



I hereby submit my Annual Report as
Ombudsman for the Defence Forces for 2006
pursuant to Section 7 of the Ombudsman
(Defence Forces) Act 2004.

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



Paulyn Marrinan Quinn .

Paulyn Marrinan Quinn, SC
Ombudsman for the Defence Forces



Introduction by the Ombudsman for the Defence Forces, Paulyn Marrinan Quinn, SC.

On 19th September 2005 I was appointed Ombudsman for the Defence Forces by President McAleese, following approval by the Cabinet. As someone with a passionate interest in Ombudsmanship, mediation and conflict resolution, I was deeply honoured to be appointed to this new role.

The Office of Ombudsman for the Defence Forces was established by the Ombudsman (Defence Forces) Act 2004. The Office became operational on 1st December, 2005, the day the Minister for Defence signed the Regulations bringing the Act into force.

2006 was the first full year of operation for my Office. It has been a most challenging, exciting and busy year. I hope this Annual Report will provide the Defence Forces, and the many other stakeholders the Office serves, with an accessible, informative and comprehensive overview of the work undertaken in 2006.

Speaking during the Dáil debate on the above legislation, the then Minister for Defence, Michael Smith, TD, stated that the establishment of the Ombudsman for the Defence Forces was “a major historical milestone in the modernisation of redress procedures.”

The establishment of an independent Ombudsman, to provide serving and former members of the Defence Forces with an impartial review of their grievances, is a groundbreaking development.

The legislation establishing the Office introduces civilian oversight into military complaint and grievance handling procedures. As such, it is a radical departure as the concept of Ombudsmanship is never more challenged than in a military chain-of-command structure. Ireland is the first European country to establish a dedicated, civilian Ombudsman for members, and former members, of the Defence Forces.

Establishing confidence and credibility with key stakeholders plays a vital role in the work of every Ombudsman. My previous professional and academic experience in this area has taught me that it is imperative to gain trust from the very outset. I do not believe that trust can be taken for granted - it has to be earned. This was a guiding principle behind all the activities undertaken in 2006.

In the first full year of operation, my small team and I, have worked hard at communicating the role of the Office to all of its stakeholders.

I was determined that my Office would gain a reputation for impartiality, professionalism and fairness across all our activities and that

the integrity of the Office, so vital to its successful operation, was established with all those whom we serve.

On my appointment as Ombudsman for the Defence Forces I set founding objectives for the first full year of operation. These included:

- **Acquainting myself with the ethos of the Defence Forces, its human resource management systems and its internal Redress of Wrongs (RoW) systems**
- **The adoption of best practice procedures in my case management system**
- **A commitment to the highest standards of customer service in all our activities**
- **The design and implementation of a co-ordinated communications campaign to explain the role and remit of the Office to members of the Defence Forces and the many other stakeholders which the Office serves**

In setting these objectives for the Office I was fortunate to be able to draw on the experience of Mr. André Marin, the first Ombudsman for the Armed Forces in Canada. Mr. Marin gave valuable encouragement, advice and guidance arising from his experience of establishing that Office and his contribution should be formally acknowledged in this Annual Report.

The wealth of experience and knowledge gained through my many years working with the British and Irish Ombudsman Association (BIOA) also proved invaluable during the year. The BIOA was established in 1994 and I was a founding member. I served as the Irish delegate on the BIOA's sub-committee which reviewed standards of best practice for Ombudsmen in the mid-1990s. This experience, together with the ongoing work of the organisation, was of immense assistance in establishing this Office. It was a great pleasure to see the BIOA hold its annual meeting in Dublin Castle in 2006.

Throughout the year, Willie O'Dea, TD, the Minister for Defence, and staff at all levels in his Department, have displayed an

enthusiasm for the establishment of the Office. The independence and impartiality of my Office have been respected at all times and assistance, across a number of areas, has been forthcoming.

I must also express and record my appreciation for the commitment which the Chief of Staff, Lt. Gen Jim Sreenan, has demonstrated during the past 12 months. The Chief of Staff has recognised the autonomy of the Ombudsman for the Defence Forces and ensured that the Defence Forces have put in place personnel and procedures to co-ordinate with, and facilitate the work of, the Office.

In this first Annual Report it is appropriate for me to pay tribute to the late John Lucey, former General Secretary of PDFORRA, who campaigned for the establishment of an independent Ombudsman for the Defence Forces over many years. In the past year, I have become acutely aware of the very high esteem in which he was held, not only on these shores, but far beyond.

The essential elements of Ombudsmanship are well established throughout the world. A valid Ombudsman must be independent, fair, effective and accountable.

In 2006 I have strived to ensure that these principles inform and underpin the work of my Office, and that our customers and stakeholders know this to be the case.

The publication of this Annual Report will allow people draw their own conclusions as to the contribution that this Office has made in its first year of operation and the progress it has achieved in complying with the founding pillars of Ombudsmanship.



Paulyn Marrinan Quinn, SC
Ombudsman for the Defence Forces

Highlights of 2006

- 142 referrals, comprising Notifications of Complaint, appeals and enquiries received.
- 26 cases eligible for investigation in 2006.
- Final Determination Report issued in respect of 16 of these cases.
- 62% of cases upheld.
- Defence Forces' procedures for interviews related to NCO Career Courses and Overseas Service were reformed, and interim measures put in place, on foot of Final Determination Reports issued by the Ombudsman for the Defence Forces.
- One full-time member of staff allocated to the Office in June 2006 and another in September 2006.
- www.odf.ie developed and launched in June 2006.
- 35,000 Explanatory Leaflets produced and widely distributed through a variety of channels.
- Braille and audio versions of Explanatory Leaflet produced.
- 19 presentations, lectures and attendances by the Ombudsman for the Defence Forces at range of fora.
- Ombudsman for the Defence Forces appointed to OSCE Expert Group on human rights and fundamental freedoms of armed forces personnel.



Cases and complaints referred to the
Ombudsman for the Defence Forces

Access to the Ombudsman

The mission of the Ombudsman for the Defence Forces is to provide an independent, fair and efficient appeal procedure for serving and former members of the Defence Forces in relation to grievances and complaints.

As with the establishment of any new organisation, 2006 saw a significant amount of energy devoted to the practical issues, such as office premises, staffing, and communication outreach tools, which are detailed in the chapter dealing with Corporate Affairs.

It was however my main objective, at all times, to provide a fair and effective service to our core customers, those who referred an appeal in relation to a grievance or sought assistance, intervention or advice.

Remit of the Ombudsman for the Defence Forces to investigate complaints:

The remit of the Ombudsman for the Defence Forces in relation to complaints is set out in the Ombudsman (Defence Forces) Act, 2004.

In brief, the main points are:

The Ombudsman for the Defence Forces may investigate any action that may have been:

- Taken without proper authority
- Taken on irrelevant grounds
- The result of negligence or carelessness
- Based on wrong or incomplete information
- Improperly discriminatory
- Contrary to fair or sound administration

The Ombudsman for the Defence Forces is excluded from investigating actions that concern:

- Terms and conditions of employment
- Administration of military prisons
- Organisation, structure and deployment of the Defence Forces
- Security or military operations

The Ombudsman for the Defence Forces can investigate actions carried out by:

- another serving member of the Defence Forces
- a former member of the Defence Forces who was serving at the time of the action
- a civil servant

Procedure for lodging a complaint:

Former members of the Defence Forces can bring their grievance directly to the Ombudsman for the Defence Forces.

Serving members of the Defence Forces must first process their complaint through the Defence Forces' Redress of Wrongs (RoW) procedures. This is done according to Section 114 of the Defence Act, 1954.

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 the Ombudsman for the Defence Forces directly.

Timeframe for lodging complaints:

Serving, and former members, of the Defence Forces must refer their complaint to the Ombudsman for the Defence Forces within 12 months of the action happening or within 12 months of becoming aware of the action.

The Ombudsman for the Defence Forces is only empowered to investigate actions that occurred since 1st December 2005, the day the provisions of the Ombudsman (Defence Forces) Act 2004 came into effect.

Analysis of Complaints

During 2006 I received a total of 142 Notifications of Complaint, appeals and enquiries in relation to possible appeals.

Notification of Complaints under Section 114 of the Defence Act:

As noted above, serving members of the Defence Forces must first lodge a complaint through the Defence Forces' Redress of Wrongs (RoW) procedures. There is now a legal requirement for the Ombudsman for the Defence Forces, and the Minister for Defence, to be notified of all such complaints. This innovation provides an important civilian oversight of the internal military grievance process.

In 2006 I was notified of 76 complaints made through this process by members of the Permanent and Reserve Defence Forces. Of these:

- 34 were resolved or withdrawn at the internal grievance stage
- 18 were going through the internal Redress of Wrongs (RoW) procedures as of 31st December 2006
- 24 cases were appealed to me

Complaints made directly to the Ombudsman for the Defence Forces:

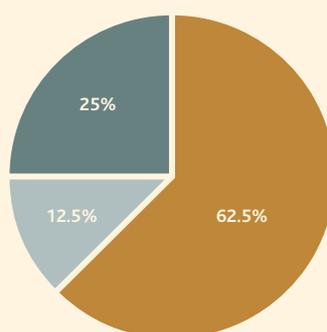
As noted above former members of the Defence Forces can refer complaints directly to me. Complaints in relation to an action taken by a civil servant are also referred directly to me. Two cases were received directly in 2006.

Results of cases dealt with by the Ombudsman for the Defence Forces:

A total of 26 complaints were accepted for investigation by me in 2006.

I issued a Final Determination Report in relation to 16 cases in 2006. Of these:

- 10 were upheld
- 2 were partially upheld
- 4 were not upheld



Results of cases where a Final Determination Report was issued by ODF

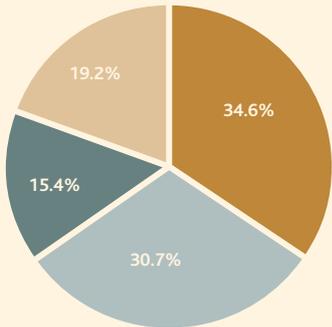
As of 31st December 2006 I had issued a Preliminary View Report in respect of a further four cases. I had sought responses and clarifications from the various parties in respect of these Reports. I usually allow four weeks for this process. An extension of time for these responses was requested, which I granted, so my Final Determination Reports in these cases did not issue until early 2007.

Six cases were in line for my review as of 31st December 2006.

Reasons for complaint:

Of the 26 cases which I considered:

- 9 related to non-selection for promotion
- 8 related to non-selection for career courses
- 4 related to non-selection for overseas service
- 5 related to other issues



Reasons for complaint

Complaints by Permanent/Reserve Defence Forces members:

Of the 26 cases which I considered:

- 23 were referred by current members of the Permanent Defence Forces
- 2 were referred by current members of the Reserve Defence Forces
- 1 was referred by a former member of the Permanent Defence Forces

Gender of Complainants:

Of the 26 cases which I considered:

- 24 were referred by male members of the Defence Forces
- 2 were referred by female members of the Defence Forces

Referrals Outside my Terms of Reference:

In addition to the 26 cases which I considered, 29 other referrals were received which were outside my statutory terms of reference. Of these 29 cases:

- 17 related to actions which occurred before 1st December 2005
- 7 related to complaints which must in the first instance go through the Defence Forces' internal Redress of Wrongs (RoW) procedures
- 3 related to actions where the complainant was not directly involved
- 2 related to issues regarding pay/pensions

Other Enquires To the Ombudsman For the Defence Forces:

35 general enquiries in relation to complaints were received in 2006.

Of these, the majority resulted in advice being provided in writing and the distribution of our Explanatory Leaflet.

Other enquiries resulted in individuals being directed to organisations more appropriate to their complaint such as the Ombudsman's Office, the Garda Complaints Board and the Department of Defence.

Changes Following From Recommendations:

When determining a case, I must in the first instance, issue my Report to the Minister for Defence. This report is also sent to the Chief of Staff, relevant personnel in the Defence Forces, and the person who brought the complaint.

Through the investigation of individual cases I may identify procedures and practices within the Defence Forces that are out-of-date, badly applied or in need of reform.

During the course of 2006, Defence Forces' procedures relating to the interview processes, for NCO Career Courses and Overseas Service were reviewed and reformed, on an interim basis, following the issuing of some of my first Reports.

To have played a role in encouraging review and reform is an important milestone for my Office to have achieved in its first year of operation.

I was struck by a willingness in the Defence Forces to embrace change. This is in no small part due to the constructive attitude which the Chief of Staff, Lt. Gen Jim Sreenan, and his Deputy Chiefs of Staff, have adopted towards the work undertaken by my Office.

I must use this opportunity also to record the tremendous assistance which the body of work completed by Dr. Eileen Doyle and her colleagues has been. Dr. Doyle's work regarding serious personnel issues in the Defence Forces has been an important touchstone for my work during the past year. I am pleased to report that some of the reforms proposed by her Advisory Group Report *The Challenge of a Workplace* in 2002 and her subsequent Monitoring Group Report, *Response to the Challenge of a Workplace* in 2004, remain an important benchmark of best practice.

The role of an Ombudsman involves the investigation and determination of complaints, taking into account all the surrounding circumstances of an individual case.

An Ombudsman's office is of its very nature therefore complaints and process focused. Through this investigative work an Ombudsman has a unique opportunity to identify unfair or discriminatory practices and processes that fail to meet desirable administrative standards or, indeed, good procedures that are improperly applied.

The monitoring and reform of procedures in an organisation over which an Ombudsman has jurisdiction is central to the concept of Ombudsmanship. By being an effective agent of change, Ombudsmen can ensure that underlying causes, which gave rise to a wrong or unfair action, are corrected so that, in future, others are not subject to the same flawed processes.

Not only is it a reflection of an organisation's standing and quality that it is open to independent oversight, but it is, indeed, a reflection of the regard that it has for its members that an organisation can face up to errors and implement reform. During 2006 the Defence Forces demonstrated the necessary openness towards reform which has, in no small way, contributed to the effectiveness of my Office.



Summaries of Cases Dealt With by the
Ombudsman for the Defence Forces

This section contains a selection of case summaries which were concluded in 2006.

Permission to use these selected cases was obtained from the individuals who referred their cases to me for review. Their assistance with this matter is greatly appreciated. As far as possible, specific details related to each case have been deleted to maintain the anonymity of each individual.

I hope these brief case histories provide an insight into the nature of the complaints which I considered in 2006.



CASE SUMMARY 1 - COMPLAINT UPHELD

Overseas appointment – Selection criteria not promulgated – Reasonable grounds for relying on 'longest back' principle applying – Need for reasons why candidate unsuccessful – Need for standardised and consistently promulgated appointment and selection processes.

The Complainant was selected as his Unit's nomination for an NCO appointment overseas, but was unsuccessful in his application. He was informed that the reason for his non-selection was that he had only completed one Overseas Posting and that it was policy in Human Resources Management (HRM) Section that only those with more overseas experience would be selected for the appointment. The Complainant brought a Redress of Wrongs application. He submitted that the general understanding was that the 'longest back' principle applied in the selection of overseas appointments and that he was the longest back, not having served overseas since 1995, and fulfilled all other requirements. He further submitted, in the alternative, that, if the reasons given for his non-selection amounted to a policy requirement, it had not been promulgated throughout the Defence Forces. Rather, he submitted that this criterion had been arbitrarily introduced without consultation or notice.

The 'longest back' principle had been a rule of thumb and a significant component in the selection procedure for overseas appointments for as long as people in the Complainant's Unit could remember and it was at odds with the policy applied by the HRM Section in rejecting the Complainant's application. It was accepted by all in the investigation of the complaint that there was no written policy within the Complainant's Unit or the HRM Section for the selection of NCOs for overseas service at the material time. Further, the job descriptions and necessary qualifications for the appointment, as published by the HRM Section, were not explicit in their requirement for candidates to have sufficient relevant overseas experience, merely stating, as they did, that "previous overseas experience as an NCO" was required.

The Complainant referred the matter to me when his Redress of Wrongs application was not upheld. I found that the matrix of assessment used by the HRM Section was not made known to the units or the candidates and that this lack of transparency gave grounds for a reasonably held grievance on the part of the Complainant. There were no standardised criteria in place which were promulgated to all members of the Defence Forces.

The Complainant had had reasonable grounds to rely on the 'longest back' principle carrying weight in the selection process. Further, in the absence of specific criteria against which he could judge his chances, and in the absence of policies and procedures promulgated to all, the Complainant was adversely affected by procedures which were contrary to fair and sound

administration. He had no satisfactory means of understanding why he had been unsuccessful in a competition which had a significant impact on his career path.

I recommended that measures be agreed which would, as far as practicable, mitigate the adverse effects which the Complainant had sustained. I further recommended that work be progressed in relation to the necessary clarification and promulgation of the appointments and selection processes and that interim arrangements be adopted. I advised that serious consideration should be given to the implementation of the recommendation in the Equality Steering Group's report 'Response to the Challenge of a Workplace' generally and specifically in relation to the recommendation that unsuccessful candidates be given a list of reasons for their lack of success and guidance as to what steps might be taken to improve their chances in the future.



CASE SUMMARY 2 - COMPLAINT UPHELD

Logistics Accountancy Course – Selection for nomination – Criteria for selection – No standardised qualifying criteria or weighting system promulgated to applicants – Failure to define criteria – Nomination lacking in fairness and transparency – Complainant not capable of assessing his eligibility.

The Complainant contended that he should have been selected as the first nomination for a Logistics Accountancy Course. He believed that he was the most qualified candidate with the most relevant experience and longest service. He had applied seven times for the course but had not been selected as the first nomination. He submitted that he had been unfairly treated as he had fulfilled the criteria in line with the relevant Administrative Instruction.

The questions which arose in this Appeal related to the procedures applied in the conduct of the selection process. Were the procedures open and transparent? Were they fair and in line with desirable administrative practices and sound and fair administration?

At first sight, it appeared that there were no standardised qualifying criteria in place for the courses promulgated to all personnel at the time of the nomination process. There was general confusion as to the applicable qualifying criteria as candidates were not furnished with the necessary documentation or information pertaining to the selection process in advance of application.

The Complainant's employment was deemed not to have been "within a Logistics Functional Area". There was, however, no agreed definition of what was meant by this phrase promulgated comprehensively prior to the nomination process. This was unfair as it made it impossible for a candidate to reasonably assess his/her eligibility under that criterion, particularly in circumstances where that criterion was found by the internal investigation to be 'a key determining factor'. Further, an explanation for the weighting/scoring system used in the evaluation of candidates in the nomination process was never furnished to candidates in advance of interviews.

In light of the above defects in the process, it was difficult to support the view that was submitted in the course of the internal investigation, that the system was fundamentally fair, transparent and impartial. Having come to this conclusion, I referred to the Equality Steering Group's 'Response to the Challenge of a Workplace' as providing guidance on what would be

reasonable, acceptable standards and principles applicable in the instant case. These included the listing of essential qualifications in advertisements for posts, agreeing in advance other desirable criteria or qualifications and setting maximum points available for every category and advising unsuccessful candidates of the specific reasons why they were not successful and the steps they could take to improve their chances in the future.

I found that the Complainant had been adversely affected by the manner in which the nomination process had been conducted in that he was not informed adequately, or at all, of the relevant qualifying criteria and weighting system.

I recommended a review of the nomination process. In terms of the remedy, I recommended that the Military Authorities duly recognise the merits of the issues which the Complainant had raised in a way that would operate to the benefit of the Complainant and I also suggested that serious consideration be given to running additional Logistics Accountancy Courses, given their importance in terms of career development for members.

In his response, the Minister for Defence noted the introduction of the new Interim Selection Procedures for Career Courses and Overseas Service on the 31st July, 2006. He further noted that arrangements were being put in place to expedite responses to reports issued by me.



CASE SUMMARY 3 - COMPLAINT UPHELD

Potential NCO Course – Selection process – Requirement to undergo Module 3 – Transparency – Fair and sound administrative practice – Exemption in respect of all Medical Corps Personnel – No exemption as regards Transport Corps – No proper rationale for distinction promulgated to all – No standardised selection procedures – Selection process not objective and transparent and not in accordance with fair and sound administrative practice

The Complainant was a member of the Transport Corps with over twenty-five years experience in the Defence Forces. He had applied for a vacancy on a Potential NCO Course for Specialist/ Tech Personnel. He was unsuccessful in that application on the basis that he was not eligible for exemption from Module 3 (i.e. the tactical element) under the relevant syllabus. The Complainant submitted that, in the circumstances, the selection procedures were unjust and amounted to discrimination against him.

The Complainant pointed out that all Medical Corps Personnel (irrespective of Tech Grade) were exempt from the requirement to undergo Module 3 and he submitted that this distinction was unjust and created an unfair advantage.

The Complainant had processed his grievance through the Redress of Wrongs procedure and the Chief of Staff ruled that the Complainant had suffered no wrong requiring redress on the grounds that - among other things - the decision as to which personnel would be exempt from the requirement was a command decision based on the nature and employment and various duties of Medical Corps Personnel.

In dealing with this Appeal, I had to assess whether the circumstances giving rise to the complaint were such as to adversely affect the Complainant. In particular, I had to assess the

openness and transparency of the selection process and decide whether the procedures were fair and in line with desirable administrative practices and sound and fair administration.

I found that, other than as stated by the Chief of Staff above, there had been no reasoning for the selected categories for exemption, and the resulting anomaly between the Medical Corps and the Transport Corps, proffered during the internal investigation. I found that as there had been no reasons, made known to all involved, as to why all Tech Grades of the Medical Corps were eligible for the course, and were entitled to be exempt from Module 3, whereas only Grade 3 of the Transport Corp were eligible, the process was 'on its face' unfair and could be reasonably construed as discriminatory.

The relevant syllabus document stated: "The Potential NCO Course is Tri Modular. Unit Commanders will offer all candidates, irrespective of Tech Grade, the option of completing all three modules". I found that this represented the underlying principle of the modularised system and implied that any exemption would have to be on reasonable grounds, explained to all those involved. The situation gave rise to a reasonable expectation that the Complainant had a fair and equal chance of being eligible for selection. In the circumstances, it was necessary to look behind the syllabus document at the rationale for the exemption applying only to selective categories of personnel and ask whether this was compatible with the objectives of the Potential NCO Course.

There were no standardised qualifying criteria for Potential NCO Courses in place and/or promulgated to all personnel at the time of application, however, I noted and endorsed the fact that a review was taking place in this regard. I recommended that recommendations in the Equality Steering Group's 'Response to the Challenge of a Workplace' as regards selection procedures for Career Courses be adopted and implemented, as far as practicable, in relation to the selection process for Potential NCO Courses.

The absence of a justifiable rationale for the anomaly highlighted by the Complainant, coupled with the absence of standardised qualifying criteria for the Potential NCO Course, meant that the selection process had not been implemented in an objective and transparent manner and in accordance with fair and sound administrative practice. Accordingly, the Complainant had been unfairly prevented from being afforded the opportunity of undertaking a course that was significant in terms of his career advancement. In addition to my recommendation on the selection procedure, I recommended that some thought be put into finding a means of making good the adverse affects of the administrative failings on the Complainant.

Subsequent submissions by the Defence Forces pointed out that the requirement on members of the Complainant's Technical Group to undergo Module 3 was objectively justified by the need for such personnel to be familiar with tactical requirements. However, it remained the case that the Complainant had not been informed of this prior to his application, nor when the decision was communicated to him.

In his response, the Minister for Defence noted the introduction of new Interim Selection Procedures on the 31st July, 2006. Further, he confirmed that a review of Technician Groups was underway. I had recommended that this work be progressed.



CASE SUMMARY 4 - COMPLAINT UPHELD

Selection for Overseas Service – No interview process for appointments in question – No reasons given for non-selection – Additional criteria applied after closing date for nominations – No transparent objective assessment methodology applied – Lack of standardised qualifying criteria promulgated in advance of competition.

The Complainant volunteered for Overseas Service in respect of two appointments, being CQMS Procurement Section NSE and Sgt Procurement Section NSE. Having satisfied the criteria as set out in the advertisement from EPMO, the Complainant was recommended by his Section OIC, the Director SPO, and subsequently nominated by his Unit Commander in respect of both appointments.

It appeared that the Complainant was never interviewed in respect of the appointments in question and he was neither informed in writing of his non-selection nor provided with any reasons at the time for his non-selection. By the time the Complainant's complaint had been processed through the Redress of Wrongs procedure, the Complainant had no way of undoing what had been done as the Overseas Postings had begun. The Complainant requested that the matter be referred to me.

The basis of the Complainant's complaint was as follows:

- **That being qualified for the appointment and matching the criteria fully and being the longest back from previous Overseas Service, the Complainant should have been selected for the overseas appointment. The Complainant contended that in circumstances where all the candidates met the relevant criteria for an overseas appointment, then “the longest back from overseas service” criterion should be relevant and applied in accordance with the normal and long acknowledged working practice for overseas selection within the Defence Forces.**
- **That a general atmosphere or environment of unfair advantage or favouritism, real or perceived, for certain NCO's ahead of others had arisen by the non-selection of the Complainant.**
- **That no additional criteria should be applied and/or given weight in the selection process after the closing date for nominations of candidates for Overseas Appointment competitions.**

The Complainant sought selection as Sgt in NSE or an equivalent mission by way of redress.

I found that there was neither an interview nor a transparent objective assessment methodology applied to the selection process. There was a lack of standardised qualifying criteria for the Overseas Service in question promulgated to all personnel in advance of the competition. The Investigating Officer's Report stated that recent and consistent overseas experience was a major consideration as the appointments required NCO's with considerable and varied overseas experience.

I found that whereas this may have been a valid relevant and appropriate consideration in the circumstances of this particular overseas appointment this was not made clear at the time that the appointment was advertised. The Complainant was put at an unfair disadvantage and was unfairly prevented from being afforded the opportunity of undertaking the appointment in

question and the resulting opportunities of career advancement within the Defence Forces.

The discussion document entitled: "Standardisation of Selection Criteria for Career Courses in the Defence Forces and Overseas Selection" dated the 6th March, 2006, addressed the inconsistencies and ambiguities that existed, at that time, in this area. I found that they represented an implicit admission that there were no formal standardised criteria in place for Overseas Service promulgated throughout the Defence Forces at the material time.

The Complainant claimed that he had suffered unfair treatment as a result of the flaws in the administrative process for selecting volunteers for overseas service and further believed that he was turned down in his application for the nine month appointment as an Acting Company Sgt and the eight month appointment as a Sgt because he had earlier submitted a complaint against the Selecting Authority in relation to another posting. In the course of the investigation, the Complainant had received an appointment as a Sgt Driver/Clerk for 6 months and whereas the Complainant was happy with this appointment he pointed out that this appointment was for a six month period which involved a financial loss when compared to the other Overseas Appointments.

I was satisfied that in respect of the appointment of Sgt Procurement Section NSE, the Complainant had been adversely affected by the selection process which was not adequately transparent as to the desirable, necessary and essential criteria and experience necessary for the appointment or at all and that the Complainant's complaint was well founded. I made the following recommendations:

- **The implementation of proper procedures for setting and promulgating selection criteria for overseas service so as to avoid misunderstandings.**
- **Proper and timely procedures for interviewing and/or otherwise assessing nominated candidates for Overseas Service with an agreed rating and marking system.**
- **The provision of specific reasons as to why candidates were not successful in their application for Overseas Appointments and what steps they should take to improve their opportunities in the future (where practicable).**
- **I made no finding in relation to the estimated claim of loss which the Complainant had submitted in relation to the notional losses compared to the applications subsequent to the appointment in respect of which he made reference to me.**
- **The questions which the Complainant raised about the outcome of the applications for Overseas Appointments subsequent to the Overseas appointment which was the subject of his Appeal to me required further investigation. If the Complainant wished to pursue these additional matters a process needed to be initiated to provide for a response with submissions from the parties involved. I recommended that opportunities of resolving these matters amicably should first be explored.**

In his response, the Minister for Defence noted the introduction of new Interim Selection Procedures on 31st July 2006.



CASE SUMMARY 5 - COMPLAINT UPHELD

Nomination for Career Course – No objective assessment methodology applied – Order of seniority not adhered to – Course Notification and Training Syllabus specified conflicting criteria – No standardised selection criteria – No reason for decision given – No form of appeal – No interview process prior to nomination.

The Complainant's grievance related to his selection as the second nomination for a Logistics Accountancy Course and it was his contention that he should have been selected as the first nomination for this course as he met all of the criteria set out for the course and he was more senior to the person who was selected. The Complainant further submitted that the criteria specified in the Course Notification were different to the criteria listed in the Training Syllabus. It also appeared that the applicants for this course were not interviewed by a Selection Board, there were no standardised selection criteria in place and/or promulgated to the Candidates in advance and no objective assessment methodology appeared to have been applied. There were also no reasons given to the Complainant for the decision and no form of appeal was afforded to him. The Complainant sought that his position on the list of nominations be altered to recognise his being the first nomination.

The Investigating Officer found that the Complainant had not been wronged on the grounds that the guidelines issued by the Selecting Authority were followed. The Complainant submitted that the Investigating Officer had misrepresented the exact nature of his complaint. The Complainant also contended that the Investigating Officer had not appeared to be impartial and it was his belief that he had already formed an opinion on his application prior to the interview.

There was no definition of "employment" within a logistical functional area given to the Complainant and there was a lack of clarification as to what was deemed to be "a logistic functional area" or background experience in "logistics". The absence of clarity and transparency, in addition to the differences between the various documents setting out the criteria for selection, gave rise to the unfairness (real or perceived) which was the subject of the Complainant's grievance.

The Complainant contended that there was a difference between the criteria specified in the Course Notification and the Training Syllabus. According to the criteria laid down in the Course Notification it required that the candidates "must be employed in a logistic functional area" whilst the Training Syllabus stated that "it is desirable that students have a background experience in logistics". From the comparative assessment between the four candidates for the course in question it appeared that the order of nomination was influenced by the level of previous logistical experience of each of the Candidates and this was confirmed by the Commanding Officer. An inference could also be drawn from the Considered Ruling of the Chief of Staff that the first criteria of "must be employed in a logistical function and area" was the over-riding determining criterion and therefore none of the four Candidates would have been eligible.

It appeared that none of the nominated candidates was interviewed at any stage during the selection process which denied the applicants an opportunity of fully describing their previous or current logistical experience or work. Wavering views and varying interpretations of the definitions and weighting of experience and criteria gave rise to a perception of an unfair selection process. I highlighted, with reference to the Equality Steering Group's Recommended Procedures for the Interview Process for Courses, Promotion and Overseas Service as set out in

its 'Response to the Challenge of a Workplace', that essential general and desirable qualifications for the post in question should have been listed in the advertisement for the post.

I found that, with reference to the above recommended procedures, desired criteria/qualities for selection for the promotion or vacancy should have been agreed in advance and a table of maximum points available for each criterion/quality should have been agreed and made available to the candidates and the interview panel in advance. No form of objective methodology for assessing the candidates appeared to have been applied or promulgated in this case.

I also drew attention to an unsatisfactory aspect of the grievance procedure that I observed which involved the Commanding Officer being responsible for nominating the candidates for the course in question while, at the same time, being the person charged with the responsibility of conducting the initial investigation of this complaint.

It appeared to be widely accepted that the Logistics Accountancy Course was a significant step in the advancement of the career of a member of the Defence Forces. Theoretically, it seemed that every competition stood alone but, in practice, when a subsequent course was advertised nothing might have changed in the intervening period and the candidates might reasonably fear that they would be ranked in the same order as the previous nomination process. I highlighted that in circumstances where so much was at stake, the candidates were required to put their faith in the authenticity, impartiality, objectivity and fairness of the process being applied and had a reasonable expectation of this being delivered. Having read the submissions I found that those expectations had not been adequately met.

I found that the processes fell short of the standards envisaged by the standards of best practice recommended by the Equality Steering Group and I upheld the complaint. I recommended the implementation of proper procedures for setting and promulgating selection criteria for the Logistics Accountancy Course and the adoption of comprehensive and timely procedures for interviewing and/or otherwise assessing nominated candidates with an agreed rating or marking system under the headings of the criteria and experience required.

The Minister for Defence in his response noted the introduction of new Interim Selection Procedures on 31st July, 2006. I also recommended that the Complainant be given a place on the next Logistics Accountancy Course provided that he applied and met the administrative and medical requirements.



CASE SUMMARY 6 - COMPLAINT UPHELD

Selection process for NCO Course – Criteria of precedence unclear – Incomplete recording of Courses completed – Unfair inclusion of conduct records – Review Board constituted to decide order of precedence – Reconsideration of original decision made by same members of Board.

This complaint related to the Complainant's nomination as the fourth preference in the nominations for a Standard NCO Course. The Complainant took issue with the selection process and contended that the placing of the nominations for the course were unfair on the grounds that the Candidate placed second was junior in seniority to the third, fourth and fifth placed Candidates. The Complainant stated that all the courses completed by him during

his military service were not fully recorded in the assessment for nomination, despite being informed that the order of preference of the Candidates was solely determined on the number of courses completed at Instructor level. He also submitted that conduct records before his promotion to his current rank were wrongfully considered.

A Review Board was specifically constituted for the purpose of deciding on the order of preference of the Candidates for the course in question. This Board reconvened, comprised of the same persons, to reconsider its order of preference and upheld its original decision without setting out clear reasons. It appeared that at no stage was the Complainant, nor any other candidate, interviewed during the nomination process for this course, nor indeed was the Complainant afforded any hearing during the Board's reconsideration. There were no standardized selection criteria in place and/or promulgated to the candidates in advance of the application process. There also appeared to have been no objective assessment methodology agreed, adopted or applied that was commonly understood by all.

In the Considered Ruling of the Chief of Staff attention was drawn to the fact that there was no statutory or regulatory requirement for a Unit Commander to employ a selection procedure within a Unit to select personnel to be nominated to undergo any particular Career Course. He considered that the process used was fair and justified in ensuring that every candidate was assessed on an equal basis. I pointed out that the absence of statutory or regulatory requirements did not per se relieve a Unit Commander from adhering to fair procedures in a selection or nomination process. I found if the Complainant's application for the Standard NCO Course in question had been handled by the Review Board in accordance with the Equality Steering Group's Recommended Procedures for the Interview Process for Courses, Promotion and Overseas Service as set out in its 'Response to the Challenge of a Workplace', then several aspects of the process would have been different.

I was concerned about the circumstances surrounding the exchange of information by the Review Board in relation to the courses which the Complainant had completed. There appeared to have been a lapse in attention to details which were relevant in the Board's determination. The Board, also, gave no reasons as to why it chose not to mention the special commendation which the Complainant had received on an Overseas Posting. On the basis of the information and the Rulings that I had received, and information submitted, I was of the view that there were sufficient grounds to suggest that the procedures had not been sufficiently transparent and clear, as a result of which the Complainant had been adversely affected.

I issued a Preliminary View Report in which clarifications were sought. Having received the responses to the Preliminary View Report, I confirmed the views expressed in my initial Report and upheld the complaint.

The Complainant was offered a place on a Standard NCO Course by way of redress. In his response, the Minister for Defence noted the introduction of the new Interim Selection Procedures on the 31st July, 2006. He further noted that the Director of Defence Forces Training was amending the training syllabi to ensure that the qualifying criteria for course eligibility were clear and unambiguous.



CASE SUMMARY 7 - COMPLAINT UPHELD

Logistics Accountancy Course – Allocation of places – Criteria for allocation – Ambiguity – Reasonable expectation – Substituting – Lack of transparency – Overriding criterion linked to vacancies – Selection process for course not conducted in accordance with fair procedures and desirable administrative practices

The Complainant had substituted for a period of eight years, for the most part in an unpaid capacity, carrying out his own duties and those of a higher, unfilled post. During that time, he had applied for a place on a Logistics Accountancy Course on every occasion it was held, but had been unsuccessful every time. He was never given an explanation as to why he had been unsuccessful, nor advice on steps he could take to improve his chances in the future. In his most recent application, the Complainant had been unsuccessful despite having been recommended by his Commanding Officer and having received the first place nomination from his unit. The result of this was that, when a position at the higher level became available, he was not qualified to apply for it.

The Complainant pursued a Redress of Wrongs application on the basis that he had carried out the extra duties in good faith, in the belief that, when the time came to fill the higher position, his contribution and work would help in his application. He submitted that the selection process for the Career Course was unfair and contrary to the principles of natural justice.

The case had gone through a lengthy internal investigation. At every stage there had been sympathy expressed for the Complainant and it was accepted that he had a reasonable expectation, based on his performance in carrying out the extra duties, that he would be given an opportunity to take the course. The outcome of the Redress of Wrongs procedure, however, was the Considered Ruling of the Chief of Staff that no wrong requiring redress within the meaning of Section 114 of the Defence Act 1954 had occurred.

In reviewing this appeal, I found that it had arisen because of ambiguity with regard to the methodology employed in the allocation of places on the course in question. I was satisfied that, as a result of unfair and undesirable administrative practices, the Complainant had been given no recognition or reward for the substantial additional work which he had carried out. The Complainant had a reasonable expectation which was not fulfilled. I found that, whereas the methodology for allocation of places on career courses was linked to organisational needs and the management of vacancies, these factors were not clearly understood to be the overriding criteria by those applying.

I recommended implementation of best practice regarding desirable administrative procedures, as set out by the Equality Steering Group in its report 'Response to the Challenge of a Workplace'. This would avoid decisions being vulnerable to a perception of favouritism or bias. I further recommended that the criteria for the allocation of places on Career Courses be unambiguous and clearly set out in advertisements for such courses, and that, if there was an overriding criterion linked to job vacancies or other requirements, this be made clear in advance of the selection process. Finally, I recommended that personnel, such as the Complainant, who had applied unsuccessfully for a Career Course on a number of occasions, be advised of the reasons for their lack of success and the steps they might take to improve their chances in the future.

This case demonstrated that a lack of transparency in administrative systems could lead to a perception of discrimination or favouritism. Further, in a Complainant not possessed of such

patience, forbearance and loyalty, the administrative weakness could have caused resentment and demoralisation.

In his response, the Minister for Defence noted the introduction of new Interim Selection Procedures in relation to Career Courses and Overseas Appointments on the 31st July, 2006. He further noted that the Director of Defence Forces Training was amending the training syllabi to ensure that the qualifying criteria for course eligibility were clear and unambiguous.

The Complainant was recently selected for a Logistics Accountancy Course.



CASE SUMMARY 8 - COMPLAINT UPHELD

Selection for Overseas Posting – New criterion for posting not made known to Complainant – Grievance procedure – Undesirable administrative practice – Criteria and conditions relevant to posting not available in Selection Procedures.

The Complainant's grievance arose out of the fact that when the list for the Overseas Mission with KFOR was released he was not paraded and informed whether he was on the panel for Overseas Posting. The Complainant was subsequently informed that he was not likely to be on the main list because he had not served in Liberia. It was the Complainant's submission that he was informed that the precedent, which he believed to be the governing principle of "last back, first out", was no longer applied. As the Complainant had not been on an overseas tour of duty in 8 years he had relied on the accepted practice that, all things being equal, the "longest back" would be "first out". It was the Complainant's contention that at no time was the new criterion promulgated or otherwise made known to the Complainant as a condition or criteria for the Overseas Posting in question.

I noted that the internal complaint handling procedure in this case was questionable as it appeared that the GOC who issued his Considered Ruling was also the Selecting Authority and in such circumstances it could be argued that he was acting as a judge in his own case which would be a breach of the principles of natural justice. It was, however, submitted at the final report stage that the GOC delegated the task of the selection process to his staff which allowed him to consider and decide on any conflicts that might arise due to non-selection. I also found that where information as to relevant qualifications had not been made known to candidates in advance, the practice fell short of best practice and could reasonably be said to represent an unfair administrative practice.

I recommended that the criteria for overseas service be promulgated, in the normal course, leaving no room for doubt as to the criteria applicable and where special criteria were to be applied that they be included in such a list. I also recommended, in line with the observations of the Investigating Officer, that it be made clear to those placing their names on the list of volunteers for overseas service that such a step did not guarantee them a place on a specific posting.

I was advised that paragraph 107 of the Administrative Instruction Part 26 was invoked where a dispensation to established practice and/or Administrative Instruction was being sought.. Whereas this purported to clarify the use and practice of the provision in question, I suggested that the wording, as it stood, could be reasonably open to different interpretations. If this provision were amended to reflect accurately its role and function it would avoid confusion as

to how and when it could be invoked. I recommended that this be done.

It was also submitted that whereas it was acknowledged that DCOS (Sp) was the final authority for selection for overseas service, it would not be practicable or efficient if every case of non-selection in a Brigade/Formation was referred to him for consideration

With regard to the present case, the Chief of Staff acknowledged that the selection procedures used were not ideal and pointed out that the new Interim Selection Procedures had been introduced with a view to integrating some of the best practice recommendations of the Equality Steering Group. The Chief of Staff suggested that the most suitable method of providing redress in this case was by acknowledging that the procedures used were not in accordance with best practice but that the new Interim Selection Procedures which had been recently introduced clearly improved the processes and any future applications for overseas service would be properly considered in line with the new procedures.

I found that there had been a lack of clarity in the selection procedures for overseas service in this case and that it would ultimately be to the benefit of all that the Complainant had drawn attention to these shortcomings. To this extent, his complaint was justified. I accepted the submission of the Chief of Staff that the Complainant would not have suffered in terms of his career profile in light of his overseas service. I found that the redress (as suggested by the Chief of Staff), in acknowledging that the procedures used were not in accordance with best practice but that any future applications would be properly considered in line with the new Interim Selection Procedures, was appropriate in the circumstances.

In his response, the Minister for Defence accepted the need to amend and clarify Administrative Instruction Part 26.

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.





Corporate Affairs

2006 presented my Office with significant challenges in relation to corporate affairs.

My Office came into effect on 1st December 2005, the day the Minister signed regulations bring the Office into operation. In addition to dealing with complaints and enquiries that began to come in almost immediately, it was imperative that an administrative infrastructure, essential to the successful establishment of the Office, was put in place.

This involved creating solutions to a myriad of issues including, staffing, accommodation, case handling processes, communication, data protection and finance, to highlight just a few. At the outset, I drew up a blueprint for the Office, setting out targets for delivery of services to our customers.

In this section of the Annual Report I hope to provide a brief overview of progress on these issues. At this stage it is important to thank those within the Civil Service who provided assistance on a number of issues.

Communicating the Ombudsman Message:

As Ombudsman for the Defence Forces, I serve a wide range of stakeholders. When the Office was established it was extremely important that I met, and entered into a dialogue, with these stakeholders so that the remit and function of this new Office of Ombudsman for the Defence Forces was communicated to them.

From the outset, I was keenly aware that there were many differing perceptions, expectations and views of what the Office could do in real terms. For some the expectations were high. It was important that the brief window of opportunity presented in the early days of the establishment of the Office was grasped so that members, and former members, of the Defence Forces in particular, who are our primary clients, could be informed about my role and function, the powers of the Office and its limitations.

A range of communication tools were employed to inform the various audiences about my Office and the extent of its function and powers. Below is an overview of the communications activities engaged in during 2006. It also includes references to the work which I undertook from the date of my appointment by President McAleese in September 2005.

Visits and Presentations to Defence Force members

The most important audience for my Office is former and serving members of the Defence Forces. Even before the official establishment of my Office, I actively sought to communicate in person the remit and function of the Office directly with members, and former members, of the Defence Forces of all ranks. This process involved visits, lectures and presentations at a number of military barracks, conferences and other meetings throughout the country.

I also availed of opportunities offered by the Defence Forces' representative organisations to directly address their members.

These ongoing visits have proved most valuable. Defence Forces' members can gain a direct insight into the legal basis and administrative procedures of the Office. The visits have also been invaluable in informing my own understanding of the ethos of the Defence Forces and the expectations its members have of my role.

Among the visits and engagements completed between 2005 and 2006 are:

October 2005

Attendance at PDFORRA Conference

October 2005

Briefing with Deputy Chief of Staff, McKee Barracks

October 2005

Briefing with Director of Human Resource Management Services, McKee Barracks

October 2005

Meeting with PDFORRA Executive

October 2005

Meetings with Department of Defence officials

November 2005

Attendance at RACO Conference

November 2005

Presentations at Cathal Brugha Barracks, Eastern Brigade

December 2005

Presentations to Air Corps, Baldonnel

December 2005

Presentations at Curragh Camp, DFTC

February 2006

Presentation to Unit Commanders, Curragh Camp, DFTC

February 2006

Presentations at Naval Service, Haulbowline

February 2006

Presentations at Collins Barracks, Southern Brigade

February 2006

Presentations at Custume Barracks, Western Brigade

May 2006

Presentation at Curragh Camp, DFTC

May 2006

Presentation at RDFRA Conference, Curragh Camp

September 2006

Presentation to Officer Training Wing, Curragh Camp, DFTC

October 2006

Presentation to PDFORRA Annual Delegate Conference

November 2006

Attendance at RACO annual dinner

December 2006

Attendance at PDFORRA reception

OSCE Working Group:

In December 2006 I was invited to an Organisation for Security and Co-operation in Europe (OSCE) Expert Group meeting in Warsaw, Poland, dealing with a project entitled '*The Citizen in Uniform*'.

The Expert Group is currently producing a handbook on the human rights and fundamental freedoms of armed forces personnel and I was pleased to be asked to contribute to the project as a member of the Expert Group.

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

Development of ODF logo

As Ombudsman for the Defence Forces, I am an impartial third-party. My Office is independent of the Minister for Defence and the military authorities.

With the establishment of my Office it was important that a unique visual identify was developed and applied to all materials to underline the independence and standing of my Office.

Early in 2006, the ODF logo was developed with the assistance of a Dublin-based design agency and is prominently used on all our materials and publications.

Development of ODF website:

Our website, www.odf.ie was developed in the first half of 2006 and went live in June.

Text on the website is available in both Irish and English.

The website is designed to provide serving and former Defence Forces' members, and other interested parties, with accessible, jargon-free information on all aspects of my Office's work. The website also enables clients to lodge an appeal on-line, through the on-line complaint facility. Feedback on the standard of service provided by my Office is actively encouraged through the website.

www.odf.ie received 6,608 visits between June – December 2006.

Production of Explanatory Leaflet:

35,000 Explanatory Leaflets outlining my role as Ombudsman for the Defence Forces and detailing the procedure for lodging eligible appeals was designed, produced and distributed by early 2006. I worked closely with the National Adult Literacy Agency (NALA) to ensure that the text was clear and unambiguous. The leaflet has NALA's Plain English mark.

The Explanatory Leaflet was distributed as an insert through a number of relevant publications including *Irish Defender*, *Signal* and *One Connect*.

Copies of the Explanatory Leaflet were also sent to all Oireachtas members.

The Explanatory Leaflet has also been made available at conferences where I have attended or made presentations and delivered directly to military installations following requests.

The Explanatory Leaflet is also available in Braille and audio format.

Staffing:

It was of great assistance when the first member of staff was allocated to me in June 2006. A second member of staff was appointed in September.

The contribution that my small team made in the latter half of 2006 has been considerable.

As the Office develops it is likely that additional staff resources will be required to ensure that the delivery of a effective, efficient service is maintained.

Prior to the appointment of staff, I had to outsource essential clerical and research support services. I must record my thanks to those people who were responsive to the needs of the Office at that time.

Office Premises:

When my Office was established I arranged accommodation in the Distillery Building on Church Street, Dublin 7.

On 1st December 2006 my Office was relocated to three rooms on the first floor of 13/15 Hatch Street in Dublin. These premises are not proving adequate or suitable and I have requested assistance from the Office of Public Works in securing suitable, permanent premises.

Case Handling System:

Upon my appointment I carried out a review of the computerised case handling systems used by a range of Ombudsmen's Offices. Following this a tender, specific to the needs of the ODF, was issued.

I am pleased to report that a bespoke computerised case handling system, incorporating best practice solutions and taking account of the specific requirements of the Office, is in place and that pre-existing data, records and information has been inputted.

Data Protection:

The Ombudsman for the Defence Forces 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:

The completion of a Safety Statement for our rooms in Hatch Street was at an advanced stage on 31st December 2006.

Health and safety issues for the building in which our rooms are located is controlled by the Department of Finance, who are the main tenants of the premises.

Irish Language Policy:

As of 31st December 2006 the Ombudsman for the Defence Forces is 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 English and Irish. The website is available in Irish.

Budgetary Matters:

The accounts for 13 months to the end of December 2006 were completed and presented to the Comptroller and Auditor General in February 2007.

I am keenly aware of my responsibilities as Accounting Officer for the Office and financial controls, to ensure that public money is used wisely and efficiently, are in place.

For accounting purposes, as of 31st December 2006, the Ombudsman for the Defence Forces operated as a subhead in the Department of Defence estimates.

In keeping with the general principles of Ombudsmanship, and, given the necessary independence of my Office and the requirement that my Office is also perceived to be independent, it would be more appropriate for my Office to have its own vote and be entirely accountable for its own budget. This is an issue which I hope can be progressed in the future.

Freedom of Information Policy:

As of 31st December 2006 the Ombudsman for the Defence Forces is not a prescribed body under the Freedom of Information Act 1997 (as amended).

However, the policy of my Office is to treat all requests for information in an open and transparent manner in keeping with the spirit of the FOI Act, taking account of the exclusions in Part III of that legislation which are relevant to the investigative work of an Office of this kind.

Internet Usage Policy:

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

Confidentiality:

As mentioned in my introduction, trust is essential to the successful work of an Ombudsman. Strict rules governing the confidentiality of all appeals or enquiries received by my Office are in place.

Case studies of specific appeals, with personal details removed, have been used in this Annual Report to provide an insight into how my Office has dealt with complaints. All individuals whose cases were used in this manner were contacted in advance of publication and their consent to this practice was secured.

Commitment To The Highest Ethical Standards:

The work of my Office to date has been grounded in the highest ethical standards appropriate to Ombudsmanship.

My Office can only function if serving and former members of the Defence Forces are confident that each case will be dealt with efficiently, professionally and impartially. My staff and I are mindful of the importance of each case to the individual seeking redress. We are also conscious that bringing an issue to my Office for resolution is often a significant step for a complainant. At all times I, and my small team, are committed to respecting the integrity of individuals who contact or refer appeals to my Office.

I believe that it is safe to say that in 2006 the Office has achieved significant progress in establishing, and maintaining, a reputation for high standards among all those with an interest in its work.



Report of the Comptroller
and 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 period ended 31 December 2006 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 2006 and of the income and expenditure for the period 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.



John Purcell
Comptroller and Auditor General
5 April 2007



Financial Statements

Statement of Responsibilities of the Ombudsman for the Defence Forces

The Ombudsman for the Defence Forces is required by Section 16 (1) of the Ombudsman for the Defence Forces Act, 2004, to prepare for each financial year, all proper and usual accounts of moneys received or expended by her in the performance of her functions under the Ombudsman for the Defence Forces Act 2004.

In preparing these statements, the Ombudsman is required to:

- **select appropriate accounting policies and apply them consistently;**
- **make judgements and estimates that are reasonable and prudent;**
- **prepare the accounts on the going concern basis unless it is inappropriate to presume that the office of Ombudsman for the Defence Forces will continue in being;**
- **disclose and explain if there are any material departures from applicable accounting standards.**

The Ombudsman for the Defence Forces is responsible for ensuring that proper accounting records are kept, with records that disclose with reasonable accuracy, at all times, the financial position in relation to moneys received or expended by her and for ensuring that the financial statements comply with the Ombudsman for the Defence Forces Act, 2004.

The Ombudsman for the Defence Forces is also responsible for safeguarding the assets and taking appropriate steps for the prevention and detection of fraud and other irregularities, and also for ensuring compliance with late payments legislation.



Paulyn Marrinan Quinn, SC
Ombudsman for the Defence Forces

2nd April 2007

Ombudsman for The Defence Forces

Statement on the system of internal financial controls

1. As Ombudsman for the Defence Forces I acknowledge my responsibility for ensuring that an effective system of internal financial control is maintained and operated.
2. The system can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely period.
3. The Office of the Ombudsman for the Defence Forces was established in December 2005. In 2006, I undertook to develop the following procedures , which will be fully operational in 2007 and are designed to provide effective internal financial control:
 - i an appropriate control environment will be ensured by the introduction of clearly defined management responsibilities with corresponding accountability.
 - ii a formal process to identify and evaluate organisational business risks will be been put in place.
 - iii It is anticipated that a comprehensive budgetary system will be in operation in 2007 and expenditure trends will be reviewed on a quarterly basis.
 - iv procedures for addressing the financial implications of major business risks such as financial instructions and notes of procedures, delegation practices such as authorisation limits, segregation of duties and methods of preventing and detecting fraud, will be implemented.

A review of the effectiveness of the system of internal control, will be conducted in 2007.



Paulyn Marrinan Quinn, SC
Ombudsman for the Defence Forces

2nd April 2007

Ombudsman for the Defence Forces

Statement of accounting policies

1. Basis of Preparation

The financial statements are prepared on an accruals basis under the historical cost convention, and except as indicated below, are in accordance with generally accepted accounting principles.

The financial statements are in a form approved by the Minister for Defence.

2. Period of Financial Statements

The Office of the Ombudsman for the Defence Forces was established on 1 December 2005 consequently, these Financial Statements are for the period ending on 31st December 2006.

3. Income and Expenditure – Grant Income

Oireachtas Grants

Income recognised in the financial statements as Oireachtas Grants represents the grants received in cash plus amounts paid on behalf of the Ombudsman during the period, by the Department of Defence.

4 Tangible Fixed Assets

(a) Tangible Fixed Assets are stated at their historical cost or valuation less accumulated depreciation.

Depreciation is provided on a straight line basis at rates which are calculated to write off the assets, adjusted for estimated residual value, over their expected lives as follows:

Fixtures and Fittings	10%
IT Equipment & Website	20%

(b) Depreciation is matched by an equivalent amortisation of the Capital Account.

5 Capital Account

The Capital Account represents the unamortised value of funding applied for the purchase of fixed assets.

6 Pensions

The employees of the Ombudsman for the Defence Forces are civil servants and are members of a defined benefits scheme which is unfunded and is administered by the Department of Finance. The pension entitlements of the Ombudsman for the Defence Forces who is appointed by the President have not yet been discussed or agreed. There is no charge in these financial statements for any liabilities which may arise in respect of the pension of the Ombudsman.

Income And Expenditure Account For The Period Ended 31 December 2006

		13 Months ended 31-Dec-2006
	Notes	€
Income		
Oireachtas Grants	1	289,249
Transferred to Capital Account to fund Fixed Assets	8	(199,821)
Total Income		<u>89,428</u>
Expenditure		
Staff Costs	2	180,502
Repairs and Maintenance	3	921
Office Running Costs	4	74,203
Conference speaking engagements and visits to installations	5	5,133
Depreciation	6	43,083
		<u>303,842</u>
(Deficit) for the period		(214,414)
(Deficit) at beginning of the period		-
(Deficit) at the end of the period		<u>(214,414)</u>

All recognised gains and losses for the period ended 31 December 2006 have been included in the Income and Expenditure Account.

The Statement of Accounting Policies and notes 1 to 10 form part of these financial statements.



Paulyn Marrinan Quinn, SC
Ombudsman for the Defence Forces

2nd April 2007

Ombudsman For The Defence Forces Balance Sheet As At 31 December 2006

	Notes	13 Months ended 31-Dec-2006
		€
Fixed Assets		
Tangible Assets	6	199,821
Current Assets		
Cash on hand and bank balances		4,035
		4,035
Current Liabilities		
Amounts falling due within one year		
Creditors and Accruals	7	(218,449)
		(218,449)
Net Current Assets / (Liabilities)		(214,414)
		(214,414)
Total Assets less Current Liabilities		(14,593)
Capital and Reserves		
Income and Expenditure Account Deficit		(214,414)
Capital Account	8	199,821
		(14,593)

The Statement of Accounting Policies and notes 1 to 10 form part of these financial statements



Paulyn Marrinan Quinn, SC
Ombudsman for the Defense Forces

2nd April 2007

Notes To The Financial Statements For The Period Ended 31 December 2006

	13 Months ended 31-Dec-2006
1 Oireachtas Grants	€
Department of Defence	289,249
	<hr/> <hr/>
2 Staff Costs and Employee Information	€
Staff Payroll Costs	
Wages and salaries	173,597
Outsourced Staff Costs	
Clerical typing	1,400
Case researchers	5,505
Staff Related Expenses	
Travel and subsistence	-
	<hr/>
Total staff costs	180,502
	<hr/> <hr/>
Employee Numbers	
The average number of employees during the period was made up as follows:	
Ombudsman	1
Administration staff:	2
	<hr/>
Total	3
	<hr/> <hr/>
3 Repairs and Maintenance	€
Repairs and maintenance	921
	<hr/>
	921
	<hr/> <hr/>
4 Office Running Costs	€
Communications and outreach tools	18,650
Postal & telephone costs	12,118
IT licences	1,104
Advertising - journal inserts	10,799
General office supplies	2,742
Branded stationery and documentation	20,707
Subscriptions	1,570
Accountancy Fees	3,025
Audit	2,450
Canteen and cleaning	950
Couriers	73
Bank charges	15
Library - resources - journals	-
Training - development	-
Public relations - communications	-
	<hr/>
	74,203
	<hr/> <hr/>

Notes To The Financial Statements For The Period Ended 31 December 2006

13 Months ended
31-Dec-2006

5	Conference speaking engagements and visits to installations	€
	Travel and subsistence	5,133
		<u>5,133</u>

6	Tangible Fixed Assets	IT Equipment & Website	Office Equipment	Furniture & Fittings	Total
		€	€	€	€
	Cost				
		-	-	-	-
	Additions for the period	173,742	14,181	54,981	242,904
	Disposals	-	-	-	-
	At 31 December 2006	<u>173,742</u>	<u>14,181</u>	<u>54,981</u>	<u>242,904</u>
	Accumulated Depreciation				
		-	-	-	-
	Depreciation charge for the period	34,748	2,836	5,498	43,083
	Disposals - accumulated depreciation	-	-	-	-
	At 31 December 2006	<u>34,748</u>	<u>2,836</u>	<u>5,498</u>	<u>43,083</u>
	Net Book Value				
	At 31 December 2006	<u>138,994</u>	<u>11,345</u>	<u>49,483</u>	<u>199,821</u>
		-	-	-	-

Notes To The Financial Statements For The Period Ended 31 December 2006

7	<i>Creditors and Accruals</i>	13 Months ended 31-Dec-2006 €
	Amounts falling due within one year:	
	Accrued Expenses :	
	<u>Staff Costs</u>	
	Wages & salaries	22,661
	Case research	907
	<u>Repairs and Maintenance</u>	666
	<u>Office Running Costs</u>	
	Communications and outreach tools	5,970
	Postal & telephone costs	372
	IT licences	-
	Advertising - journal inserts	2,951
	General office supplies	818
	Branded stationery and documentation	4,780
	Subscriptions	-
	Accountancy Fees	3,025
	Audit	2,450
	Canteen and cleaning	-
	Couriers	65
	Bank charges	-
	<u>Conference speaking engagements and visits to installations</u>	56
	<u>Tangible Fixed Assets</u>	
	IT equipment and website:	
	- Case handling computer system	149,118
	- Office technology	8,167
	Furniture	16,443
		<hr/>
		218,449
		<hr/> <hr/>
8	<i>Capital Account</i>	€
	Balance at 1 December 2005	-
	<u>Additions</u>	
	Transfer from Income and Expenditure Account to fund Fixed Assets	242,904
	<u>Less -</u>	
	Amount amortised in line with asset depreciation for the year	(43,083)
		<hr/>
	Balance at 31 December 2006	199,821
		<hr/> <hr/>

Notes To The Financial Statements For The Period Ended 31 December 2006

9 *Capital and Other Commitments*

There were no capital commitments at 31 December 2006.

10 *Related Party Transactions / Disclosure of Interests*

The Ombudsman complies with the Code of Practice for the Governance of State Bodies issued by the Department of Finance in relation to the disclosure of interests by the Ombudsman and members/staff of the Office. Formal procedures exist to ensure adherence with the requirements of the Code.

Ombudsman for the Defence Forces
13/15 Lower Hatch Street
Dublin 2

T: +353 1 663 3222
F: +353 1 663 3223
W: www.odf.ie
E: admin@odf.ie

Ombudsman d'Óglaigh na hÉireann
13/15 Sráid Haiste Íochtarach
Baile Átha Cliath 2

T: +353 1 663 3222
F: +353 1 663 3223
I: www.odf.ie
R: admin@odf.ie