closing date would be extended.

I was therefore concerned that the information provided to me from the Defence Forces purported to imply that the Complainant made a choice, having been advised that the offer to extend the closing date was related to his acceptance of the Considered Ruling of the Chief of Staff. The Complainant, in respect of an advertised vacancy was not advised until it was too late that he was eligible to compete or that the closing date had been extended specifically for him.

I further noted the recommendations from the Chief of Staff that the proposed redress provided a more than appropriate response to the wrong suffered by the Complainant in that it would place him in a similar position to where he would have been had he completed the standard NCO's Course.

However, those findings and recommendations were stated in the context of the information which I was given in the same correspondence, that the clarification issued by FOCNS to the Complainant had informed him that he could compete for the vacancy as advertised and that this extension of the closing date rendered the Complainant eligible to compete for the vacancy. I recommended that the Complainant should be promoted, on a supernumerary basis at the earliest opportunity.

The Minister took the view that this complaint had revealed administrative shortcomings. He advised that the Chief of Staff had directed that appropriate action was to be taken regarding areas in administrative procedures where lessons were to be learned from the case. In spite of this, he did not accept my recommendation that the Complainant be promoted on a supernumerary basis. The Minister had not taken account of my findings that the Complainant had never been given the letter advising him that the time had been extended to allow him to put his name forward for the competition.



Case Summary 6 - Complaint Partially Upheld

Medical Board – Reasons for convening Medical Board – Certificate of Urgency – Redress of Wrongs not completed prior to sitting of Medical Board - Allegation of Conspiracy – Stay on convening of Medical Board.

The Complainant was diagnosed with a medical condition in 1997 and no issue was taken by him with the diagnosis. This Redress of Wrongs concerned the establishment of a Medical Board.

The convening order for the Medical Board was signed by the Medical Officer. Under Part 4 of the document, there was a space provided for the reasons for the order. The document provided on the file which I received from the Office of the Chief of Staff was presented with this section obscured and was therefore not legible. A copy of a form which was included on the file had the reasons for bringing the Complainant before the Medical Board blanked out.

I expressed concern about this and also the fact that in spite of the Complainant having been issued with a Certificate of Urgency his RoW had not been completed prior to the sitting of the Medical Board which was the event giving rise to the complaint in the first instance.

It was confirmed in the Report of the Military Investigating Officer (MIO) that the Board made no adverse findings in relation to the Complainant's continued service in the Defence Forces. There appeared to be a conflict of evidence as to the reasons why the Medical Board was convened.

It was submitted that the Chief Medical Officer had deemed that the Complainant's medical and occupational history merited closer examination. The Complainant submitted however that the reason given to him by the Medical Officer was that he had to appear before the Board because he was not allowed to bear arms. The Report of the MIO concluded that while the Complainant had not performed any 24 hour armed duties in 2006, he had carried out other armed duties and had, in fact, carried out annual range practices during that period.

During the RoW procedure, an administrative error occurred with the result that the Medical Board gave its Report dated 5th July 2007, prior to the completion of the Complainant's RoW. A Report had issued from the Complainant's Unit but an MIO had not been appointed pursuant to the terms of Defence Forces' Regulations.

It was not until 3rd July 2007 when an MIO was appointed, that this part of the RoW procedure commenced.

The General Officer commanding the Brigade (GOC) in his Considered Ruling set out the circumstances which gave rise to the procedural error and addressed the Complainant's grievance that he was to be recommended for discharge by a Medical Board. The GOC directed the procedural errors be highlighted to the relevant staff to ensure that they would not recur. The GOC found that the procedural errors had not affected the outcome of the Medical Board. There appeared to be grounds to support this conclusion. I could not properly find that there was evidence to substantiate the allegation of conspiracy on the part of various Officers to have the Complainant discharged.

Having regard to all the circumstances, and particularly in light of the procedural flaws that caused the convening of the Medical Board "to overtake" the RoW procedure, I found that the convening of the Medical Board in circumstances where the Complainant had initiated a RoW, which was substantially delayed due to administrative errors, arguably represented undesirable administrative practices. However, as a matter of fact, the findings of the Medical Board provided an indication and assurance of its independence and propriety in that the Complainant's classification was favourably re-graded.

I recommended that there be a review and clarification of procedures for circumstances such as those which arose in this case. In view of the uncertainty and worry which the Complainant experienced during the period while he was endeavouring to process his RoW, I accepted that his fears about the circumstances surrounding the convening of the Medical Board were reasonable.

In response to my Final Report the Minister expressed regret about the procedural errors in the operation of the RoW process and advised that these errors had been highlighted to the relevant staff with a view to ensuring they do not recur. As regards the relative timing of the Medical Board and of the RoW in this case, the Minister pointed out that procedures such as the convening of a Medical Board exist independently of the redress procedures and that while each individual case must be considered on its own merits, the redress procedures are not intended to 'stay' other administrative actions of the Defence Forces.



Case Summary 7 - Complaint Outside Jurisdiction

Jurisdiction – Alleged action before establishment of ODF - Alleged action in excess of 12 months before referral – Apology – Early Intervention

The Complainant in this case submitted a complaint directly to me.

The initial advice to the Complainant was that his complaint had been time barred as the alleged action had taken place before the establishment of ODF; his complaint was also time barred as the date of the alleged action was in excess of the 12 months period required under the provisions of the Act. In the normal course, as a serving member of the Defence Forces, the Complainant would have been required to submit his complaint through the Redress of Wrongs procedure as it was not appropriate for him to refer the matter to me directly. Further information revealed that in addition to these matters, the Complainant had pursued his RoW and had appealed the outcome to the Minister for Defence, prior to the establishment of ODF, who had ruled in relation to the matter.

I contacted the Complainant to explain the jurisdictional difficulties. It appeared from the instructions which the Complainant was giving that a number of remedies were to be provided as a result of the Minister's ruling. It was the Complainant's contention that one of these remedies, was that an apology was to be tendered to his parents for distressing, misleading and inaccurate information which had been given to them about the Complainant while he was serving overseas.

The Complainant also submitted that, as a consequence of the Minister's findings, an adverse report should have been expunged from his records.

I made contact with the Defence Forces on the basis that this case was outside my remit but I was seeking to establish whether the outstanding remedies could be given effect. Later, I was advised by the Defence Forces that the matter of the apology to the Complainant's parents was one which was to have been taken in hand by the Department of Defence. Further contact was received from an official from the Department of Defence who acknowledged that unfortunately this matter had not been seen to. I received further contact from the Department of Defence to confirm that advice had been conveyed to the Chief of Staff about the need for the apology to be tendered to the Complainant with particular reference to the upset caused to his parents.

I spoke with the Complainant to pull together the strands of the sequence of events since I had become aware of the Complainant's concerns. I conveyed to him the information which I had been given about the forthcoming apology. The Complainant was very thankful for the efforts which had been made in this regard. This matter was then closed. Although, this is recorded as a case, which was OToR, it is also one which illustrates how early intervention by ODF led to a positive outcome and avoided further upset.

“Having considered the requested information, clarifications and any further submissions arising from replies to the PVR, I issue a Final Report which is sent to the Minister for Defence, the Chief of Staff and the Complainant.”



In 2008 I issued 34 Final Reports, a 17% increase on the number of Final Reports issued in 2007.

Corporate Affairs:



OSCE Working Group:

As noted in my 2006 and 2007 Annual Reports, I was invited to participate in an Organisation for Security and Co-operation in Europe (OSCE) Expert Group on the human rights and fundamental freedoms of armed forces personnel.

The project is jointly directed by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Geneva-based Centre for Democratic Control of Armed Forces (DCAF).

In May 2008 the project, entitled *The Citizen In Uniform* culminated with the publication of *The Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel* and I was honoured to be invited to give an address at the launch of the Report in Vienna in May 2008.

It was with a great sense of pride that I spoke to the delegates at the launch of the handbook about the establishment of the Office of Ombudsman for the Defence Forces in Ireland and to receive the acknowledgment from Ambassador Christian Strohal, the then Director of the OSCE Office For Democratic Institutions and Human Rights, who commented on the fact that Ireland would be in a position to assist other countries with an exchange of information and support in relation to the establishment of an Office of Ombudsman for Armed Forces.

Our website statistics demonstrate that there is strong international interest in the work of the ODF and our website www.odf.ie received visits from users in 71 individual countries in 2008. This confirms the trend remarked upon in my Annual Report 2007 which records the briefings I provided to a number of organisations from abroad that year.

Staffing:

The staffing level of my Office as of 31st December 2008 consisted of:

- ☞ 1 Assistant Principal Officer (Investigation Officer)
- ☞ 1 Higher Executive Officer
- ☞ 1 Clerical Officer

This is the same level of staffing as 2006 and 2007. However, it should be noted that from January to mid-May 2008 my Office didn't have the services of an Investigation Officer due to an interregnum between the re-secondment of one staff member and the eventual filling of that vacancy. As mentioned earlier in this report, my Office again received a significant caseload increase in 2008 and I would like to formally record my appreciation and thanks to my small team for the tremendous dedication and commitment they demonstrated throughout the year in coping with the enhanced caseload and the ancillary management work which is also involved in an Office such as this.

Office Premises:

My Office moved into premises at 13/15 Hatch Street, Dublin 2, in December 2006. The premises consist of three rooms on the first floor of the building.

In my last two Annual Reports I stated that these premises were proving unsuitable and that remained the case in 2008. In particular, space for staff is insufficient, there are no adequate facilities to receive visitors, and a number of serious design issues with the building persist.

Efforts to secure appropriate accommodation in 2008 failed to produce results and this is a source of considerable frustration and inconvenience to my staff and myself. This situation also has a direct impact on the level of service which my Office can offer to our stakeholders.

The ODF operates with a small number of permanent staff. For an Ombudsman to fulfil his or her duties, cases must be analysed thoroughly and adjudications issued within a relatively short timeframe, for as the saying goes, justice delayed is justice denied.

To achieve this objective my Office contracts a number of qualified research assistants with a legal background to carry out case analysis. This ensures that the Office can proceed to issuing Preliminary View Reports as soon as possible. However, the fact that the current ODF premises cannot accommodate these people and a large degree of work is undertaken by associate research assistants off-site is not best practice. It frustrates the mutually beneficial process of experience sharing among both research assistants and permanent staff.

In different circumstances I would strongly advocate the recruitment of additional staff to the ODF. However, conscious of the current fiscal situation, I accept that the prospect of additional staff resources is not feasible at the current time. The ODF's practice of contracting in expertise to fulfil its mandate provides excellent value for money for the public purse. However, even greater value could be leveraged from this process if proper premises, which facilitated co-operative working practices, were provided.

I appreciate the fact that the Minister for Defence has accepted the need to source appropriate premises for the ODF and has contacted the Office of Public Works (OPW) in that regard. Indeed in 2008 the OPW proposed one alternative premises, but upon inspection that building proved unsuitable. The fact that no solution to the issue has been found is deeply disappointing and I will again seek progress on this issue in 2009.

Canadian Working Visit:

Canada is an acknowledged 'prime mover' in the field of Defence Forces' Ombudsmanship. The Department of National Defence and Canadian Forces Ombudsman was established in 1998 and the last decade has seen that Office lead the way on a number of critical issues in the field. As I noted in the Introduction to my 2006 Annual Report the assistance, advice and encouragement of André Marin, the first Canadian Defence Ombudsman, was of great benefit to me when I was devising the structures and policies of the ODF before the formal launch of my Office in December 2005.

André Marin is now the Ombudsman for Ontario and he has continued to advance the concept of Ombudsmanship on both a theoretical and practical level.

During October 2008, I derived great benefit from a working visit to Canada where I saw at first hand the effectiveness of the Special Ombudsman Response Team which André Marin had previously developed, when he was the Military Ombudsman, to deal with systemic matters of an urgent nature, such as post-traumatic stress disorder cases. I participated in a training exercise with senior investigators from this section which proved extremely informative and engaging.

I had a comprehensive series of meeting and briefings with Mary McFadyen, the Interim Ombudsman at the Department of National Defence and Canadian Forces Ombudsman. She provided me with open access to her operations and opportunities for in depth discussions with a wide range of her staff from areas such as investigations, legal services, finance, administration and operations. In addition, Ms McFadyen facilitated and accompanied me to briefings in a range of offices of redress and conflict resolution in the area of military oversight such as the Canadian Grievance Board, Office of the Judge Advocate General. I had in depth briefings with Col. (Retired) Pat Stogran, the Canadian Veterans' Ombudsman, Mr Chris Ford, Director General, Alternative Dispute Resolution for the Department of National Defence, and Col. Guy Maillet, Director General, Canadian Forces Grievance Authority. The Ombudsman, Ms McFadyen, afforded me a most hospitable welcome and invested significant time in ensuring that I had a comprehensive overview of how the role of Military Ombudsman has contributed to Canada.

The enthusiasm, warmth and good-will of her staff and Office holders in other Departments and Offices was invaluable in terms of ODF gaining insights and information, quite exceptional and inspiring. My warmest thanks must be recorded to them.

I also had the opportunity of being part of an Ombudsman Forum where there was a vibrant and rich exchange of information and ideas about the expectations and realities of Ombudsman organisations with a range of contributors from three different continents.

Interestingly, I was also able to benchmark the resources and caseload of the ODF against its Canadian counterpart, which was illuminating. On average operational staff in the ODF deal with three times as many complaints as their Canadian colleagues.

While I was pleased that this comparison demonstrated the productivity of the ODF it should also be borne in mind that the additional staffing resources available to our Canadian counterparts enable them to examine military grievance issues from a more strategic standpoint. Higher staffing levels also allow the Department of National Defence and Canadian Forces Ombudsman to develop innovative ways of working, such as an informal early intervention system, which provides an enhanced service to their stakeholders and has delivered significant benefits to the Canadian Armed Forces.

Attendance at Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights:

On 19 November 2008, I was invited to address the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights in relation to the ODF Annual Report 2007. My presentation was followed by a question and answer session with Committee members which, I hope, was informative.

This was the first time ODF appeared before the Committee and it is a positive development that I hope continues at regular intervals.

Attendances and Presentations to Stakeholders:

Since the establishment of the ODF I have endeavoured to attend and speak at as many conferences and fora as possible. This is essential to ensure that members and former members of the Defence Forces are aware of the role and remit of my Office.

In 2008 I continued with this policy of engagement and among the fora which the ODF attended were:

February 2008	The launch of 'The Forgotten Soldier of Peace' Report.
October 2008	PDFORRA ADC, Westport.
November 2008	Dedication of National Memorial to Defence Force members who died in the service of the State, Archbishop Ryan Park, Merrion Square, Dublin.
November 2008	VIKING 08 Designated Visitors day, Defence Forces Military College.
November 2008	RACO Annual Conference.
December 2008	PDFORRA Christmas reception.
December 2008	Launch of Second Report of Independent Monitoring Group (IMG 2).

Data Protection:

The ODF is registered with the Data Protection Commissioner.

My Office is also registered under the Direct Professional Access Scheme of the Bar Council.

Health and Safety:

A Health and Safety statement for my Office is in place. Health and Safety policy regarding the building in which my Office is currently located is the responsibility of the Department of Foreign Affairs.

Irish Language Policy:

As of 31st December 2008 my Office was not a prescribed body under the Official Languages Act, 2003.

However, in keeping with best practice across the public service, my Office endeavours to provide information in both Irish and English. ODF Annual Reports are published in both languages and www.odf.ie is also available in both languages

Budgetary Matters:

The annual accounts for 2008 were completed and presented to the Comptroller and Auditor General in early 2009. At the time of going to print the audit has been completed and the C&AG has kindly issued his certificate for inclusion in this Annual Report. I am indebted to him and his staff for processing this in time with my publication deadline and recognise the additional work pressure this created.

I am keenly aware of my responsibilities as Accounting Officer for the Office and endeavour at all times to ensure that public funds are used wisely and efficiently.

At present the ODF operates as a subhead in the Department of Defence estimates. In keeping with the general principles of Ombudsmanship, and the necessary requirement that an Office such as the ODF is, and is seen to be, independent, impartial and autonomous it would be more appropriate for the ODF to have its own vote and be entirely accountable for its own budget.

Freedom of Information Policy:

As of 31st December 2008 the ODF is not a prescribed body under the Freedom of Information Act.

Since its inception my Office treated all requests for information in an open and transparent manner in keeping with the spirit of the FOI Act. As a matter of policy, Complainants receive a copy of all ODF reports in relation to their cases.

In 2008 the ODF was consulted by officials from the Department of Finance in relation to the extension of FOI to the Office. One of the issues addressed was the importance of recognising the confidentiality and privacy of individual case files held by my Office and how that would be enshrined in FOI regulations.

It is expected that the FOI Act will be extended to cover the ODF in 2009 and this is a welcome development, although it will increase the workload on an already busy office.

Internet Usage Policy:

A policy on internet usage by staff of my Office is in place.

Confidentiality:

Trust and confidence in procedures are essential to the successful work of an Ombudsman. Strict rules governing the confidentiality of all cases or enquiries received by my Office are in place.

It is an issue that will continue to remain a priority in my Office in 2009.

Report of the Comptroller & Auditor General:

OMBUDSMAN FOR THE DEFENCE FORCES

Report of the Comptroller and Auditor General for presentation to the Houses of the Oireachtas

I have audited the financial statements of the Ombudsman for the Defence Forces for the year ended 31 December 2008 under the Ombudsman (Defence Forces) Act 2004.

The financial statements, which have been prepared under the accounting policies set out therein, comprise the Statement of Accounting Policies, the Income and Expenditure Account, the Balance Sheet and the related notes.

Respective Responsibilities of the Ombudsman and the Comptroller and Auditor General

The Ombudsman is responsible for preparing the financial statements in accordance with the Ombudsman (Defence Forces) Act 2004, and for ensuring the regularity of transactions. The Ombudsman prepares the financial statements in accordance with Generally Accepted Accounting Practice in Ireland. The accounting responsibilities of the Ombudsman are set out in the Statement of Responsibilities of the Ombudsman for the Defence Forces.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

I report my opinion as to whether the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland. I also report whether in my opinion proper books of account have been kept. In addition, I state whether the financial statements are in agreement with the books of account.

I report any material instance where moneys have not been applied for the purposes intended or where the transactions do not conform to the authorities governing them.

I also report if I have not obtained all the information and explanations necessary for the purposes of my audit.

I review whether the Statement on Internal Financial Control reflects the Ombudsman's compliance with the Code of Practice for the Governance of State Bodies and report any material instance where it does not do so, or if the statement is misleading or inconsistent with other information of which I am aware from my audit of the financial statements. I am not required to consider whether the Statement on Internal Financial Control covers all financial risks and controls, or to form an opinion on the effectiveness of the risk and control procedures.

I read other information contained in the Annual Report, and consider whether it is consistent with the audited financial statements. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements.

Basis of Audit Opinion

In the exercise of my function as Comptroller and Auditor General, I conducted my audit of the financial statements in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board and by reference to the special considerations which attach to State bodies in relation to their management and operation. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures and regularity of the financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgments made in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Ombudsman's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations that I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

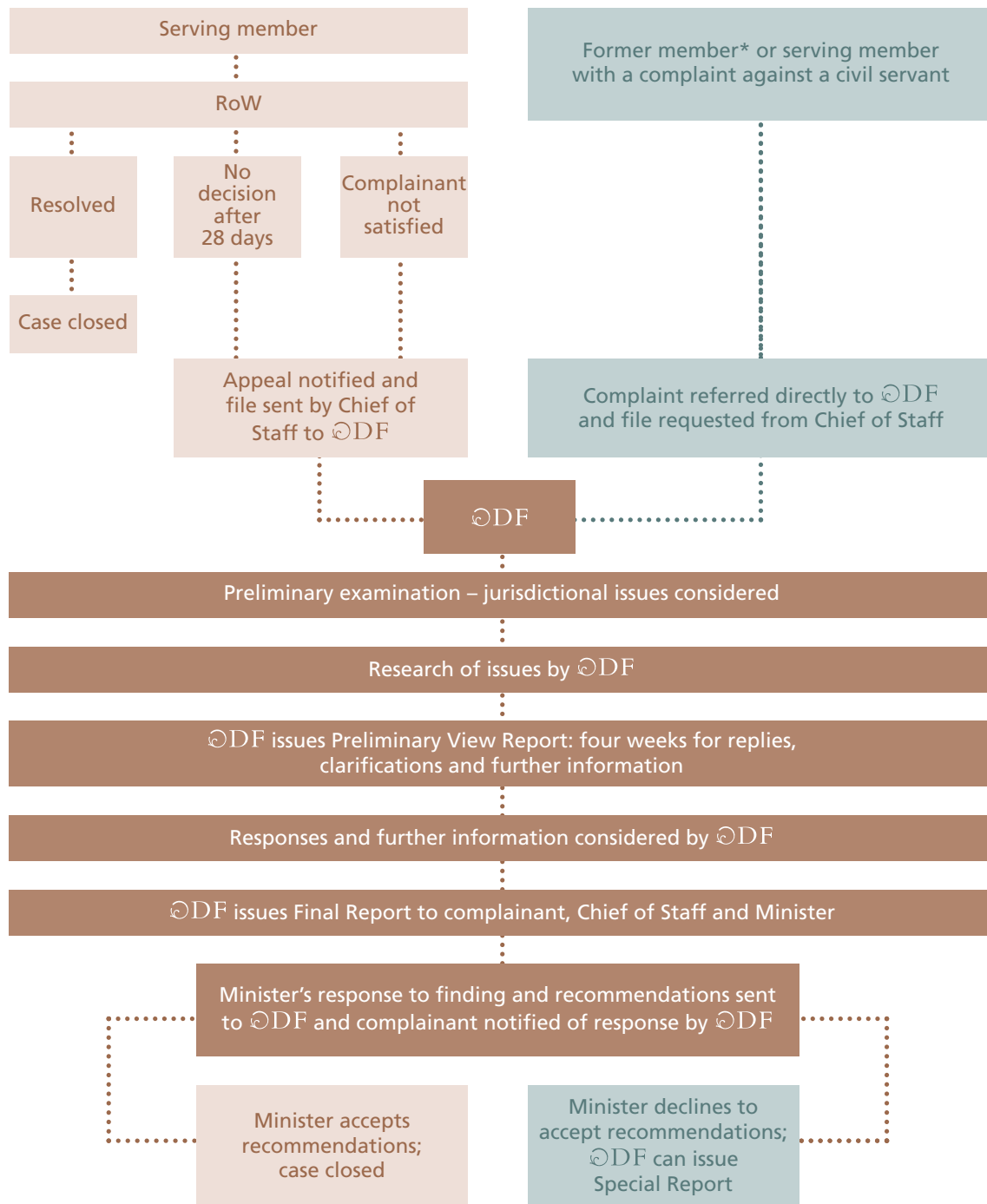
In my opinion, the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of the Ombudsman's affairs at 31 December 2008 and of the income and expenditure for the year then ended.

In my opinion, proper books of account have been kept by the Ombudsman. The financial statements are in agreement with the books of account.



Gerard Smyth
For and on behalf of the
Comptroller and Auditor General
30 April 2009

Lifecycle of a Complaint:



* A former member can lodge complaints in relation to alleged actions which occurred while he or she was a serving member. The person responsible for the alleged action and the complainant must have been serving members at the time of the alleged action.

Check List for Complainants

This section contains a check list designed to assist people who wish to make a complaint. The check list is available on www.odf.ie and is included in our Explanatory Leaflet.



Requirement 1:

The action I wish to complain about occurred after 1st December 2005.



Requirement 2:

The action occurred, or I became aware of it, within the last 12 months.



Requirement 3:

I have lodged a complaint about the action through the internal military Redress of Wrongs (RoW) system and I am not satisfied with the outcome. *(Requirement 3 applies only to serving members of the Defence Forces. It does not apply to former members of the Defence Forces.*



Requirement 4:

The action does not relate to:

Security or military operations, organisation, structure and deployment of the Defence Forces, terms and conditions of employment, administration of military prisons.



Requirement 5:

The action I wish to lodge an appeal about has not been summarily dealt with according to Section 179 of the Defence Act, 1954.

