



An tOmbudsman Pinsean
Pensions Ombudsman



Annual Report
2012
Tuarascáil Bhliantúil





Maidir linn

Is gníomhaireacht neamhspleách agus neamhchlaonta í Oifig an Ombudsman Pinsean chun gearáin faoi phinsin neamh-Stáit a fhiosrú agus a réiteach.

Cabhraímid le saoránaigh agus le soláthraithe pinsean d'fhonn an chumarsáid eatarthu a dhéanamh níos soiléire agus déanaimid moltaí chun an bealach a riartar pinsean a fheabhsú. Cuirimid oscailteacht agus ardchaighdeán riарtha pinsin chun cinn.

Tá sé d'údarás ag an Ombudsman Pinsean imscrúdú a dhéanamh ar ghearáin maidir le:

- Scéimeanna Pinsean Ceirde,
- Cuntais Choigiltis Scoir Phearsanta (CCSPanna), agus

- Conarthaí Blianachta Scoir Iontaobhais (CBSanna).

De ghnáth cuireann comhaltaí scéime pinsin gearán chugainn má chailleann siad airgead ar a bpinsin nó má chreideann siad go bhfuil míriarachán á dhéanamh ar an gciste pinsin ag na hiontaobhaithe nó ag na riarthóirí. Déanaimid iarracht réiteach a dhéanamh ar ghearáin go neamhchlaonta, go neamhfhoirmiúil agus go tapa. D'fhéadfadh sé go mbeadh achar ama níos faide de dhíth chun roinnt cásanna níos casta a réiteach. Murar féidir linn déileáil le gearán faoi leith, mínítear cén fáth agus moltar bealaí eile chun an t-ábhar a réiteach.

Ní ghearrtar aon táillí ar dhaoine a chuireann gearán nó ábhar aighnis faoi bhráid na hOifige.

About us

The Office of the Pensions Ombudsman is an independent and impartial agency to investigate and resolve complaints about non-State pensions.

We help citizens and pension providers to communicate clearly with each other and we make recommendations to improve the way pensions are administered. We promote openness and quality in the administration of pensions.

The Pensions Ombudsman has the authority to investigate complaints concerning:

- Occupational Pension Schemes,
- Personal Retirement Savings Accounts (PRSAs), and

- Trust Retirement Annuity Contracts (RACs).

Typically, pension scheme members complain to us if they lose money on their pension or if they believe the pension fund is being mismanaged by the trustees or administrators. We try to resolve complaints impartially, informally and quickly. Some more complicated cases may take longer to resolve. If we can't deal with a particular complaint, we will explain why and try to suggest other ways of dealing with the matter.

We do not charge any fees to people who bring complaints or disputes before us.

An Clár Ábhair

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An tAire Coimirce Sóisialaí
Áras Mhic Dhiarmada
Sráid an Stórais
Baile Átha Cliath 1
30 Aibreán 2013



An tOmbudsman Pinsean
Pensions Ombudsman

An tAire Coimirce Sóisialaí

A Aire,

Is cúis áthais dom an Tuarascáil Bhliantúil agus na Cuntais don bhliain 2012 a chur faoi do bhráid. Lena linn sin, is mian liom buíochas a ghabháil leat as an tacaíocht leanúnach a thug tú do m'Oifig agus dom féin go pearsanta.

Ba mhaith liom mo bhuíochas as an tacaíocht agus as an gcúnamh a thug an Roinn Coimirce Sóisialaí (faoina hainmneacha éagsúla) agus a hoifigigh dom thar na blianta ó bunaíodh an Oifig sa bhliain 2003 a chur ar taifead. Is mian liom buíochas a ghabháil go háirithe leis na daoine san Aonad Polasaí maidir le Pinsin a mbíonn caidreamh leanúnach agam leo, agus leis na Rannóga maidir le hAcmhainní Daonna, Seirbhísí IS, Cuntas, agus Bainistíocht Áiseanna freisin.

Is mór agam go háirithe an comhoibriú ón Rannóg Scóipe agus ó Rannóg na dTaifead i gcúrsa na hoibre ó lá go ló, agus tugtar an cabhair sin uile le meas iomlán do neamhspleáchas na hOifige.

Taifeadtar an buíochas atá ag gabháil le Tionscal na bPinsean níos leithne agus le daoine eile a chabhraigh linn in áit eile sa Tuarascáil seo.

Ba mhaith liom an deis seo a ghlacadh freisin chun buíochas a ghabháil le mo imscrúdaitheoirí féin agus leis an bhfoireann tacaíochta as a ndíograis, as an obair chrua, as a ndílseacht agus, thar aon rud eile, as an tsolúbthacht a chuir ar mo chumas an oiread sin a bhaint amach le hacmhainní teoranta. Dealraíonn sé gur dócha go ndéanfar cónascadh idir í agus Biúró an Ombudsman um Sheirbhísí Airgeadais cé nach bhfuil an t-amscála a theastóidh chun é sin a bhaint amach soiléir go fóill.

Mar is léir ó na figiúirí sa tuarascáil seo, tá an t-éileamh ar ár seirbhísí formhéadaithe go dtí leibhéal nach bhfacthas riamh roimhe i dtéarmaí mhéid na n-uimhreacha agus i dtéarmaí an mhéadaithe ar éagsúlacht agus ar chastacht na bhfadhbanna a bhfuil comhaltaí scéime pinsin ag tabhairt aghaidh orthu. Mar sin, is cuma cén t-ainm atá scríofa ar ainmchlár an dorais, beidh an obair ag dul ar aghaidh agus is féidir le comhaltaí scéimeanna pinsin agus a dteaghlai gh sásamh a fháil cibé áit a mbeidh an drochriarachán follasach.

Beir beannacht,

Paul Kenny

An tOmbudsman Pinsean

Ms Joan Burton T.D.,
Minister for Social Protection
Áras Mhic Dhiarmada
Store Street
Dublin 1
30 April 2013



An tOmbudsman Pinsean
Pensions Ombudsman

To the Minister for Social Protection

A Aire,

I am pleased to present my Annual Report and Accounts for 2012. In doing so, I wish to thank you for the on-going support that you have given to my Office and to me personally.

I would like to record my appreciation for the support and help given to me by the Department of Social Protection (in its various names) and its officials over the years since the Office was established in 2003. I wish to thank in particular the people in the Pensions Policy Unit, with which I have on-going contact, and also Human Resources, IS Services, Accounts and Facilities Management. The co-operation of Scope Section and Records Section in the course of our day-to-day work is particularly appreciated, and all of this help is given with complete respect for the independence of the Office.

My thanks to the wider Pensions Industry and others who have helped us are recorded elsewhere in this Report.

I would also take this opportunity to thank my own investigators and support staff for their diligence, hard work, loyalty and, above all, flexibility, which has enabled me to achieve so much with limited resources. Amalgamation of this Office with the Financial Services Ombudsman's Bureau will take place, though the time-scale over which this can be achieved is not yet clear.

As the figures in this report demonstrate, demand for our services has escalated to unprecedented levels, both in terms of sheer numbers and in the increasing variety and complexity of the problems facing pension scheme members. So, whatever the name-plate on the door may be, the work will continue and pension scheme members and their families can continue to receive redress wherever maladministration may be manifest.

Beir beannacht,

Paul Kenny
Pensions Ombudsman

Réamhrá an Stiúrthóra

Leanann Oifig an Ombudsman Pinsean den dul chun cinn atá déanta maidir le deacrachtaí pinsin a réiteach ar bhealach neamhspleách agus neamhfhoirmiúil. Bunaíodh an Oifig faoi Chuid XI d'Acht na bPinsean 1990 (arna chur isteach le hAcht na bPinsean (Leasú), 2002). Ceapadh Paul Kenny mar chéad Ombudsman Pinsean na hÉireann ar an 28 Aibreán 2003.

Mar chéad Ombudsman Pinsean na hÉireann bhunaigh Paul Kenny an Oifig agus leag sé síos gnáis na hOifige maidir le himscrúdú, le hoibriúchán agus le riarachán. Chinn sé go ciallmhar gurb í an Roinn Coimirce Sóisialaí a chuirfeadh na feidhmeanna airgeadas, acmhainní daonna agus teicneolaíocht faisnéise agus cumarsáide ar fáil. Glacadh an cur chuige sin go forleathan ar fud na státseirbhíse agus na seirbhíse poiblí nuair a forbraíodh ionaid seirbhísí comhroinnte. Ina Ombudsman Pinsean dó tá mioneolas ag Paul Kenny ar reachtaíocht pinsin, tá taithí fhairsing agus saineolas aige ar thionscal na bpinsean agus is curadh láidir é ar son an duine aonair nó an ghearánaí ar chaitheadh go dona leo i ndáil lena bpinsean.

Tá Oifig an Ombudsman Pinsean ann le deich mbliana anuas agus i rith an ama sin tháinig 10,000 fiosrúchán chuichi agus osclaíodh os cionn 5,000 comhad gearáin mionsonraithe i ndáil le cúrsaí pinsean ceirde. Cé go bhfuil dul chun cinn suntasach déanta chun réitigh thráthúla bheaghostasacha a fháil ar ghearáin phinsin is gá dúinn an tréimhse ama a theastaíonn chun cásanna a réiteach a laghdú a thuilleadh. Dá bhrí sin beimid ag neartú na hacmhainní daonna san Oifig sa chaoi is go mbeidh na baill foirne ardoilte agus spreagtha agus gurb ionann an fhís agus an aontacht chuspóra a bheidh ag gach duine acu.

In am a bhfuil cúlú ar an gheilleagar tá ról Oifig an Ombudsman Pinsean maidir le cabhair a thabhairt do dhaoine chun sásamh nó leigheas a fháil i ndáil lena bhfadhbanna pinsin níos tábhachtaí ná riamh. Is léiriú é air sin an méadú suntasach ar líon na ngearáin a fuarthas. Tá i bhfad níos mó gearán á réiteach ag an líon céanna foirne. Ba mhaith liom moladh a thabhairt do thiomantas agus do dhíogras na foirne ar fad.

John O'Toole

Stiúrthóir

Oifig an Ombudsman Pinsean

Director's introduction

The Office of the Pensions Ombudsman continues to make strides in solving pension difficulties in an independent and informal manner. The Office was established under Part XI of the Pensions Act 1990 (inserted by the Pensions (Amendment) Act 2002). Ireland's first Pensions Ombudsman, Paul Kenny was appointed on 28 April 2003.

As Ireland's first Pensions Ombudsman, Paul Kenny established the Office and set up its investigation, operating and administrative procedures. He wisely decided that finance, human resources and information and communications technology would be provided by the Department of Social Protection. This approach has been more widely adopted across the civil and public service with the development of shared services centres. As Pensions Ombudsman, Paul Kenny, with his detailed knowledge of pensions legislation, and his extensive experience and expertise in the pensions industry, is a strong champion on behalf of individuals whose pensions have not been handled properly.

Over the ten years of its existence, the Office of the Pensions Ombudsman has received 10,000 queries and opened over 5,000 detailed complaint files in relation to occupational pension matters. While significant progress has been made in providing timely low-cost solutions to pension complaints, we still need to further reduce the length of time taken to resolve cases. We are therefore further strengthening the human resources at the Office so that staff members are highly skilled and motivated, and share a common vision and unity of purpose.

In a time of recession the Office of the Pensions Ombudsman has an even greater role in helping people to get redress or a remedy to their pension problem. This is reflected in the significant increase in the number of complaints received in 2012. We are resolving a much higher number of complaints with the same number of staff. I would like to commend the commitment and dedication of the entire team.

John O'Toole

Director

Office of the Pensions Ombudsman



What we did in 2012

A ndearnamar i 2012

1



A ndearnamar i 2012

Riar na gCásanna

Tháinig 2,189 fiosrúchán nua chuig an Oifig in 2012, b'ardú de 79% é sin ar líon na bhfiosrúcháin nua i gcomórtas leis na 1,221 a tháinig in 2011. Dhéileáil an Oifig le 1,705 fiosrúchán ar an teileafón i rith na bliana, níos mó ná a dhá oiread an 822 in 2011.

I gcaitheamh na bliana 2012, d'osclaíomar 601 chomhad gearáin imscrúdaithe mionsonraithe nua tar éis réamh-athbhreithniú a dhéanamh ar gach cás nua a tugadh dúinn. B'ionann sin agus ardú de 24% ar na 485 cás n 2011. Cuireadh 677 cás i gcrích in 2012 i gcomparáid le 557 cás in 2011, ardú de 22% ar chásanna imscrúdaithe mionsonraithe i gcrích.

Ní mór dom aitheantas a thabhairt do thiomantas agus do ghairmiúlacht na foirne iomláine san Oifig. Cuireann an fhoireann seirbhís den scoth ar fáil agus cinntíonn go ndéileáiltear le héilimh go tapa agus go héifeachtach. Míníonn siad cásanna casta do ghlaiteoirí agus tairgeann cabhair agus comhairle ar feadh próiseas curtha isteach an éilimh.

Ní raibh aon athrú ar líon na foirne le roinnt blianta anuas, rud nach bhfuil idéalach ós rud é go bhfuil líon na ngearán agus na bhfiosrúcháin ag méadú. D'fhonn an fód a sheasamh in aghaidh an dúshláin sin, tá iarracht déanta againn leabharchruth a chur ar na himscrúduithe agus athrú a dhéanamh ar an modh oibre le gur féidir linn freastal ar an éileamh méadaithe gan dochar do chaighdeán na seirbhíse don phobal.

Tosaíodh amach ar an mbliain 2012 le 409 comhad gearáin oscailte; bhí 369 idir lámha ag deireadh na bliana. Déantar mionanailís

ar an ualach cáis agus ar riar na gcásanna sa chéad rannán eile den tuarascáil seo.

Is cúis mhór bhuartha dom an t-achar ama méadaithe a theastaíonn chun gearán a phróiseáil. Bíonn cineálacha na ngearán a phléimid sách casta agus bíonn malartú faisnéise agus soiléiriú doiciméid i gceist atá am-íditheach. In 2010 ba é 81 seachtaine an meán-am a theastaigh chun cás imscrúdaithe mionsonraithe a chur i gcrích. Bhí méadú air sin go 113 seachtaine i 2011 agus méadú arís go 127 seachtaine in 2012. Cé nach raibh an méadú chomh mór in 2012 agus mar bhí in 2011, is údar mór imní an méadú thar an tréimhse dhá bhliain. Ar an drochuair, is toradh díreach é seo ar an lánchosca foirne nach bhfuil aon smacht againn air.

Córais bhainistithe cáis

Ba chabhair dúinn an feabhas a cuireadh ar an gcóras bainistithe cáis chun cásanna a phróiseáil go héifeachtach agus chun eolas cruinn a thabhairt do ghlaiteoirí faoi dhul chun cinn a gcuid ngearán. Cuireann an córas bainistithe cáis staitisticí thar a bheith cruinn ar fáil freisin, rud a mhéadaíonn an éifeachtacht tríd is tríd.

Cásanna a ndearnadh Cinneadh Críochnaitheach nó a Réitíodh faoi Eadráin

Eisíodh Cinneadh Críochnaitheach i 58 cás in 2012 faoi Alt 139 d'Acht na bPinsean, 1990 (arna leasú). As na cásanna sin seasadh le beagnach a dhá thrian agus dícheadaíodh an chuid eile. Tá mionanailís níos sonraithe ar na cásanna sin i Rannán 3. Bhí ardú de 50% ar líon na gcásanna ina ndearnadh tuarascáil agus inar tugadh treoir.

What we did in 2012

Case management

The Office of the Pensions Ombudsman received 2,189 new enquiries during 2012 representing an increase of 79% in new enquiries from the 2011 figure of 1,221. The Office dealt with 1,705 telephone enquiries during the year which is more than double the 822 in 2011.

During 2012, we opened 601 new detailed investigation complaint files after an initial review of all new cases brought to us. This was an increase of 24% on the 485 in 2011. We completed 677 cases during 2012 compared with 557 cases in 2011, which is an increase of 22% in detailed investigation cases completed.

I must acknowledge the commitment and professionalism of the entire team in the Office. The staff provide an excellent service and make sure that claims are dealt with quickly and efficiently. They explain complicated cases to callers and offer help and advice through the process of making a claim.

Staff numbers have remained unchanged for a number of years which is not ideal given that the number of complaints and enquiries is increasing. To overcome this challenge, we have tried to streamline our investigations and change the way we work so that we can meet the increased demand without losing the quality of our service to the public.

We came in to 2012 with 409 complaint files open and we ended the year with 369 on hand. A detailed analysis of caseload and case management is dealt with in Section 2.

I am extremely concerned about the increasing length of time it takes to process a complaint. The types of complaint we deal with are quite complex and involve time-consuming exchanges of information and clarification of documentation. In 2010, the average time taken to complete a detailed investigation case was 81 weeks. This rose to 113 weeks in 2011 and rose again to 127 weeks in 2012. While the increase is not as large in 2012 over 2011, the increase over the two-year period is extremely concerning. Unfortunately, this is a direct result of the staffing embargo, over which we have no control.

Case management system

Improvements to the case management system have helped us to process cases efficiently and to give callers accurate information about how their complaint is progressing. The case management system also provides us with highly accurate statistics which helps our overall efficiency.

Cases brought to Final Determination or settled by Mediation

During 2012, 58 Final Determinations were issued under Section 139 of the Pensions Act, 1990 (as amended). Of these, almost two-thirds were upheld and the remainder

Cáineadh ag an Ombudsman Pinsean Paul Kenny ar tháillí 'náireacha'

Tá ráite ag an Ombudsman Pinsean, Paul Kenny, gur "náireach" an rud na cásanna ina ngearrtar táillí agus coimisiúin iomarcacha ar tháirgí pinsin. Ag labhairt dó ag ceardlann le linn na Comhdhála Bliantúla ag an gCeardchumann Teicniúil, Innealtóireachta agus Leictreachais, luaigh an tUasal Kenny cásanna inar tharla suas le 45% de na ranníocaíochtaí a d'íoc comhaltáí isteach i scéim a bheith á dtógáil amach mar choimisiún.



Tugtar cásanna 'tuairisce agus treorach' orthu siúd ar féidir a réiteach gan ghá le himscrúdú iomlán.

I rith na bliana, réitíodh 94 cás faoi eadráin. Astu sin réitíodh 84% i bhfabhar an ghearánaí. Ba fheabhas é sin ar chúrsaí in 2011, tráth ar réitíodh 77% de na cásanna i bhfabhar an ghearánaí.

Is féidir céatadán níos airde na dtorthaí dearfacha ar chásanna gearánaithe a baineadh amach faoi eadráin a mhíniú go páirteach tríd an bhfíric gur minic gur féidir eadráin a bheith ina rogha níos solúbtha. Mar shampla ó thaobh Cinneadh Críochnaitheach de ní féidir liom athrú rialach a ordú nó cumhacht lánroghnach na n-iontaobhaithe a shárú. Tá Cinneadh Críochnaitheach ceangailteach ar na páirtithe uile freisin, faoi réir achomhairc chuig an Ard-Chúirte, agus tá na dámhachtainí airgeadais ar féidir liom a dhéanamh teoranta do chailteanas sochar scéime. Ní féidir liom caiteachas a tabhaíodh ná cúiteamh ar strus nó ar imní le linn chur i láthair an cháis a chur san áireamh. Ceadáíonn eadráin, ar an lámh eile, níos mó solúbthachta agus is minic is féidir réiteach a sholáthar nárbh fhéidir a fháil trí Chinneadh Críochnaitheach.

Uaireanta, nuair a bhíonn cásanna ag bogadh ar aghaidh chuig Cinneadh Críochnaitheach eisím Réamhfhógra Cinnidh. Leagtar amach ann na príomhfhiricí a deimhníodh le linn an imscrúdaithe agus cuirtear in iúl ann caidé an toradh is dóigh a bheidh ann.

Tugann sin an deis don dá pháirtí athbhreithniú a dhéanamh agus tuairim a nochtadh ar an tuarascáil imscrúdaithe agus aon fhianaise bhreise a chur i láthair sula ndéanfaidh mé an Cinneadh Críochnaitheach. Is próiseas é a oibríonn go maith de ghnáth ach atá am-íditheach. Is cur chuige é nach mbaintear áis as ach nuair is dócha go n-athródh sé fíricí an cháis. Seachas sin, nuair a bhíonn fíricí an cháis soiléir, bogaim ar aghaidh go díreach go dtí Cinneadh Críochnaitheach.

Ag tabhairt eolais

Chaith an fhoireann go leor ama ag déileáil le ceisteanna ón bpobal. Is minic go leor go mbíonn daoine a bhfuil fadhbanna pinsin acu éiginnte faoi cá háit a rachaidh siad lena ngearán. Táimid in ann sainchomhairle a thabhairt agus, murar féidir leis an Oifig glacadh lena ngearáin leithleacha, déanaimid ár ndícheall iad a threorú chuig gníomhaireacht eile ar féidir cabhrú leo.

Pensions Ombudsman Paul Kenny criticises ‘disgraceful’ charges

Pensions Ombudsman Paul Kenny has described as “disgraceful” instances of excessive charges and commission levied on pension products. Addressing a workshop at the Annual Conference of the Technical Engineering and Electrical Union, Mr Kenny cited instances where up to 45% of contributions paid into a scheme by members was taken out as commission.



were disallowed. A more detailed analysis of these cases is presented in Section 3. There was a 50% increase in the number of cases where a ‘report and guidance’ was given. ‘Report and guidance’ cases are those that can be resolved without the need to go into a full investigation.

During the year, 94 cases were settled by mediation. Of these, 84% were settled in favour of the complainant. This is an improvement on 2011, when 77% of cases were settled in favour of the complainant.

The higher percentage of positive outcomes for complainants achieved through mediation can be partly explained by the fact that mediation can very often be a more flexible option. For example, in a Final Determination, I cannot direct a rule change or override a discretionary power of the trustees. A Final Determination is also binding on all parties, subject to appeal to the High Court, and the financial awards that I can make are limited to the loss of scheme benefit. I cannot take account of expenses incurred in presenting the case, or compensation for stress or worry. Mediation, on the other hand, allows for more flexibility and can very often provide

a solution that could not be arrived at by a Final Determination.

Sometimes, when cases are proceeding to a Final Determination, I issue a Preliminary Notice of Determination. This sets out the main facts established during the investigation and also states what the likely outcome will be.

This gives both parties a chance to review and comment on the investigation report and to present any further evidence before I make my Final Determination. This process generally works well but is time consuming. However, this approach is only taken when it is likely to change the facts of a case. Otherwise, when the facts of the case are clear, I move directly to a Final Determination.

Giving information

My staff spend a lot of time dealing with queries from members of the public. Quite often, people with pension problems are not sure where to go with their complaint. We are able to give expert advice and, if our Office is not able to take their particular complaint on board, we do our best to



Cuirimid nasc ríomhphoist ar fáil freisin ar an suíomh idirlín le gur féidir le daoine a gceisteanna a chur agus a n-ímní a nochtadh le ríomhphost. De réir an taithí atá againn áfach is fearr le daoine a gceist a phlé ar an teileafón. Fiú iadsan a bhaineann úsáid as an gcóras ríomhphoist is minic a chuireann siad glaoch leantach chugainn ar an teileafón. Is léiriú air sin an dúblú ar mhéid na nglaoch chuig an Oifig an bhliain seo caite. Bhí méadú ar líon na nglaoch ó 822 in 2011 go 1,705 in 2012.

I rith na bliana rinneamar athchóiriú ar na foirmeacha gearáin agus ar na leabhráin faisnéise. Tá siad ar fáil anois i mBéarla agus i nGaeilge. Chomh maith leis sin, tá eolas ar na seirbhísí ar fáil i bhFraincis, i Spáinnis agus i bPolainnis ar an suíomh idirlín. Tá eolas curtha ar fáil againn i mBraille freisin.

Is cúis áthais dom go ndearna ANLA (Áisíneacht Náisiúnta Litearthachta d'Aosaigh) measúnú ar ár leabhrán eolais agus gur bhronn sé gradam marc Béarla Soiléir air. Is réimse thar a bheith casta agus teicniúil é réimse na bPinsean agus dá bhrí sin tá sé ríthábhachtach go leagfaí an t-eolas amach go soiléir.

Feasacht an phobail a mhéadú

Léiríonn an méadú ollmhór ar ghearáin a tháinig isteach in 2012 a thábhachtaí is atá an Oifig maidir le cabhair a thabhairt do dhaoine chun déileáil le fadhbanna a bhaineann le pinsean. Is cúis áthais don Oifig go bhfuil an oiread sin daoine feasach faoi go bhfuilimid ann ach ní féidir linn a bheith bogásach i dtaca leis sin. Bímid anghníomhach maidir leis an Oifig a chur chun cinn ar bhealaí éagsúla a leithéid freastal a dhéanamh ar imeachtaí mar a mbeidh a lán daoine atá éirithe as obair nó atá ag smaoineamh ar éirí as.

Imeacht dá shórt ab ea an Taispeántas Mature Living a bhí ar siúl i gCaisleán an Bharraigh, Co Mhaigh Eo i mí Mheán Fómhair 2012. Bhí seimineáir ar siúl ar feadh an dá lá a bhí sé ar siúl ar ábhair éagsúla agus bhí aoíchainteoirí ann a bhí in ann ceisteanna a fhreagairt. Tugadh cuireadh dom bheith ina chainteoir; réachtáil mé trí sheimineáir agus d'fhreagair ceisteanna a tháinig chun cinn.

D'fhreastail roinnt ball foirne ar Sheó an Luchta os cionn 50 a bhí ar siúl san RDS, Baile Átha Cliath 12-14 Deireadh Fómhair 2012.



direct them to another agency who can help them.

We also provide an email link on our website for people to email us with their queries and concerns. We find, however, that people prefer to discuss their query over the phone. Even those who use the email system often follow up with a phone call. The fact that the volume of calls to the main Office number has more than doubled in the last year reflects this. Calls rose from 822 in 2011 to 1,705 in 2012.

During the year we revised and modernised our complaint forms and information booklets. These are now available in both English and Irish. Also, our website has information on our services in French, Spanish and Polish. We have made information available in Braille also.

I am pleased that NALA (National Adult Literacy Agency) considered our information booklet and awarded it their Plain English Mark. Pensions are an extremely complex and technical area and it is crucial, therefore, that information is set out clearly.

Increasing public awareness

The huge increase in complaints received during 2012 underlines the importance of my Office in helping people to deal with pension-related problems. We are pleased that so many people are aware of our presence but we cannot be complacent in this regard. We are very active in promoting the Office in various ways such as attending events where we know there will be a lot of retired people or people who are considering retirement.

One such event was the Mature Living Exhibition which was held in Castlebar, Co Mayo in September 2012. Over the course of the two days, there were seminars on various topics with guest speakers who were able to answer questions. I was invited as a speaker and held three seminars and answered queries which arose.

Several members of staff also attended the Over 50s Show which was held in the RDS, Dublin from 12 - 14 October 2012.

While the numbers at these events vary and many of the queries are not directly related to the work of my Office, I consider that it is a very worthwhile and valuable part of the

A ndearnamar i 2012 (ar lean)

Cé gur éagsúil an líon daoine a dhéanann freastal ar na himeachtaí ó cheann go chéile agus cé nach mbaineann a lán de na ceisteanna go díreach le hobair na hOifige, measaim gur chuid an-fhiúntach den ról atá againn í na seirbhísí a chuirimid ar fáil a aibhsiú.

Rinneadh athchóiriú ár an suíomh idirlín, www.pensionsombudsman.ie, agus is tábhachtach an fhoinsé faisnéise agus an modh cumarsáide é. Tá físeán faisnéise, i mBéarla agus i nGaeilge, faoi na seirbhísí a sholáthraíonn an Oifig ar fáil anois ann. Tá nasc ríomhphoist ar fáil ann do dhaoine ar mhian leo ceisteanna a chur orainn. Ceisteanna a fhaightear le ríomhphost tugann an fhoireann freagra díreach orthu nó chuireann foirm gearáin amach chun tús a chur le próiseas imscrúdaithe a dhéanfaidh an Oifig.

Bíonn preaseisiúintí, tuarascálacha bliantúla, leabhráin eolais agus foirmeacha gearáin ar fáil ar an suíomh idirlín freisin agus is féidir iad go léir a íoschóipeáil.

Bíonn tóir leanúnach ar an láithreán greasáin ós rud é gur mian le daoine cuairt a thabhairt ar an láithreán greasáin sula ndéanann siad teagmháil leis an Oifig. Ceadáíodh an láithreán greasáin 1.3 milliún uair i rith na bliana 2012, ardú 63 faoin gcéad ar 2011. Tá sé seo sa bhreis ar ardú 45 faoin gcéad ar an uimhir coibhéiseach i 2011.

Is ann do leagan Gaeilge den suíomh idirlín freisin. Cuirimid fáilte roimh cheisteanna agus roimh chomhfhreagras i nGaeilge. Ina theannta sin tá eolas ar fáil i bhFraincis, i Spáinnis agus i bPolainnis.

Rinneamar an t-ábhar faisnéise agus bolscaireachta a athscríobh agus a athdhearadh ina iomláine i mBéarla agus i nGaeilge lena dhéanamh níos éasca do dhaoine a ngearáin a leagan amach go soiléir.

Tá cur chuige réamhghníomhach againn chun obair na hOifige a choinneáil beo in intinn an phobail trí ailt a chur i bhfoilseacháin éagsúla phinsin agus in irisí eile. Cuirimid fógraíocht i roinnt foilseachán ar bhonn leanúnach chun cur le feasacht an phobail ar an obair a dhéanaimid.

Bíonn mionsonraí faoin Oifig cuimsithe i mbliainirisí an Fhorais Riaracháin (IPA), Chumann Cistí Pinsin na hÉireann (IAPF) agus an Gharda Síochána. Rinneamar cainteanna os comhair comhlachtaí gairme agus ionadaíocha éagsúla ar a n-áirítear an IAPF, Cumann na nDlíodóirí Pinsin in Éirinn, Institiúid Bhainisteoirí Pinsin na hÉireann, Institiúid Árachais na hÉireann, an Cumann Árachais Saoil, Institiúidí na gCuntasóirí Deimhnithe Poiblí agus na gCuntasóirí Cairte, Cumann na nOifigeach Comhlíontacháin in Éirinn, Parlaimint na Seanóirí, agus ceardchumainn ar nós an Cumann Innealtóireachta Teicniúla agus Leictreachais (TEEU) agus Roinn na gComhaltaí ar Scor de SIPTU.

Leanaimid den chaidrimh taobh istigh de thionscal na bpinsean a chothú agus d'fhreastalaíomar ar roinnt cúrsaí oiliúna a chuir an tionscal ar fáil i rith na bliana. Déantar freastal ar na cúrsaí sin i gcomhair dhá chríoch – ceann amháin an oiliúint agus an ceann eile ról na hOifige a phoibliú.

What we did in 2012 (continued)

role that we play in highlighting the services we provide.

Our website, www.pensionsombudsman.ie, was revamped and is another important source of information and means of communication. This includes an information video, in English and Irish, on the services provided by the Office. There is an email link provided for people to email us their queries. Queries received by email are followed up by my staff either with a direct answer to the query or by posting out a complaint form to begin the process of an investigation by my Office.

The website also has press releases, annual reports, information booklets and complaint forms, all of which can be downloaded.

Our website continues to be increasingly popular. This reflects the fact that people visit the website before contacting the Office. There were 1.3 million hits to my website in 2012, which is an increase of 63 per cent. This is on top of a 45 per cent increase in the equivalent figure in 2011.

Tá leagan Gaeilge den suíomh idirlíon ann freisin. We welcome queries and correspondence in Irish (as Gaeilge). In addition, there is information available in French, Spanish and Polish.

We have also completely rewritten and redesigned all our information and promotional material in English and Irish to make it easier for people to set out their complaints clearly.

We take a proactive approach to keeping the work of the Office in the public eye by placing articles in various pension publications and other journals. We continue to advertise in several publications to build public awareness of the work we do.

Details about the Office are included in the yearbooks of the Institute of Public Administration (IPA), the Irish Association of Pension Funds (IAPF) and An Garda Síochána. We have given talks to various professional and representative bodies, including the IAPF, the Association of Pensions Lawyers in Ireland, the Irish Institute of Pensions Managers, the Insurance Institute of Ireland, the Life Insurance Association, the Institutes of Certified Public Accountants and Chartered Accountants, the Association of Compliance Officers in Ireland, the Senior Citizens' Parliament, and trade unions such as the Technical Engineering and Electrical Union (TEEU) and SIPTU Retired Members' Section.

We continue to build relationships within the pensions industry and we attended a number of training courses during the year provided by the industry. Attendance at these courses serves two purposes – that of training in addition to publicising the role of the Office.

Contacts with national and international organisations

As well as the contacts mentioned above, we continue to develop our working



Caidreamh le heagraíochtaí náisiúnta agus idirnáisiúnta

Chomh maith leis an gcaidreamh a luaitear thuas cuireann an Oifig an caidreamh oibre atá ann le heagraíochtaí agus le cumainn eile chun cinn ar bhonn leanúnach. Orthu sin tá:

- Oifig an Ombudsman Pinsean
- An tOmbudsman um Sheirbhísí Airgeadais
- Banc Ceannais na hÉireann
- An Stiúrtóir um Fhorfheidhmiú Corparáideach
- Stiúrtóireacht Tomhaltóirí an Rialtóra Airgeadais
- An Roinn Coimirce Sóisialaí
- An Oifig um Chlárú Cuideachtaí
- Oifig na gCoimisinéirí Ioncaim
- An Bord Pinsean
- An tOmbudsman Pinsin sa Ríocht Aontaithe
- Cumann Réamhscoir na Ríochta Aontaithe agus an
- Institiúid um Bainistíocht Pinsean.

Ba mhaith liom buíochas a ghabháil leis na heagraíochtaí sin as an gcomhoibriú leanúnach a bhfuil fiúntas ollmhór aige maidir le réiteach a fháil ar go leor de na gearáin a thagann chomh fada leis an Oifig.

Bíonn caidreamh leanúnach againn freisin le roinnt ceardchumann, le Gníomhaireacht Mhonatóireachta Thionscal na Tógála agus le EPACE a dhéanann monatóireacht ar an gcomhlíonadh maidir leis an gComhaontú Fostaíochta Cláraithe i gcás Tionscal na Tógála.

Bímid i dteagmháil freisin le Scéim Pinsin na nOibrithe Tógála féin.

Ina theannta sin táim i mo chomhalta de Chumann Ombudsman na Breataine agus na hÉireann (BIOA), a fheidhmíonn anois faoin dteideal Cumann na nOmbudsman. Bíonn foireann na hOifige go hiomlán rannpháirteach ina chuid oibre agus bíonn rannpháirtíocht acu sna grúpaí leasmhara éagsúla a phléann gnéithe éagsúla d'obair Ombudsman.

Is é mo thuairim go bhfuil obair an chumainn sin ina hacmhainn luachmhar.

Ar phríomhaidhmeanna BIOA áirítear:

- spreagadh, forbairt agus cosaint i ndáil le ról agus le teideal an Ombudsman;



relationships with many other organisations and associations. These include:

- Office of the Ombudsman
- Financial Services Ombudsman
- Central Bank of Ireland
- Director of Corporate Enforcement
- Consumer Directorate of the Financial Regulator
- Department of Social Protection
- Companies Registration Office
- Office of the Revenue Commissioners
- the Pensions Board
- the UK Pensions Ombudsman
- the UK Pre-Retirement Association and the
- Pensions Management Institute.

I would like to thank these organisations for their on-going co-operation which is of immense value in helping to resolve many of the complaints we receive.

We are also in regular contact with a number of trade unions, with the Construction Industry Monitoring Agency

and with EPACE, which monitor compliance with the Registered Employment Agreement for the Construction Industry. We also have contact with the Construction Workers' Pension Scheme itself.

Additionally, I am a member of the British and Irish Ombudsman Association (BIOA), which now operates under the title of The Ombudsman Association. My staff participate fully in its work and sit on the various interest groups which deal with different aspects of an Ombudsman's work.

I consider the work of this Association to be a valuable resource. The main objectives of the BIOA include:

- encouraging, developing and safeguarding the role and title of Ombudsmen;
- forming and promoting standards of best practice to be met by Ombudsmen in the performance of their duties;
- holding meetings, conferences and seminars;
- publishing information; and

Súil ghéar á coinneáil ar chuideachtaí aiséirí

Ní mór monatóireacht i ndáil le míbheartaíocht a dhéanamh ar chuideachtaí ar theacht chun cinn in athuir dóibh mar eintiteas corparáide nua, a deir Dave Boland.

Shílfi gur cinnte nach fearr an ní a d'fheicfí, agus cúrsaí fostaíochta in Éirinn mar atá faoi láthair, ná cuideachta a bhí ionann is dócmhainneach ag teacht ar ais ó na mairbh, jabanna á sábháil agus airgead a bhfuil géarghá leis á chur arís le sruth na heacnamaíochta.



- na caighdeáin sárchleachtas ar cheart do Ombudsmn a shásamh i gcomhlíonadh a chuid dualgas a fhoirmliú agus a chur chun cinn;
- cruinnithe, comhdhálacha agus seimineáir a eagrú;
- eolas a fhoilsiú; agus
- páirt a ghlacadh i ngach cineál eile beartaíochta d'fhonn cur le tuiscint an phobail ar scéimeanna aitheanta Ombudsman agus d'fhonn an éifeachtacht agus an éifeachtúlacht ina leith a chothú.

Athruithe sa dlí

Bhí tionchar suntasach ag athruithe sa dlí a rialaíonn scéimeanna pinsin na hearnála poiblí ar an Oifig.

Achtaíodh an **tAcht um Pinsin na Seirbhíse Poiblí (Scéim Aonair agus Forálacha Eile) 2012** an 28 Iúil 2012 agus athraíonn sé téarmaí pinsean seirbhíse poiblí. Cuireann an t-athrú ar an dlí teorainn 40 bliain ar an tseirbhís iomlán is féidir a chur san áireamh i ríomh pinsin i gcás ina raibh duine ina chomhalta de níos mó ná scéim seirbhíse poiblí amháin a bhí ar mharthain cheana. Tá an t-athrú thar bheith suntasach i gcás catagóirí áirithe

d'fhostaithe sna hearnála poiblí ar nós baill den Gharda Síochána, oifigigh phríosúin agus altraí síciatracha a bhí, suas go dtí tráth an athraithe, in ann creidmheas seirbhíse breise a charnadh tar éis bheith ag fónamh ar feadh 20 bliain, rud a thugann dóibh 40 bliain creidmheasa ag éirí as 30 bliain seirbhíse. Ciallaíonn an reachtaíocht nua nach mbeidh fostaithe dá leithéid in ann aon phinsean breise a thuilleamh i bhfostaíocht seirbhíse poiblí nuair atá an teorainn 40 bliain sroichte acu.

D'athraigh an **tAcht Leasa Shóisialaigh agus Pinsean 2012** an liosta de na comhlachtaí ar féidir leo rochtain a fháil ar an gcóras Leasa Shóisialaigh agus a bhfuil cead acu úsáid a bhaint as Uimhreacha Pearsanta Seirbhíse Poiblí (UPSP) chun dul i mbun idirbheartaíochta le baill an phobail agus chun faisnéis a roinnt. Áirítear an Oifig agam mar chomhlacht sonraithe anois. Cuireann an t-athrú sin dlús le próiseas bailithe faisnéise, rud a chabhraíonn le próiseáil na ngearán tríd is tríd.

Tuarascáil ar mhuirir phinsin

D'fhoilsigh an tAire Coimirce Sóisialaí Tuarascáil ar Mhuirir Phinsin 2012 i mí Dheireadh Fómhair 2012. Is tuarascáil an-chuimsitheach í agus cuirim fáilte roimpi de

An eagle eye being kept on 'phoenix' companies

Companies must be monitored for inappropriate behaviour when re-emerging as new corporate entities, writes Dave Boland.

Surely there can be no better sight in the current employment market than an Irish company which has been effectively insolvent suddenly rising from the ashes, saving jobs and bringing some much needed revenue back into the economic stream.



- engaging in activities to improve public awareness of recognised Ombudsman schemes and to encourage their efficiency and effectiveness.

Changes in the law

Changes in the law governing public sector pension schemes have had a significant impact on my Office.

The Public Service Pensions (Single Scheme and Other Provisions) Act 2012

was enacted on 28 July 2012 and changes the terms of public service pensions. This change in the law places a 40-year limit on the total service which can be counted towards pension where a person has been a member of more than one existing public service pension scheme. This change is particularly significant for certain categories of public sector employees such as members of an Garda Síochána, prison officers and psychiatric nurses who, up to the time of the change, were able to build up additional service credit after serving for 20 years, giving them 40 years credit for 30 years' service. The new legislation will mean that such employees will not be able

to earn any further pension in public service employment once they hit the 40-year limit.

The Social Welfare and Pensions Act 2012

changed the list of bodies who can access the Social Welfare system and are allowed to use Personal Public Service Numbers (PPSN) for carrying out transactions with members of the public and for sharing information. My Office is now included as a specified body. This change speeds up the process of gathering information which helps in the overall processing of complaints.

Pension charges report

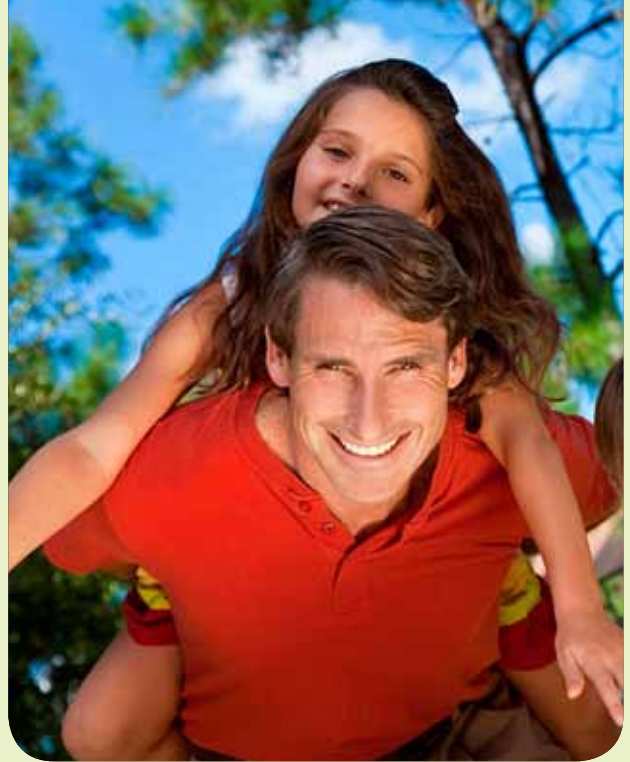
A Report on Pension Charges 2012 was published by the Minister for Social Protection in October 2012. This is a very comprehensive report and I welcome it as pension charges are a frequent cause of complaint to my Office. In this context, I have submitted some comments and observations to the Minister for consideration in advance of any changes in the law that might be proposed.

Agraíonn an tOmbudsman Pinsean athbhreithniú ar phinsin san earnáil phoiblí tar éis d'earráidí a theacht chun solais

D'áitigh an tOmbudsman Pinsean ar chomhlachtaí poiblí athbhreithniú a dhéanamh ar a gcuid taifead chun a chinntiú go bhfuil teidlíochtaí pinsin na bhfostaithe a ríomh i gceart.

Rinne sé sin i ndiaidh dó líon suntasach earráidí a thabhairt faoi deara sa tslí ar cuireadh ranníocaíochtaí ÁSPC agus pinsean i bhfeidhm maidir le hoibríthe sealadacha a fuair poist bhuana ina dhiaidh sin.

Dúirt an tOmbudsman Pinsean Paul Kenny gurbh iad na hoibríthe san earnáil phoiblí a bhí i bpoist shealadacha roimh 1995 ba mhó a ndearna na hearráidí difear dóibh.



bhrí gur minic gur cúis ghearáin chuig an Oifig iad muirir phinsin.

Sa chomhthéacs sin chuir mé roinnt tuairimí agus caidéisí faoi bhráid an Aire lena mbreithniú, chun tosaigh ar aon athruithe ar an dlí a d'fhéadfaí a mholadh.

Ceisteanna foirne

Tá an líon foirne san Oifig fanta mórán ar an leibhéal céanna le blianta fada in ainneoin an mhéadaithe as cuimse ar líon na ngearán a thagann isteach i gcónaí. Níl sé sin inbhuanaithe. Tá sé ríshoiléir go bhfuil gá le méadú foirne go háirithe ag leibhéal Imscrúdaitheora, ach, mar gheall ar an gcosc ar earcaíocht sa tseirbhís phoiblí, níorbh fhéidir linn foireann a earcú. Bhí an t-ádh linn gur sannadh ball foirne amháin breise dúinn ar bhonn sealadach agus táimid buíoch den Roinn Coimirce Sóisialaí as sin. Leanaimid de dhul i ngléic le fadhbanna ar bhealaí malartacha d'fhonn seirbhís ghairmiúil a sholáthar do ghearánaithe a bhfuil a líon ag méadú de shíor.

Ba é 2.2 lá in aghaidh an duine an meántréimhse bhreiteachta i rith na bliana 2012, ráta atá an-íseal go deo i gcomparáid le heagraíochtaí agus le hearnálacha eile.

Gairmiúlacht

Tá sé faiseanta ar na saolta seo obair na státseirbhíse a cháineadh ach ba mhaith liom gairmiúlacht, dúthracht agus tiomantas na foirne a oibríonn san Oifig a mholadh. In ainneoin go bhfuil borradh gan staonadh i ngearáin agus i gcásanna nua oibríonn mo chomhghleacaithe i gcónaí le fuinneamh agus le díograis. Ón gcéadair a chuirtear glaoch teagmhála teileafóin go dtí an Oifig agus uaidh sin ar aghaidh go dtí imscrúdú agus dréachtú na gCinntí Críochnaitheacha bíonn siad toilteanach an obair agus an iarracht bhreise a theastaíonn chun cás a thabhairt chun réitigh a chur isteach. Éilítear ar na saolta seo níos mó solúbthachta ná riamh ó fhostaithe sa tseirbhís phoiblí. Ba mhaith liom a chur ar thaifead go bhfuil solúbthacht agus spiorad foirne thar chuimse léirithe ag foireann na hOifige ón gcéad uair a osclaíodh na doirse in 2003.

Cé nach féidir cinneadh i bhfabhar gearánaí a dhéanamh i gcónaí tá an cur chuige gairmiúil agus an meon intinne gur féidir gach rud a dhéanamh ghlaicta chucu féin ag an bhfoireann ar fad.

Pensions Ombudsman calls for public sector pensions review after errors found

THE PENSIONS Ombudsman has urged public bodies to review their records to ensure employees' pension entitlements are correctly calculated.

This follows the discovery of a significant number of errors in the way PRSI and pension contributions have been applied for temporary workers who later secured permanent posts.

Pensions Ombudsman Paul Kenny said the errors mainly affected public sector workers who were in temporary posts prior to 1995.



Staffing issues

The number of staff in my Office has remained the same for many years, despite the soaring number of complaints we continue to receive. This is unsustainable. There is a clear need for more staff, particularly at Investigator level, but, due to the freeze on public service recruitment, we have not been able to recruit staff. We have been fortunate to have one additional staff member assigned to us on a temporary basis and we are grateful to the Department of Social Protection for this. We continue to work around problems to provide a professional service to an increasing number of complainants.

Average sickness was 2.2 days per person in 2012, which is low by comparison with other organisations and sectors.

Professionalism

In these times, when it is fashionable to criticise the work of the civil service, I would like to praise the professionalism, dedication and commitment of the team who work in the Office. Despite the unrelenting surge of complaints and new cases, my colleagues continue to work with energy

and enthusiasm. From the initial telephone point of contact with the Office, through to the investigation and drafting of Final Determinations, there is a willingness to put in the work and the extra effort needed to bring cases to a resolution. These days, more and more flexibility is required of public servants. I would like to put on record the fact that the staff of this Office have displayed utmost flexibility and team spirit since we first opened our doors in 2003.

Even though it is not always possible to find in favour of a complainant, there is a professional approach and a 'can do' attitude taken by the entire team.



Caseload summary and statistics 2012

Achoimre agus staitisticí maidir le cásanna 2012

2



Achoimre agus staitisticí maidir le cásanna 2012

Mar a dúradh i dTuarascáil na bliana seo caite táimid in ann anois de bhuíochas an bhogearra nua atá againn líon agus cineál na gcásanna a chuirtear chuig an Oifig a thaifeadadh níos beachte.

Cásanna: fiosrúcháin agus gearáin

Rangaítear cásanna faoi dhá chatagóir:

Fiosrúchán	Cás a réitítear go tapa trí ghlaoch teileafóin nó trí chomhfhreagras gairid ríomhphoist.
Gearán	Cás níos mionsonraithe a mbíonn breis imscrúdúcháin de dhíth agus a n-osclaítear comhad gearáin mionsonraithe ina leith.

Duine ar bith a mheasann gur fhulaing sé cailteanas airgid mar gheall ar dhrochriarachán ar scéim pinsean ceirde, ar Chuntas Coigiltis Scoir Pearsanta (CCSP) nó ar Chonradh Blianachta Scoir Iontaobhais (CBS), is féidir leis gearán a chur chuig an Oifig.

Cuirtear cineálacha difriúla cáis faoinár mbráid agus dá bhrí sin tá córas scagtha i bhfeidhm againn chun measúnú a dhéanamh ar gach cás d'fhonn réiteach a fháil air chomh tapa agus chomh héasca agus is féidir.

Ar an gcéad dul síos molaimid do ghearánaithe iarracht a dhéanamh a ngearán a réiteach trí dhul díreach chuig iontaobhaithe na scéime pinsin nó chuig an soláthraí CCSP. Níos minice ná a mhalairt déantar sin trí phróiseas Réiteach Aighnis Inmheánach (RAI).

Mura n-éiríonn leis sin, is féidir leis an ngearánaí a iarraidh ar an Oifig tús a chur le himscrúdú níos mionsonraithe ar ábhar an ghearáin. Tagann comhad gearáin mionsonraithe i gceist leis sin agus féachann an Oifig leis an ngearán a thabhairt chun críche a luaithe is féidir.

Is áis cúnata an córas scagtha chun cinneadh a dhéanamh conas is fearr déileáil le gearáin a chuirtear chuig an Oifig. Tar éis measúnú tosaigh a dhéanamh déileáiltear le gearán ar cheann amháin de na ceithre bhealach a bhfuil cur síos orthu anseo thíos.

Tarchur ar aghaidh: Más rud é nach bhfuil an cás sainithe faoi chatagóir ar féidir linn déileáil léi san Oifig seo, treoraímid an gearánaí chuig gníomhaireacht eile nó chuig Ombudsman eile, nó insímid don ghearánaí nach féidir linn cabhrú leis.

Tuairisc agus treoir: Ní gá dúinn imscrúdú foirmeálta a dhéanamh ar chásanna atá sách simplí. Sna cásanna sin cuirimid tuairisc maille le treoir ar fáil don ghearánaí, rud a chuireann dlús leis an bpróiseas.

Eadráin: Tairgtear tairiscint don ghearánaí eadráin a dhéanamh idir é/í agus iontaobhaithe na scéime pinsin nó an soláthraí CCSP d'fhonn réiteach na ceiste a fháil chun sástachta gach aon duine.

Imscrúdú foirmeálta: Déanaimid imscrúdú foirmeálta i gcásanna níos casta nach féidir réiteach a fháil orthu ar aon bhealach eile. Dá thoradh sin déantar Cinneadh Críochnaitheach atá ceangailteach ó thaobh dlí de.

Caseload summary and statistics 2012

As stated in last year's report, our new software allows us to record more accurately the number, nature and type of cases submitted to the Office.

Cases: enquiries and complaints

Cases fall into two categories:

Enquiry	A case that is resolved quickly, either in a telephone call or in a short exchange of email.
Complaint	A more detailed case that requires further investigation, and on which we open a detailed complaint file .

Anyone who believes that they have suffered financial loss because of poor administration of an occupational pension scheme, Personal Retirement Savings Account (PRSA) or Trust Retirement Annuity Contract (RAC) can make a complaint to my Office.

Different kinds of cases are brought to us so we have a screening system in place to assess each case with a view to resolving it as quickly and easily as possible.

First of all, we encourage complainants to try to solve their complaint directly with their pension scheme trustees or PRSA provider. Most often, this is done through an Internal Disputes Resolution (IDR) process.

If this does not work, the complainant can then ask my Office to begin a more detailed investigation of the complaint. These

become **detailed complaint files** and, again, we try to bring the complaint to a closure as quickly as possible.

The screening system helps us to decide how best to deal with complaints brought to us. After initial assessment, we will deal with a complaint in one of the four ways outlined below.

Onward reference: If a case doesn't fall into a category we can deal with in this Office, we refer the complainant to another agency or another Ombudsman, or tell the complainant that we cannot help.

Report and guidance: We do not need to formally investigate cases that are relatively straightforward. In these cases, we provide the complainant with a report and guidance which speeds up the process.

Mediation: This is where we offer to mediate between the complainant and their pension scheme trustees or PRSA provider, in an effort to resolve the issue to everyone's satisfaction.

Formal investigation: We undertake a formal investigation for more complex cases that cannot be resolved in any other way. This leads to a legally binding Final Determination.

Achoimre agus staitisticí maidir le cásanna 2012 (ar lean)

Coinnítear ar taifead go bhfuarthas fiosrúchán ar an teileafón nó le ríomhphost ach ní choinnítear mórán sonraí i leith an fhiosrúcháin ós iondúil gur féidir é a fhreagairt agus a réiteach go pras. Mar sin féin tá an déileáil leis na fiosrúcháin sin ina cuid thábhachtach d'obair na hOifige.

In 2012, dhéileálar le 1,705 fiosrúchán i gcomparáid le 882 in 2011. Bíonn tionchar ag an méadú sin ar leibhéal na seirbhíse is féidir linn a sholáthar. Creidim go bhfuil an chéad phointe teagmhála ríthábhachtach

do ghlaiteoirí ó thaobh cinnte a déanamh de go bhfuil an treoir agus an chomhairle is fearr tugtha do bhail an phobail maidir leis an bhfadhb atá acu. Bíonn níos mó ama ag na hImscrúdaitheoirí chun déileáil le cásanna níos casta de thoradh an mheasúnaithe ar cheist an ghlaiteora agus trína threorú ar an mbealach ceart.

Is iad na cásanna a ndéantar sonraí a bhailiú agus a choinneáil na ceanna a ndéantar comhaid ghearáin mhionsonraithe ina leith de réir an chur síos thuas.

Tábla 2.1 Achoimre ar Chásanna don bhliain 2012

	An Bhliain 2012	An Bhliain 2011	+ Méadú - Laghdú
Líon na gCásanna a fuarthas	2189	1221	+79%
Comhaid ghearáin imscrúdaithe mionsonraithe a osclaíodh	601	485	+24%
Gearáin imscrúdaithe mhionsonraithe idir lámha ag tús na bliana	409	432	-5%
Cásanna imscrúdaithe mionsonraithe a athosclaíodh	36	49	-27%
Iomlán na gcásanna imscrúdaithe mionsonraithe	1046	966	+8%
Cásanna imscrúdaithe mionsonraithe i gcrích i rith na bliana	677	557	+22%
Cásanna imscrúdaithe mionsonraithe idir lámha ag deireadh na bliana	369	409	-10%

Má chuirtear na 409 cás a tugadh ar aghaidh ón mbliain 2011 leis na 2,189 cás nua a tháinig i rith na bliana 2012 fágann sin gurbh é 2,598 ualach iomlán na gcásanna sa bhliain.

Rinneadh 677 cás a dhúnadh i rith na bliana 2012 rud a d'fhág gur tugadh 369 cás gearáin ar aghaidh go dtí an bhliain 2013.

Leagtar amach go hachomair i dTábla 2.2 ualach na gcásanna san Oifig do na blianta 2011 agus 2012.

Caseload summary and statistics 2012 (continued)

We record the receipt of telephone and email enquiries but we do not hold much data on these, as they can generally be answered and resolved promptly. However, dealing with these enquiries forms an important part of the work of the Office.

During 2012, we dealt with 1,705 enquiries compared with 882 in 2011. This increase impacts on the level of service that we can provide. I consider that the first point

of contact for callers is crucial in making sure that members of the public are given the best direction and advice about their problem. Assessing the issue that a caller has and pointing them in the right direction leaves more time for my Investigators to deal with more complex cases.

The cases for which we gather and hold data are those we escalate to detailed complaint files, as described above.

Table 2.1 Summary of Cases for 2012

	Year 2012	Year 2011	+ Increase - Decrease
Number of cases received	2189	1221	+79%
Detailed investigation complaint files opened	601	485	+24%
Detailed investigation complaints on hand at start of year	409	432	-5%
Detailed investigation cases re-opened	36	49	-27%
Total Detailed investigation cases	1046	966	+8%
Detailed investigation cases completed during the year	677	557	+22%
Detailed Investigation cases on hand at end of year	369	409	-10%

Adding the 409 cases carried forward from 2011 to the 2,189 new cases received during 2012 meant that we had a total caseload of 2,598 for the year.

During 2012 we closed 677 cases, thereby carrying forward 369 complaint cases into 2013.

Table 2.2 summarises my Office's caseload for 2011 and 2012.

Ciall agus Staidéar maidir le hEarnáil Chorráithe

Má thugtar a dhóthain le déanamh don Ombudsman Pinsean, Paul Kenny, faoi láthair, tá dul chun cinn á dhéanamh aige ainneoin deacrachtaí sa mhargadh, a deir Margaret O'Brien.

Leagtar de chúram ar an Ombudsman Pinsean, Paul Kenny, fiosrú a dhéanamh faoi ghearáin maidir le scéimeanna pinsean ceirde agus réiteach a fháil ar na cásanna. Sin gan trácht ar Chuntais Coigiltis Scoir Phearsanta!

Nuair atá oiread éagobhsaíochta ag baint le hearnáil na bpinsean faoi láthair, coinnítear lucht na hOifige gnóthach agus tá ardú suntasach in aghaidh na bliana ar líon na ngearán atá á ndéanamh leo agus á bhfiosrú acu.



Tábla 2.2 Achoimre ar Ualach na gCásanna

An Bhliain	Cásanna a tháinig isteach	Tugadh ar aghaidh	Iomlán na bliana	Cásanna a dúnadh	Idir lámha ag deireadh na bliana
2012	2189	409	2598	2229	369
2011	1221	432	1653	1244	409

Gné tábhachtach den obair a bhíonn ar siúl againn is ea an t-am a theastaíonn chun cásanna a réiteach.

In 2011, dúnadh 168 de na 557 cás gearáin mhionsonraithe (30%) i 5 seachtaine nó níos lú.

In 2012, dúnadh 254 de na 653 cás gearáin mhionsonraithe (39%) i 5 seachtaine nó níos lú.

Tábla 2.3 Achoimre ar Chásanna Imscrúdaithe Mionsonraithe i gCrích

	An Bhliain 2012	An Bhliain 2011	+ Méadú - Laghdú
Líon na n-imscrúduithe i gcrích	677	557	+ 22%
Seachtainí go dtí críoch ar an meán	43	47	- 9%
Seachtainí is faide go dtí críoch	411	393	+ 5%
Seachtainí is gairide go dtí críoch	1	1	

Making Sense of a Tumultuous Sector

Pensions Ombudsman Paul Kenny has his work cut out at present, but is making headway in a difficult marketplace, writes Margaret O'Brien.

It's the role of the Pensions Ombudsman Paul Kenny to investigate and resolve complaints involving occupational pension schemes and PRSAs.

With such volatility in the pensions sector at present, his Office is kept busy, recording significant year-on-year increases in the number of complaints being registered and investigated.



Table 2.2 Caseload Summary

Year	Cases Received	Carried Forward	Total for year	Cases Closed	On hand at year end
2012	2189	409	2598	2229	369
2011	1221	432	1653	1244	409

An important aspect of our work is the time taken to resolve cases.

In 2011, 168 of 557 detailed complaint cases (30%) were closed in 5 weeks or less.

In 2012, 254 of 653 detailed complaint cases (39%) were closed in 5 weeks or less.

Table 2.3 Summary of Detailed Investigation Case Completions

	Year 2012	Year 2011	+ Increase - Decrease
Number of investigations completed	677	557	+22%
Average weeks to completion	43	47	-9%
Longest weeks to completion	411	393	+5%
Shortest weeks to completion	1	1	

Achoimre agus staitisticí maidir le cásanna 2012 (ar lean)

Tábla 2.4 Cineál an Imscrúdaithe maidir le Comhaid Ghearáin Mhionsonraithe a Osclaíodh in 2012

Cineál an Imscrúdaithe	2012	2011
Laghdú agus Pinsean Forlíontach	1	0
Ranníocaíochtaí Breise Deonacha (AVCanna)	20	19
Ceisteanna ARF agus AMRF	1	3
Méadú agus feabhsú sochar	0	2
Bannaí Ceannaigh-thar-barr-amach	1	0
Ríomh na sochar	161	116
Aisíoc ranníocaíochtaí	5	5
Sochar Sainithe agus Ranníocaíocht Shainithe	2	1
Faisnéis a nochtadh	23	25
Luathscor	18	13
Cóir chomhionann	0	1
Luach ciste	40	29
Fiosrúchán ginearálta	88	43
Easláinte	19	11
Íocaíocht mhícheart, dhéanach, neamhíoc sochair	36	28
Faisnéis mhícheart as a n-eascraíonn dréim fhabhtach	6	4
Coinníollacha ballraíochta agus iontrála	25	10
Díol faoi dhúmas bréige	4	8
Iliomad gearán	1	0
Orduithe um Choigeartú Pinsin	10	5
Méaduithe iarscoir	14	3
Sochair a chaomhnú	4	1
Ranníocaíochtaí a íoc	35	69
Sochar céile agus cleithiúnaí	18	23
Aistriú	15	20
Foirceannadh	17	16
Blianta seirbhíse – costas le haghaidh, creidmheas in aghaidh	37	30
Iomlán	601	485

Caseload summary and statistics 2012 (continued)

Table 2.4 Nature of Investigation in Detailed Complaint Files Opened in 2012

Nature of Investigation	2012	2011
Abatement and Supplementary Pensions	1	0
Additional Voluntary Contributions (AVCs)	20	19
ARF and AMRF queries	1	3
Augmentation and enhancement of benefits	0	2
Buy out Bonds	1	0
Calculation of benefits	161	116
Contribution refunds	5	5
Defined Benefit and Defined Contribution	2	1
Disclosure of information	23	25
Early retirement	18	13
Equal treatment	0	1
Fund values	40	29
General enquiry	88	43
Ill health	19	11
Incorrect, late and no benefit payment	36	28
Incorrect information causing false expectation	6	4
Membership and entry conditions	25	10
Mis-selling	4	8
Multiple complaints	1	0
Pensions Adjustment Orders	10	5
Post-retirement increases	14	3
Preservation of benefits	4	1
Remittance of contributions	35	69
Spouses' and dependants' benefits	18	23
Transfers	15	20
Winding up	17	16
Years of service – cost of and credit for	37	30
Total	601	485

Achoimre agus staitisticí maidir le cásanna 2012 (ar lean)

Anailís ar chásanna gearáin a dúnadh in 2012

As 2,229 cás a dúnadh in 2012, bhí comhad gearáin mionsonraithe ag baint le 677 acu – tá achoimriú orthu sin i dTábla 2.5.

In 2012 athosclaíodh 36 cás i gcomparáid le 49 in 2011. Ba chásanna cuid acu sin a raibh tuairisc agus treoir tugtha ag an Oifig ina leith cheana féin ach ar thug an gearánaí ábhar eile i gceist ina leith ina dhiaidh sin nó nár léir cineál an ghearáin dáiríre ón eolas a cuireadh ar fáil dúinn an chéad uair.

Tábla 2.5 Gearáin a Dúnadh in 2012

An Bhliain	Gearáin nua a Tháinig	Cásanna a Athosclaíodh	Tugadh ar aghaidh	Iomlán	Gearáin a Dúnadh	Idir lámha ag deireadh na bliana
2012	601	36	409	1046	677	369
2011	485	49	432	966	557	409

Táimid in ann cásanna a dhúnadh faoi chatagóirí éagsúla agus tá sonraí faoi na cúiseanna leis an dúnadh i dTábla 2.6 thíos.

Tábla 2.6 Achoimre ar Chásanna Gearáin a Dúnadh in 2012 Rangaithe de réir Cúise

Cúis le Dúnadh	2012	2011
Riachtanas Réiteach Aighnis Inmheánach molta	19	14
Achomharc - Seasadh le Cinneadh	1	0
Achomharc – Níor Seasadh le Cinneadh	1	0
Achomharc - ní dheachthas ar aghaidh leis	0	3
Ní dheachthas ar aghaidh leis an ngearán	68	73
Tugadh an Forfheidhmiú chun críche	2	1
Níor Bhain Forfheidhmiú le hOifig an Ombudsman Pinsean	0	2
Cinneadh Críochnaitheach - Níor seasadh le gearán	21	25
Cinneadh Críochnaitheach - seasadh le gearán	37	37
Tugadh cás maidir le bac chun críche trí imeachtaí dlí	4	7
Taobh amuigh de théarmaí tagartha Ombudsman na bPinsean (TTT)	42	19
TTT - cuir faoi bhráid Ombudsman nó Rialtóir eile	31	25
Tugadh tuairisc agus treoir	357	238
Eadráin rathúil	79	87
Níor Éirigh le hEadráin	15	26
Iomlán	677	557

Caseload summary and statistics 2012 (continued)

Analysis of complaints closed in 2012

Of the 2,229 cases we closed in 2012, 677 were detailed complaint files – these are summarised in Table 2.5.

In 2012 we reopened 36 cases, compared to 49 in 2011. We reopened cases where new information came to light after we provided a report and guidance and where the true nature of the complaint was not clear from the information originally given to us.

Table 2.5 Complaint Closures in 2012

Year	New Complaints Received	Re-opened Cases	Carried Forward	Total	Complaints Closed	On hand at year end
2012	601	36	409	1046	677	369
2011	485	49	432	966	557	409

We are able to close cases under various categories and details of the reasons for closures are in Table 2.6 below.

Table 2.6 Summary of Complaint Closures by Reason in 2012

Reason for Closure	2012	2011
Advised of need for Internal Disputes Resolution	19	14
Appeal - Determination upheld	1	0
Appeal - Determination not upheld	1	0
Appeal - not proceeded with	0	3
Complaint not proceeded with	68	73
Enforcement completed	2	1
Enforcement not for Office of Pensions Ombudsman	0	2
Final Determination - complaint not upheld	21	25
Final Determination - complaint upheld	37	37
Obstruction case completed through legal proceedings	4	7
Outside the Pensions Ombudsman's terms of reference (OTOR)	42	19
OTOR - refer to other Ombudsman or Regulator	31	25
Report and guidance given	357	238
Successful mediation	79	87
Unsuccessful mediation	15	26
Total	677	557

Achoimre agus staitisticí maidir le cásanna 2012 (ar lean)

Dúnadh: taobh amuigh de théarmaí tagartha (TTT)

Siocair a chastacht is a bhíonn pinsin is minic gur deacair cinneadh a dhéanamh cibé acu an gearán é ar féidir leis an Oifig déileáil leis nó nach é. Ní mór dúinn an-chuid ama a chaitheamh i mbun imscrúdaithe agus taighde ar ghearáin sular féidir linn breithiúnas a dhéanamh maidir leis sin.

In 2012, dhúnamar 73 gearán ar measadh nár tháinig siad faoi scáth théarmaí tagartha na hOifige. Astu sin, bhí 31 ar measadh gur tháinig siad faoi chúram ombudsman, rialtóra nó gníomhaireachta Stáit eile agus cuireadh faoina mbráid sin iad mar ba chúí. Bhí na 42 gearán eile taobh amuigh de théarmaí tagartha na hOifige ar chúiseanna éagsúla, mar shampla, cásana nár fhulaing an gearánaí aon chailleanas airgid.

Dúnadh: tugadh tuairisc agus treoir

Ní léir ar an dtoirt i gcónaí cé acu atá nó nach bhfuil foras dhlísteanach ag gearánaí chun gearán a dhéanamh. Is féidir gurb amhlaidh an cás:

- murar léir cineál iarbhír an ghearáin ar an toirt;
- murar léir cé ar chóir don ghearánaí an gearán a chur chuige; nó
- más deacair a dheimhniú gan imscrúdú breise cibé an dtagann an cás faoi chúram na hOifige nó nach dtagann.

Dá bhrí sin is minic gur gá don Oifig imscrúdú a dhéanamh ar méid mór doiciméad a chuir an gearánaí isteach sula ndéantar cinneadh faoin gcur chuige is fearr a ghlacadh.

B'fhéidir go bhfaighimis amach nach bhfuil cúis leordhóthanach le gearán nó gur ábhar é nach dtagann faoi chúram na hOifige. Mar shampla, cé gurbh fhéidir gur léir an drochriaracháin nach soiléir cé acu ar cailleadh airgead dá thoradh sin nó nár cailleadh.

I gcásanna eile b'fhéidir go mbeadh sé soiléir ón bpróiseas gur tháinig ceist an ghearánaí chun cinn de thoradh droch-chumarsáide nó míthuisceana maidir le mionsonra.

I gcásanna den sórt sin, is iondúil de ghnáth gur féidir linn an cheist a thabhairt chun réitigh gan dul ar aghaidh le himscrúdú foirmeálta. Is éard atá i gceist leis sin tuairisc agus treoir a thabhairt don ghearánaí. Mar shampla d'fhéadfadh sé gurbh é a bheadh i gceist:

- míniú níos mionsonraithe a dhéanamh ar theidlíocht chomhalta scéime pinsin;
- míniú níos mionsonraithe a dhéanamh ar an modh a bhfleidhmítear scéim pinsin; nó
- ceangail na gCoimisinéirí Ioncaim nó Acht na bPinsean a mhíniú ar bhealach atá intuigthe don ngearánaí.

Ciallaíonn soláthar tuairisce nó treorach gur féidir linn gearáin a réiteach i gcoitinne go tapa agus ar bhealach neamhfhoirmiúil. Ina theannta sin bíonn laghdú dá thoradh ar líon na gcásanna a ndéantar comhaid ghearáin mhionsonraithe díobh agus a dteastaíonn achar ama níos faide lena chur i gcrích.

As na 677 gearán a dúnadh in 2012 dúnadh 357 tar éis imscrúdú a dhéanamh agus tar éis tuairisc agus treoir a sholáthar.

Caseload summary and statistics 2012 (continued)

Closure: outside terms of reference (OTOR)

Due to the complex nature of pensions, it can often be difficult to decide whether or not a complaint is one that my Office can deal with. We spend quite a lot of time examining and researching complaints before we can make a judgment in this regard.

In 2012, we closed 73 complaints that were found to be outside the terms of reference of this Office. Of these, 31 were considered to fall within the remit of another Ombudsman, regulator or State agency and were duly referred to them. The remaining 42 complaints were outside my terms of reference for different reasons; for example, those where the complainant didn't suffer any financial loss.

Closure: report and guidance given

It is not always immediately clear whether or not a complainant has legitimate grounds for making a complaint. This can be the case when:

- the true nature of the complaint might not be immediately obvious;
- it might not be clear who the complaint should be directed at; or
- it might be difficult to determine, without some further investigation, whether or not the problem falls within my remit.

Therefore, it is often necessary for this Office to examine a large number of documents

submitted by a complainant before deciding on the best approach to take.

We might find that there are insufficient grounds for a complaint or that the matter is not one that is within my remit. For example, while poor administration might be obvious, it may not be clear whether this resulted in financial loss.

In other cases, it may become clear that the complainant's issue has arisen as a result of poor communication or a misunderstanding over a point of detail.

In such cases, we can usually bring the matter to a satisfactory conclusion without proceeding to a formal investigation. This involves providing a report and guidance to the complainant. This could include, for example:

- explaining a pension scheme member's entitlement in more detail;
- explaining the way a scheme is run in more detail; or
- explaining the requirements of the Revenue Commissioners or of the Pensions Act in a way that the complainant can understand.

Providing a report or guidance means that we can generally resolve complaints quickly and in a less formal way. It also reduces the number of cases which go on to be detailed complaint files which take longer to conclude.

Of the 677 complaints closed during 2012, 357 were closed after an examination and the provision of a report and guidance.

Achoimre agus staitisticí maidir le cásanna 2012 (ar lean)

Dúnadh: cásanna faoi eadráin

Thrácht mé i dtuarascálacha bliantúla roimhe seo gurbh bhfearr liom eadráin idir na páirtithe mar bhealach chun gearáin a réiteach. Is tapúla, is solúbtha agus is éifeachtaí ó thaobh costais í an eadráin ná aon bealach réitithe eile agus is réiteach níos sásúla a bhíonn ann dá thoradh ná mar a bheadh ann dá ndéantaí Cinneadh Críochnaitheach.

I roinnt cásanna faoi eadráin thug soláthraithe pinsin deontais bhreise do ghearánaithe dá ndeoin féin mar chúiteamh ar an míchaoithiúlacht agus ar an suaitheadh aigne a ndeachaigh siad tríd. Níl sé de chumhacht agam na deontais bhreise sin a dhéanamh ach bím an-sásta nuair a fhaigheann gearánaí sochar breise de thoradh eadrána.

Is trí eadráin a thángthas ar réiteach maidir le 94 cás den 677 comhad gearáin a dúnadh in 2012. Astu sin, ba chun sástacht an gearánaí an réiteach ar 79 cás acu. Sna 15 chás eile ní dheachaigh rannpháirtíocht na hOifige chun sochair an ghearánaí ó thaobh airgid de ná níos réitíodh an t-aighneas ina bhfabhar dá toradh.

Bíonn toradh níos tapúla ann de bharr eadrána. Theastaigh 45 seachtaine ar an meán chun teacht ar réiteach trí eadráin in 2012 i gcomparáid le 128 seachtaine ar an meán chun Cinneadh Críochnaitheach a dhéanamh maidir leis an gceist. An fáth leis sin is ea gur gnáth gur próiseas fada dlúthshaothair a bhíonn i gceist le h ullmhúchán Cinnidh Chríochnaitheach.

Dúnadh: Cinntí Críochnaitheacha

Faoi Alt 139 d'Acht na bPinsean 1990, arna leasú, leagtar d'údarás ormsa Cinneadh Críochnaitheach atá ceangailteacht faoin dlí a eisiúint maidir le ceisteanna gearáin.

In 2012 dúnadh 58 cás trí Chinneadh Críochnaitheach. Sheas mé leis na gearáin i 37 cás agus dhiúltaigh mé do na gearáin sna 21 chás eile. Ba é 128 seachtaine an meánachar a caitheadh in 2012 ag próiseáil gearáin go dtí go ndearnadh Cinneadh Críochnaitheach i gcomparáid le 113 seachtaine in 2011. Níl sa mheán sin ach léiriú toisc gur féidir gach cás a bheith difriúil. Braitheann an t-achar a chaitear ní hamháin ar cé chomh casta atá an cás ach chomh maith leis sin ar a thapúla a sholáthraíonn na páirtithe uile an fhaisnéis a iarradh.

Sa chás go n-eisítear Réamhbhreith is féidir leis sin difear a dhéanamh don scála ama freisin. Is féidir go gcaithfear achar sách fada ag dréachtú an fhoclaíocht sa Chinneadh Críochnaitheach atá ceangailteach ó thaobh dlí de ar na páirtithe uile agus atá faoi réir achomhairc os comhair na hArd-Chúirte.

Tábla 2.7 Achar Ama go Réiteach i Seachtainí in 2012 agus 2011

	2012	2011
Meánlón na seachtainí go réiteach trí Eadráin	45	42
Meánlón na seachtainí go réiteach trí Chinneadh Críochnaitheach	128	113

Caseload summary and statistics 2012 (continued)

Closure: mediated cases

I have commented in previous annual reports on my preference for using mediation between parties to resolve complaints. Mediation is quicker, more flexible, more cost effective and leads to more satisfactory solutions than progressing to a Final Determination.

In some mediated cases, pension providers have made additional awards to complainants whose cases have been upheld to recognise the inconvenience and stress they have experienced. I don't have power to make these additional awards but I am very pleased when mediation brings an extra benefit to a complainant.

In 2012, 94 of the 677 complaint files closed were resolved through mediation. Of these, 79 cases were resolved to the complainant's satisfaction. In the remaining 15 cases, the outcome of our involvement either did not benefit the complainant financially or did not resolve the dispute in their favour.

Mediation leads to a speedier outcome. In 2012, the average time taken to settle a case through mediation was 45 weeks compared to an average of 128 weeks to issue a Final Determination. (The comparable figure for 2011 was 113). This is because the preparation of the Final Determination report is usually a lengthy, work-intensive process.

Closure: Final Determinations

Under Section 139 of the Pensions Act 1990, as amended, I am authorised to issue legally binding Final Determinations on complaints.

During 2012, 58 cases were closed by Final Determination. I upheld the complaints in 37 cases and rejected the complaints in the remaining 21. The average time taken to process a complaint through to a Final Determination is just an indication, as each case can be different. The time taken depends on how complicated the case is and also on how quickly all parties supply the information requested.

If a Preliminary View is issued, this can also affect the timescale. It can also take considerable time to draft the wording of the Final Determination which is legally binding on all parties and subject only to appeal before the High Court.

Table 2.7 Time to Resolution in Weeks 2012 and 2011

	2012	2011
Average number of weeks to resolution through Mediation	45	42
Average number of weeks to resolution by Final Determination	128	113

Achoimre agus staitisticí maidir le cásanna 2012 (ar lean)

Dúnadh: cúiseanna eile

In 2012, dúnadh 93 cás ar chúiseanna éagsúla ilghnéitheacha eile. Is féidir iadsan a rangú de réir na dtí chatagóir seo a leanas:

- Dúnadh i gcás ar tharraing gearánaithe gearán siar
- Dúnadh i gcás ar cuireadh na cásanna ar aghaidh lena réiteach faoi Réiteach Aighnis Inmheánach
- Dúnadh tar éis imeachtaí dlí

<p>Tharraing an gearánaí an gearán siar (68 cás)</p>	<p>Sna cásanna sin chinn na gearánaithe nár mhian leo go rachadh an Oifig níos faide ar aghaidh leis an imscrúdú.</p> <p>B'iondúil gur tharla sin nuair ba léir i ndiaidh an imscrúdaithe thosaigh:</p> <ul style="list-style-type: none"> • nach dócha go seasfaí leis an ngearán; nó • dá ndéantaí nach dócha gur chúiteamh suntasach a bheadh i gceist; nó • i gcás a raibh an gearánaí ag súil le leibhéal cúitimh níos airde ná a bhfuil d'údarás agamsa a thabhairt. <p>Tá teorainn faoi Acht na bPinsean le dámhachtainí sa chatagóir 'caillteanas sochar scéime'. Ní féidir liom damáistí nó foirmeacha eile cúiteamh a mheasfadh gearánaithe a bheith dlite dóibh a dhámhachtain.</p> <p>I mbeagán beag cásanna, tarraingíodh gearáin siar i gcúinsí a raibh amhras orm, ach nár bh féidir liom a chruthú, gur imríodh imeaglú ar an ngearánaí. Níl raibh aon chás den sórt sin ann in 2012.</p>
<p>Cásanna a cuireadh ar aghaidh lena réiteach faoi phróiseas Réiteach Aighnis Inmheánach (19 gcás)</p>	<p>Go ginearálta, ní féidir leis an Oifig imscrúdú a dhéanamh ar ghearán nó ar aighneas go dtí go gcuireann soláthraithe na scéime pinsin trí phróiseas Réiteach Aighnis Inmheánach (RAI) é. Má chuirtear gearán isteach gan é bheith pléite faoin bpróiseas RAI ní mór dom an gearánaí a ordú dul ar ais agus a chur faoin bpróiseas RAI.</p> <p>Tá roinnt eisceachta ann i ndáil leis an gceangal sin – mar shampla, sa chás go bhfuil foirceannadh a dhéanamh ar an scéim. Féach an leabhrán <i>Guide to Disputes Resolution Procedures/Bealaí Oibre le Conspóidí a Réiteach</i> atá ar fáil i rannán na bhfoilseachán den suíomh idirlín chun sonraí iomlána a fháil faoina leithéidí d'eisceachtaí.</p>
<p>I ndiaidh imeachtaí dlí (6 chás)</p>	<p>Is cásanna iadsan a dúnadh i ndiaidh réiteach a fháil orthu sa chúirt.</p>

Caseload summary and statistics 2012 (continued)

Closure: other reasons

During 2012, we closed 93 cases for a variety of other reasons. These break down into the following three categories:

- Closures where complaints were withdrawn by complainants
- Closures where cases were directed to Internal Dispute Resolution
- Closures after legal proceedings

<p>Complainant withdraws complaint (68 cases)</p>	<p>In these cases, complainants decided they did not wish my Office to proceed any further.</p> <p>This tended to happen where it became clear after our initial examination that:</p> <ul style="list-style-type: none"> • the complaint was unlikely to be upheld; or • the likely level of redress was not significant; or • the complainant expected a higher level of compensation than I am authorised to award. <p>The Pensions Act limits awards to the 'loss of scheme benefit'. I cannot award damages or other forms of compensation which complainants may consider to be their due.</p> <p>On rare occasions, complaints have been withdrawn in circumstances where I have suspected, but could not prove, intimidation of the complainant. No such case occurred in 2012.</p>
<p>Cases directed to Internal Dispute Resolution (19 cases)</p>	<p>Generally, my Office cannot investigate a complaint or dispute until it has gone through an Internal Disputes Resolution procedure (IDR) by the pension scheme providers. If a complaint is submitted to me without having gone through IDR, then I must direct the complainant back to the IDR procedure.</p> <p>There are certain exceptions to this requirement – for example, where a scheme is currently being wound up. See the booklet <i>Guide to Disputes Resolution Procedures</i>, available in the Publications section of our website for full details of such exceptions.</p>
<p>Following legal proceedings (6 cases)</p>	<p>These are cases that were closed following their resolution in court.</p>

Achoimre agus staitisticí maidir le cásanna 2012 (ar lean)

Cineálacha scéime

Bhí cineálacha éagsúla scéime i gceist leis na 601 comhad gearáin mhionsonraithe a osclaíodh in 2012.

Tábla 2.8 Cineál Scéime 2012

Cineál Scéime	2012	2011
Scéim na hEarnála Poiblí	225	145
Scéim na hEarnála Príobháidí	310	315
Conarthaí Blianachta Scoir Iontaobhais (CBS)	0	1
Cuntais Choigiltis Scoir Phearsanta (CCSP)	20	19
	555	480
Neamhshonraithe	46	5
Iomlán	601	485

Am chun cásanna a thabhairt chun críche

Tábla 2.9 Seachtainí go Críoch 2012

Seachtainí go Críoch	2012	2011
5 Seachtaine nó níos lú	257	168
6 - 10 Seachtaine	75	80
11 - 15 Seachtaine	50	41
16 - 20 Seachtaine	40	19
21 - 25 Seachtaine	27	17
26 - 30 Seachtaine	25	12
31 - 35 Seachtaine	15	17
36 - 40 Seachtaine	10	16
41 - 45 Seachtaine	6	14
46 - 50 Seachtaine	15	6
Níos mó ná 50 Seachtaine	157	167
Iomlán	677	557

Caseload summary and statistics 2012 (continued)

Scheme types

The 601 detailed complaint files opened in 2012 involved several types of scheme.

Table 2.8 Scheme Type 2012

Scheme Type	2012	2011
Public Sector Scheme	225	145
Private Sector Scheme	310	315
Trust Retirement Annuity Contract (RAC)	0	1
Personal Retirement Savings Account (PRSA)	20	19
	555	480
Not specified	46	5
Total	601	485

Time to complete cases

Table 2.9 Weeks to Completion 2012

Weeks to Completion	2012	2011
5 Weeks or less	257	168
6 - 10 Weeks	75	80
11 - 15 Weeks	50	41
16 - 20 Weeks	40	19
21 - 25 Weeks	27	17
26 - 30 Weeks	25	12
31 - 35 Weeks	15	17
36 - 40 Weeks	10	16
41 - 45 Weeks	6	14
46 – 50 Weeks	15	6
More than 50 Weeks	157	167
Total	677	557



What we learned in 2012

3

Ar fhoghlaimíomar
sa bhliain 2012



Ar fhoghlaimíomar sa bhliain 2012

Arís in 2012 bhí an-deacracht ag baint le staid an gheilleagair in Éirinn. Bhí ar chistí pinsin aghaidh a thabhairt ar na dúshláin ar leith a bhain leo féin maidir le heasnamh maoinithe. Chomh maith leis sin ghlac líon mór fostaithe san earnáil phoiblí le luathscor a bhí bunaithe ar ar thuill siad roimh an laghdú ginearálta ar phá agus d'éirigh siad as a gcuid phost roimh dheireadh Mí Feabhra 2012.

Is iad an dá thoisic sin ba chionsiocair leis an mborradh i líon na ngearán a tháinig chuig an Oifig i rith na bliana 2012 - méadú gan choinne de 79% ar líon na ngearán a tháinig i gcomparáid le 2011. Dá thoradh sin bhí ardú de 24% ar líon na gcomhad gearáin nua a rinneadh i 2012.

Acmhainní eolais

Mar a rinneadh le blianta beaga anuas cuimsítear Achoimre ar Chásanna sa tuarascáil seo. Is éard atá san achoimre tiomsú de chásanna a léiríonn raon leathan na saincheistanna ar déileáladh leo i rith na bliana. Is fíorchásanna iad agus is tríóthu is féidir linn an duine a chur i láthair chomh maith leis an bhfadhb. Breathnaímid ar gach duine a thagann chomh fada linn le ceistanna pinsin mar dhuine aonair agus más tábhachtach leo a ndeacrachtaí is tábhachtach linn iad ar an dóigh chéanna. Aibhsítear sna cásanna a roghnaigh mé na bealaí agus na modhanna ar baineadh úsáid astu chun gearáin a réiteach. I bhformhór na gcásanna b'fhabhrach toradh na hoibre. Tá an achoimre i Rannán 4 den doiciméad seo.

Téamaí móra maidir le gearáin na bliana 2012

- Roghanna maidir le Ciste Scoir Formheasta (CSF) agus Ciste Scoir Íosta Formheasta (CSIF)
- Cuntais Choigiltis Scoir Phearsanta (CCSP)
- Tobhach pinsin san earnáil phríobháideach
- Pinsin agus cánachas
- Scoir de bharr drochshláinte
- Deontais díobhála seirbhíse poiblí
- Tarraingt anuas luath
- Pinsin a "dhíghlasáil"
- Taifid chailte agus gearáin maidir le neamhíocaíocht
- Gearáin ó thionscal na tógála

Roghanna maidir le Ciste Scoir Formheasta (CSF) agus Ciste Scoir Íosta Formheasta (CSIF)

Bhí athruithe ar an mbealach a bhfeidhmítear Cistí Scoir Formheasta (ARFanna) agus Cistí Scoir Íosta Formheasta (CSIF) maidir le scéimeanna ranníoca sainithe ar cuireadh suaitheadh aigne ar a lán daoine dá mbarr.

Daoine a shábháil, de mheon macánta, Ranníocaíochtaí Deonacha Breise (AVCanna) d'fhonn iad a aistriú go CSF ag am scoir, fuair siad amach anois go rabhthas chun na coigiltis a bhí acu a chur faoi ghlas i CSIF go dtí go raibh siad 75 bliana d'aois.

Níorbh fhéidir bheith ag súil leis go rachadh soláthraithe agus idirghabhálaithe a dhíol AVCanna ar ais go dtí coigilteoirí aonair lena chur in iúl dóibh go raibh rudaí athraithe.

What we learned in 2012

The economic situation in Ireland in 2012 was, yet again, very difficult. Pension funds continued to experience their own particular challenges with regard to funding shortfalls. Also, a large number of public sector employees took early retirement based on their earnings before the general pay reduction and retired before the end of February 2012.

Both of these factors contributed to the surge in the number of complaints received by my Office during 2012 – a staggering 79% increase in complaints received compared with 2011. This has resulted in an increase of 24% in new complaint files opened in 2012.

Knowledge resources

As I have done in recent years, I am including a Digest of Cases in this report. This digest is a compilation of cases that reflects the broad range of issues we have dealt with over the year. The cases are real and they allow us to present the person as well as the problem. We see everyone who comes to us with pension issues as individuals whose difficulties are as important to us as they are to themselves. The cases I have selected highlight the ways and means we have used to resolve complaints. In most cases, we achieved favourable outcomes. This digest appears in Section 4 of this document.

Major themes of 2012 complaints

- Approved Retirement Fund (ARF) and Approved Minimum Retirement Fund (AMRF) options
- Personal Retirement Savings Accounts (PRSAs)
- Private sector pension levy
- Pensions and taxation
- Ill-health retirement
- Public service injury grants
- Early drawdown
- Pensions “unlocking”
- Lost records and complaints of non-payment
- Construction industry complaints

Approved Retirement Fund (ARF) and Approved Minimum Retirement Fund (AMRF) options

There were changes to the way Approved Retirement Funds (ARFs) and Approved Minimum Retirement Funds (AMRFs) work in relation to defined contribution schemes which has caused a good deal of anguish.

People who had, in good faith, saved Additional Voluntary Contributions (AVCs) with a view to converting them to an ARF at retirement now found that their savings were going to be locked away in an AMRF until they are 75.

B'fhéidir go dtabharfadh an fhoireann cás cúirte in aghaidh FSS maidir le míríomh ar íocaíochtaí faoi scéimeanna

Cáineadh ag an Ombudsman Pinsean ar scéim scoir agus iomarcaíochta dar luach €400 milliún.

Tá ráite ag an Ombudsman Pinsean gur “sampla scéim scoir agus iomarcaíochta €400 milliún Fheidhmeannacht na Seirbhísí Sláinte de bhealach nár cheart scéim dá leithéid a rith” agus gur “eiseamláir atá ann den rud ba cheart a sheachaint as seo amach”.



Dá bhrí sin níor tháinig an chuid is mó de na daoine ar an eolas faoi iarmhairtí na n-athruithe go dtí go raibh siad ar tí éirí as. Fiú dá mba léir dóibh níos luaithe iad, ní raibh aon bhealach ann i ndáiríre chun leigheas a chur ar an scéal.

Tuigim go raibh brú ag teacht ón taobh istigh den tionscal roghanna CSF agus CSIF a leathnú go dtí scéimeanna ranníoca sainithe i gcoitinne, ach ba lú an t-ábhar anachaine é dá mbogtaí na teorainneacha de réir a chéile seachas leathnú de thart ar 50% a chur orthu ag aon am amháin.

An t-aon rogha eile atá ann is ea blianachtaí a cheannach (rud a chinntíonn ioncam pinsin seasta), ach ní mheastar de ghnáth gur rogha tarraingteach é sin. Spreag an infhaighteacht is gné den chóireáil CSF maidir le hAVCanna a lán daoine an uair a chinn siad a scor a shábháil.

Is fóinteach í an cinneadh atá anois tógtha ag an Aire na teorainneacha nua a chur siar ar feadh tréimhse shealadaach de thrí bliana. Tabharfaidh sin an deis dóibh siúd ar tháinig na teorainneacha nua i bhfeidhm ina gcás ó mhí Feabhra 2011 i leith an stádas CSF a thabhairt ar ais dá gcuid CSIFanna - nó do chuid acu - más amhlaidh go raibh siad incháilithe faoi na seanteorainneacha.

B'fhéidir nach mbeadh an t-aisiompú go dtí an stádas CSF inmhianaithe i gcónaí go háirithe i gcás daoine a bhfuil a gcuid airgead glasáilte in infheistíochtaí fadtéarmacha agus a bhí ag súil leis nach mbeadh teacht acu ar a gcistí go dtí go raibh na 75 bliana d'aois slánaithe acu.

Cuntais Choigiltis Scoir Phearsanta (CCSPanna)

Dearadh CCSPanna go páirteach mar mhalairt ar Chonarthaí Blianachta Scoir (CBSanna) do dhaoine féinhostaithe agus neamh-inphinsin. Meastar go bhfuil siad mórán mar an gcéanna le CBSanna agus le scéimeanna ranníoca sainithe ceirde beaga. I mbliana, áfach, fuaireamar amach go raibh difríocht amháin suntasach eatarthu.

Ceadaíonn na Coimisinéirí Ioncain cóireáil speisialta sochair i gcás 'drochshláinte thromchúiseach' más scéim pinsean ceirde nó CBS atá i gceist. Is é sin le rá má tá sláinte an chomhalta aonair chomh dona sin nach bhfuil aon cheist faoi gur gearr a ionchas saoil - go bhfuil seans maith ann go bhfaighidh an duine bás laistigh de mhíonna seachas blianta. Sna cásanna sin is é cleachtas na gCoimisinéirí Ioncain scaoileadh sochair a cheadú faoi cháin 10%.

Staff may sue HSE over miscalculated payment schemes

Pensions Ombudsman blasts €400 million retirement and redundancy scheme.

The Pensions Ombudsman has described the €400 million Heath Service Executive retirement and redundancy scheme as “an example of how not to operate a scheme of that kind and a lesson in how not to do it again.”



Providers and intermediaries who had sold AVCs could not have been expected to go back to individual savers to advise them that things had changed. Therefore, most people only found out about the effects of the changes when they were at the point of retirement. Even if they'd found out earlier, there was really no way to rectify the situation.

I realise that there was pressure from within the industry to extend ARF and AMRF options to defined contribution schemes in general, but it would have been less troublesome if the limits were moved gradually, rather than being increased by around 50% all at once.

Purchasing annuities (which fixes your pension income), is the alternative and is generally not considered to be attractive. The availability of ARF treatment for AVCs motivated a lot of people when they decided to save for their retirement.

It is helpful now that the Minister has moved to reverse the new limits for a temporary period of three years. This will allow those caught by the new limits since February 2011 to have their AMRFs – or

part of them – to revert to ARF status if they would have qualified under the old limits. Automatic reversion to ARF status may not always be desirable, though, particularly if people have locked themselves in to long-term investments in the expectation that they could not access their funds until age 75.

Personal Retirement Savings Accounts (PRSAs)

PRSAs were designed partly as an alternative to Retirement Annuity Contracts (RACs) for self-employed and non-pensionable people. They are regarded as being much the same as RACs and small occupational defined contribution schemes. This year, however, we found that there was one significant difference.

With an occupational pension scheme or RAC, Revenue practice allows for special treatment of benefits in 'serious ill health'. This is where the individual member is in such poor health that life expectancy is unquestionably short – that the person is likely to die within months rather than years. In these cases, Revenue practice

Ar fhoghlaimíomar sa bhliain 2012 (ar lean)

Níl an áis sin ina dlúthchuid den reachtaíocht CCSP agus ní dhealraíonn sé go bhfuil aon smacht ná aon rogha maidir leis an gceist ag na Coimisinéirí Ioncaim. I gcúinsí áirithe d'fhéadfadh sé gurbh fhéidir an CCSP a athrú go dtí cuntas de chineál níos áisiúla a bheadh sé de chumhacht ag na Coimisinéirí Ioncaim a bheith níos solúbtha ina leith, ach níl sin indéanta i ngach cás. Ní réiteach idéalach é agus ba cheart go dtabharfaí aghaidh ar an bhfadhb nuair a dhéanfar an reachtaíocht a uasdátú.

Tobhach pinsin san earnáil phríobháideach

Is cúis buartha i gcónaí an tobhach 0.6% a fhorchuireann an Rialtas ar shócmhainní scéime pinsin. Is léir iarmhairt an tobhaigh ar an dtoirt do chomhaltaí scéimeanna ranníoca sainithe toisc go bhfeiceann siad asbhaint dhíreach as a gcistí pinsin. I scéimeanna sochair shainithe ní airíonn comhaltaí gníomhacha agus iarchurtha na hiarmhairtí láithreach toisc nach mbíonn na héifeachtaí fadtéarmacha feiceálach ach amháin nuair a thagann am íoca na sochar. Bíonn na héifeachtaí gearrthéarmacha fós feiceálach, áfach, i dtéarmaí leibhéal sócmhainneachta na scéime.

Ach tá roinnt comhaltaí ann a bhfuil pinsean á fháil acu cheana féin ó scéimeanna sochair shainithe ag gearán faoi iarmhairtí an tobhaigh ina leith.

I roinnt cásanna tá an laghdú ar shochair phinsinéara iarchurtha ag iontaobhaithe.

Is féidir go bhfuil na hiontaobhaithe ag fanacht go bhfeicfidh siad an bhfuil fostóirí i gcruth an tobhach a íoc nó ranníocaíocht a dhéanamh ina leith agus gurb é sin is cúis leis an moill.

De thoradh na moille baintear níos mó ná tobhach bliain amháin ó phinsinéirí ag aon am amháin.

Níl aon bhealach socraithe ann le hasbhaint an tobhaigh a chur i bhfeidhm, agus tá cinntí déanta ag iontaobhaithe scéimeanna éagsúla a bhí bunaithe ar struchtúr a scéimeanna féin agus ar mhéid na sócmhainní a bhí le leithroinnt ar phinsinéirí. Cúis mhíshástachta amháin is ea gur cheannaigh scéimeanna pinsin blianachtaí do phinsinéirí a bhí ag imeacht ar scor anallód ach nach ndéanann siad é sin níos mó. Ciallaíonn sin gur éalaigh seanphinsinéirí ar tairbhíthe iad de na blianachtaí ón tobhach go huile agus go ndearnadh laghdú ar phinsin a gcomhghleacaithe níos óige.

Pinsin agus cánachas

I gcomhthéacs na ngearán isteach maidir le tobhach an chiste pinsin cuirtear ceisteanna faoi chánachas pinsin orainn freisin. Tagann an chuid is mó díobh sin chun cinn de bharr na faisnéise nua a fhaigheann na Coimisinéirí Ioncaim anois maidir leo siúd a bhfuil pinsin Stáit iníoctha leo. Déantar cáin a aisghabháil ar phinsin Stáit trí chreidmheasanna agus trí bhandaí cánach a laghdú sa chaoi is go ngearrtar í iarbhir in aghaidh aon ioncaim ÍMAT eile is féidir a bheith ag an bpinsinéir - de ghnáth pinsean ceirde. Bhí roinnt daoine ann nach raibh feasach faoin toisc chánach agus ar theip orthu a gcuid pinsin Stáit a a fhógairt. Go deimhin tá go leor pinsinéirí nach gcomhlíonann tuairisceán cánach ar chor ar bith. D'fhág sin go raibh roinnt pinsinéirí ann a raibh riaráistí móra cánach carntha ina leith faoin am a raibh an Roinn Coimirce Sóisialaí in ann eolas a roinnt leis na Coimisinéirí Ioncaim.

What we learned in 2012 (continued)

allows a cash release of benefits taxed at only 10%.

The PRSA legislation does not incorporate this facility and Revenue do not appear to have any control or discretion in the matter. In certain circumstances, it may be possible to change the PRSA to a more user-friendly type of account that Revenue have the power to be more flexible with, but this is not possible in all cases. It is not an ideal solution and the problem ought to be addressed when the legislation is being updated.

Private sector pension levy

The 0.6% levy imposed on pension scheme assets by Government is continuing to cause concern. The effect of this levy is immediately visible to members of defined contribution schemes, who see a direct deduction from their pension funds.

In defined benefit schemes, active and deferred members do not suffer the effects immediately, as the long-term effects will only be apparent when the time comes for their benefits to be paid. The short-term effects are still visible, though, in terms of the solvency level of the scheme.

However, some members who are already receiving pensions from defined benefit schemes are complaining about the effects of the levy on them. In some cases, trustees have deferred the reduction of pensioner benefits. It's possible that this delay is caused by trustees taking time to find out if employers are in a position to pay or

contribute to the levy. This delay results in pensioners having more than one year's levy deducted all at once.

There is no set way of applying the levy and trustees of different schemes have made decisions based on the structure of their own schemes and the amount of the assets to be allotted to pensioners. One cause of dissatisfaction is that, in the past, pension schemes purchased annuities for pensioners on retirement, but now no longer do so. This means that older pensioners, who are the beneficiaries of the annuities, escaped the levy completely while their younger colleagues had their pensions reduced.

Pensions and taxation

In the context of complaints about the pension fund levy, we also receive queries about taxation of pensions. Most of these arose because of the new information which Revenue now receives regarding those to whom State pensions are payable. Tax on State pensions is recovered by reducing tax credits and bands, so that it is effectively charged against any other PAYE income the pensioner may have – usually an occupational pension. Some people were unaware of the tax position and failed to declare their State pensions. In fact, many pensioners don't make tax returns at all. The result was that some pensioners had built up considerable arrears of tax by the time the Department of Social Protection was able to share information with the Revenue Commissioners.

Ar fhoghlaimíomar sa bhliain 2012 (ar lean)

Scor de bharr drochshláinte

Bíonn an luathscor de bharr easláinte ina chnámh spairne sa tseirbhís phoiblí agus san earnáil phríobháideach i gcónaí. Is soiléir dúinn san Oifig go bhfuil méadú ar líon na gcásanna den chineál sin go háirithe sa tseirbhís phoiblí. Tagann fadhbanna chun cinn i gcás a gceadaítear faoi rialacha na scéimeanna cóireáil dhifriúil dóibh siúd atá fós i bhfostaíocht (comhaltaí gníomhacha) – ná mar a cheadaítear do chomhaltaí iarchurtha a d'fhág an fhostaíocht am éigin roimhe. Ní cleachtas neamhghnách é sin. Is coitianta freisin go ndiúltaíonn na hiontaobhaithe don luathscor mar gheall ar staid sócmhainneachta scéime agus caitear amhlaidh le hidir easláinte agus ghnáthshláinte i bhformhór na gcásanna.

Uaireanta sa tseirbhís phoiblí tig le riarthóirí bheith neamhthuisceanach faoi cad é go díreach atá i gceist le scor de dheasca easláinte. Is iad na coinníollacha bunúsacha atá ann gur chóir don duine atá ag iarraidh dul ar scor de dheasca easláinte bheith neamhábalta dualgais a fhostaíochta a chomhlíonadh mar gheall ar thinneas agus go bhfuil an tinneas fadtéarmach, is é sin le rá go mairfidh sé ar a laghad go dtí gnáthaois an phinsin. Braitheann go leor díobh sin atá ag iarraidh dul ar scor de dheasca easláinte gur éagóir leo é má dhiúltaítear don fhianaise liachta a chuireann siad i láthair ach níl aon fheidhm ag an Oifig i ndáil leis sin. Má dhéantar iarratas ar scor de dheasca easláinte ní leor chuige sin fianaise leighis ó dhochtúir nó ó chomhairleoir a chur ar fáil. Is é an rud nach bhfuil scríofa sna rialacha sa chuid is mó de na scéimeanna seirbhíse poiblí atá ann faoi láthair (cé go luaitear go sonrach é

in Acht um Pinsin na Seirbhíse Poiblí (Scéim Aonair agus Forálacha Eile), 2012) nach mór gach rogha cóireála réasúnta ‘all reasonable treatment options’ a bheith triailte agus uaireanta ní hamhlaidh an cás ar chor ar bith.

Mholfaínn do riarthóirí na scéimeanna atá ann faoi láthair úsáid a bhaint as na ceangail uile a leagtar amach sa Scéim Seirbhíse Poiblí Aonair mar threoirínte de bhrí gur ráitis iad i dtaobh nósanna ar cheart a bheith ann mar dhea-chleachtas cheana.

Deontais Díobhála Seirbhíse Poiblí

Tagann gearáin chuig an Oifig i gcónaí maidir leis na deontais sin. I gcásanna a bhforáiltear faoi rialacha scéimeanna seirbhíse poiblí d'íocaíocht dheontas díobhála le fostaithe a gortaíodh i mbun oibre gan iad féin a bheith ina chúis leis an ngortú, bhí roinnt cásanna os comhair na hOifige a ndearnadh iarracht stop a chur leis an deontas go huathoibríoch nuair a bhí 65 bliana slánaithe ag an oibrí.

D'áitigh mé i gcónaí nach féidir cinneadh a dhéanamh maidir leis sin roimh ré agus go deimhin d'fhéadfadh sé bheith an-mhífhéaráilte. Nuair a bhíonn fostaí ag fáil íocaíochtaí deontais díobhála, ní chuirtear san áireamh chun críocha pinsin seirbhíse nach n-íoctar an deontas lena linn. Seans go gciallóidh sin nach mbeidh ag duine ach teidlíocht an-bheag ar phinsean an tráth a éireoidh sé as obair. Más amhlaidh an cás ní bheadh sé réasúnach an deontas a stopadh amach is amach.

Ar an lámh eile, is cosúil gur minic go mbíonn súil ag na hoibrithe a fhaigheann deontais díobhála gur chóir go gcoinneofaí ag íoc an deontais ina iomláine tar éis dóibh

What we learned in 2012 (continued)

Ill-health retirement

Early retirement due to ill health continues to be a bone of contention in both the public service and the private sector. My Office is seeing an increase in the number of these types of cases, particularly from the public service. Problems arise where the rules of schemes allow those still in employment (active members) – to be treated differently to deferred members who have left the employment some time previously. This is not unusual practice. Trustees' refusal to consider early retirement because of the state of solvency of a scheme is common too and this applies, in most cases, both to ill-health and normal health.

In the public service, administrators can sometimes fail to appreciate what exactly ill-health retirement entails. The basic requirements are that the person applying for ill-health retirement should be incapable of performing the duties of their employment on account of illness and that the illness is long-term meaning that it will last at least until normal pension age. Many applicants for ill-health retirement feel aggrieved if the medical evidence they present is rejected but my Office has no function in relation this. If you make an application for ill health retirement, it is not enough to supply medical evidence from your doctor or consultant. What is not written down in the rules of most existing public service schemes (although it is specifically stated in the Public Service Pensions (Single Scheme and Other Provisions) Act 2012) is that 'all reasonable

treatment options' must have been tried, and sometimes, that is by no means the case.

I recommend that the requirements set out in the Public Service Single Scheme should be used as a guideline by administrators of existing schemes, as they are a statement of what should already be good practice.

Public Service Injury grants

These grants continue to cause complaints to my Office. In cases where the rules of public service schemes provide for injury grants to be paid to employees injured in the course of their work through no fault of their own, we have seen some cases where attempts have been made to stop the grant automatically when the worker reaches 65.

I have always maintained that it is not possible to decide this in advance and it could, indeed, be very unfair. When an employee is receiving injury grant payments, service during which the grant is paid is not counted for pension purposes. This could mean that a person has only a very small entitlement to a pension when they retire. If this is the case, it is unreasonable to stop the grant completely.

On the other hand, the workers receiving injury grants often seem to expect that the grant should be continued in full after they retire even though they're also getting a substantial pension. My Office tries to settle these disputes fairly but I would prefer that they didn't reach my Office at all. They would not do so if administrators took a

Ardú géar ar líon na ngearán maidir le cúrsaí pinsin

Daoine in aimhréidh maidir le scéimeanna le sochar sainithe, le Suzanne Lynch.

Tá méadú níos mó ná faoi dhó tagtha ar líon na ngearán a rinne daoine den phobal le hOifig an Ombudsman Pinsean an chéad leath den bhliain seo a dúirt an tOmbudsman Pinsean inné.

Ag labhairt dó ag seoladh thuarascáil bhliantúil an Ombudsman don bhliain 2011, dúirt Paul Kenny gur tháinig 1,171 cás nua faoi bhráid na hOifige an chéad leath den bhliain 2012 i gcomparáid le 584 cás i rith an chéad leath den bhliain anuraidh.



éirí as obair bíodh is go bhfuil siad ag fáil pinsean suntasach chomh maith. Féachann an Oifig na díospóidí sin a réiteach go cóir ach b'fhéarr liom gan iad a theacht chomh fada leis an Oifig ar chor ar bith. Ní thiocthadh dá nglacfadh riarthóirí cur chuige praiticiúil agus dáiríre maidir leis na saincheisteanna a bhaineann le gach cás.

Bíonn cumhachtaí na riarthóirí athbhreithniú a dhéanamh sna cásanna sin lánroghnach i gcónaí agus ba chóir do riarthóirí úsáid a bhaint as na cumhachtaí sin go cothrom agus go ciallmhar. Ba ceart gach cás a scrúdú de réir a bhuanna féin. Níor chóir do Riarthóirí a thuar gan chead cad a d'fhéadfadh tarlú sa todhchaí ná aon choinníollacha nach bhforáiltear dóibh faoin dlí a leagan síos.

Tarraingt anuas luath

Ar chúiseanna éagsúla tháinig roinnt daoine go dtí an Oifig in 2012 ag iarraidh a gcuid coigilteas pinsin a fháil go luath. B'fhéidir gur dhaoine iad a dífhostaíodh nó a bhí i riaráistí maidir lena gcuid morgáistí nó a bhí i gcrúachás airgeadais eile.

Go dtí seo, ach amháin i gcúinsí easláinte, níorbh fhéidir fáiltas ó pholasaí pinsin a tharraingt anuas roimh 50 bliain d'aois i gcás scéim pinsean ceirde (ar choinníoll

go gceadaítear sin faoi na rialacha) agus roimh 60 bliain d'aois i gcás CCSP nó i gcás Conradh Blianachta Scoir (CBS).

Ar an drochuair níorbh fhéidir leis an Oifig aon chabhair a thabhairt. Toirmisctear orm faoi Acht na bPinsean cinneadh a dhéanamh a mbeadh sé d'éifeacht aige rialacha scéime a athrú agus is cinnte nach féidir liom forálacha reachtúla cánach a athrú.

Tá sé ríshoiléir go gcabhróidh an lamháltas teoranta maidir le AVCanna dá bhforáiltear i mBuiséad 2013 le roinnt de na daoine sin ach i gcás go leor daoine beidh iarmhéideanna sách beag acu fós a leanfaidh de bheith glasáilte go dtí go mbeidh an aois ar féidir gnáthíocaíocht a dhéanamh bainte amach acu.

Dar liom go mbeadh tairbhe as cóireáil níos solúbtha (an rud a thabharfaí cóireáil mhionchúiseach 'triviality treatment' air sa tionscal) i ndáil le daoine a bhfuil sochair iarchurtha bheaga acu agus atá dífhostaithe go fadtéarmach.

'Dhíghlasáil' phinsin

Tháinig roinnt cásanna chun suntais na hOifige inar áitíodh ar dhaoine - go minic daoine a raibh trioblóidí airgeadais ag baint leo, dul i mbun próiseas 'díghlasála' nó 'saortha' mar a thugtar air, maidir lena bpinsin.

Pension complaints increase sharply

Unease about defined benefit schemes rising, by
Suzanne Lynch

The number of complaints received by the Office of the Pensions Ombudsman from members of the public has more than doubled in the first half of this year, the Pensions Ombudsman said yesterday.

Speaking at the launch of the Ombudsman's annual report for 2011, Paul Kenny said his Office had received 1,171 new cases in the first half of 2012, compared with 584 during the same period last year.



practical and realistic approach to the issues involved in each case.

Administrators' powers of review in these cases are always discretionary and administrators should use these powers fairly and sensibly. Each case should be examined on its own merits. Administrators should never presume to predict what might happen in the future or lay down any conditions that are not provided for under the law.

Early drawdown

For various reasons, quite a few people approached this Office during 2012 looking to access their pension savings early. They may have become unemployed, or have fallen into arrears with their mortgages or are going through other financial hardships.

Up to now, except in circumstances of ill-health, it has not been possible to draw down the proceeds of a pension policy before the age of 50 in the case of an occupational pension scheme (provided that the rules allow this) and before the age of 60 in the case of a PRSA or a Retirement Annuity Contract.

My Office, regrettably, has not been able to help. The Pensions Act forbids me to make a Determination that would change the rules of a scheme and I certainly cannot change statutory tax provisions.

The limited concession regarding AVCs in Budget 2013 will clearly help some of these people but many will still have relatively small balances which will continue to be locked away until they reach the age at which normal payment can be made.

A more flexible treatment (what is termed 'triviality' treatment in the industry) for long-term unemployed people with small deferred benefits would, I believe, be helpful.

Pensions 'unlocking'

My Office has come across a number of instances where people – often people who are in financial trouble – have been persuaded to engage in pensions 'unlocking', or 'liberation', as it can also be called.

Ar fhoghlaimíomar sa bhliain 2012 (ar lean)

Is seirbhís sin a fhógraítear mar bhealach chun luathrochtain a fháil (i gcoinne rialacha na gCoimisinéirí loncaim) ar phinsin trí iad a onnmhairiú chuig tír eile – bhí an Chipir agus an Nua-Shéalainn luaite i measc tíortha eile agus uaireanta tríd an Ríocht Aontaithe.

Ba chúis buartha do na Coimisinéirí loncaim le tamall anuas gníomhaíochtaí roinnt gnólachtaí atá i mbun cleachtais atá ceaptha chun áis a thabhairt do dhaoine a chónaíonn in Éirinn teacht thart ar na rialacháin chánach trí luathrochtain a fháil ar a sochair, nó trína sochair a fháil i bhfoirm íocaíocht shaor ó cháin nach gceadófaí de ghnáth sa tír seo. Deonaítear faoiseamh cánach i leith ranníocaíochtaí pinsin cheirde, CBSanna agus CCSPanna ar an mbonn gur dócha go mbeidh cuid mhaith de na fáiltais iomlána incháinithe in am trátha. Is minic a dhéantar aistriú thar lear chun é sin a sheachaint.

Mar thoradh air sin thug na Coimisinéirí loncaim coinníollacha ceadaithe breise isteach le haghaidh scéimeanna pinsin agus CCSPanna. Anois, ní mór d'aon duine a dhéanann aistriú thar lear dearbhú a shíniú á rá go bhfuil an t-aistriú á dhéanamh de mheon macánta ar chúis dhlísteanaigh.

Ní bhreathnaíonn na Coimisinéirí loncaim ar aistriú chuig tír nach bhfuil aon cheangal ag an duine léi - is é sin le rá nach bhfuil siad fostaithe inti nó nach bhfuil cónaí orthu inti ó thaobh cánach de – mar idirbheart a dhéantar de mheon macánta. Is féidir leo ceadú a tharraingt siar i gcásanna den sórt sin agus déanann. Ní mór d'aon duine ar mian leo aistriú thar lear a dhéanamh anois dearbhú a shíniú is a chur chuig na Coimisinéirí loncaim ag deimhniú go bhfuil an idirbheart atá beartaithe á dhéanamh de

mheon macánta. Tá an reachtaíocht Eorpach a bhfuil an chuma uirthi go héascaíonn sí aistriú laistigh den Aontas Eorpach á mí-úsáid. Ní raibh sé i gceist léi riamh 'turasóireacht cánach' a éascú ach bíonn sí á húsáid le haghaidh sin anois.

Iarradh orm i roinnt cásanna ceangal a chur ar riarthóirí scéime agus ar sholáthraithe CCSP, a thug an t-eiteach don chomhoibriú i gcás aistriú den sórt sin, na híocaíochtaí thar lear a dhéanamh. Ní dhearna mé amhlaidh.

Maidir le roinnt gnólachtaí a bhí gafa leis an ngníomhaíocht sin agus a bhí cláraithe sa Ríocht Aontaithe nochtadh in imscrúduithe go raibh tuairisc orthu san an Oifig um Chlárú Cuideachtaí mar chuideachtaí 'nach bhfuil ag trádáil'.

Tháinig gearán isteach freisin a bhain le duine aonair a rinne aistriú agus a fuair a chnapshuim ach nach féidir leis anois fiú eolas faoin gcuid eile dá chiste a fháil.

Fainic a cheannaitheoir!

Taifid chailte agus gearáin maidir le neamhíocaíocht

Scríobh roinnt gearánaithe chuig an Oifig á rá gur chreid siad go raibh siad i dteideal pinsin ach gur theip ar riarthóirí íocaíocht a dhéanamh ina leith. Go ginearálta ba dhaoine iad na gearánaithe sin a d'fhág an fhostaíocht ábhartha i bhfad ó shin ach a bhí suite de go raibh siad i dteideal pinsin nach raibh íoctha.

I gcás áirithe amháin chuir iarfhostaí cuideachta an-dua air féin chun a chás a chur i láthair. Dheimhnigh sé go raibh sé

What we learned in 2012 (continued)

This is a service which is advertised as a means of getting early access (against Revenue rules) to pensions by exporting them to another country – Cyprus and New Zealand, among others, have been mentioned, sometimes passing through the United Kingdom.

The Revenue Commissioners have been concerned for some time at the activities of a number of firms who are engaged in practices designed to allow individuals resident in Ireland to get around the tax regulations by getting early access to their benefits, or receiving benefits in the form of a tax-free payment which would not normally be allowed in this country. Tax relief on contributions to occupational pensions, RACs and PRSAs is given on the basis that it is likely that a good proportion of the total proceeds will, in due course, be taxable. Transfers overseas are often carried out to avoid that.

As a result, the Revenue Commissioners have introduced additional conditions of approval for occupational pension schemes and PRSAs. Now, anyone making an overseas transfer must sign a declaration to the effect that the transfer is being made in good faith for a genuine reason.

The Revenue Commissioners do not consider a transfer to a country where the individual has no connection – that is, they are neither employed nor tax resident there – to be a good faith transaction. They can and will withdraw approval in such cases. Anyone wishing to effect an overseas transfer

must now sign a declaration to Revenue confirming the good faith of the proposed transaction. The European legislation which appears to facilitate transfers within the European Union is being abused. It was never intended to facilitate ‘tax tourism’, but that is what it is being used for now.

I have been asked in a number of cases to force scheme administrators and PRSA providers, who have refused to co-operate with such transfers, to make the overseas payments. I have not done so.

Investigations have revealed that some firms involved in this activity registered in the United Kingdom were described in the Companies Office Register as ‘not trading’.

We also have a complaint involving an individual who effected a transfer, received his lump sum, but now cannot even obtain information about the remainder of his fund.

Buyer beware!

Lost records and complaints of non-payment

A number of complainants wrote to my Office where they believed that they were entitled to pensions that administrators had failed to pay them. These complainants were, generally, people who had left the relevant employment a long time ago but who were convinced that they had a pension entitlement that hadn’t been paid.

In one particular case, a former employee of a company went to a great deal of trouble to bring his case. He established that he had

Ar fhoghlaimíomar sa bhliain 2012 (ar lean)

ina fhostaí i gcuideachta áirithe tráth áirithe ach nach raibh aon taifead ann i ndáil lena fhostaíocht a bhain le tréimhse roimh ríomhairiú taifead ranníocaíochtaí Leasa Shóisialaigh. Mar sin féin bhí sé cinnte go raibh sé i dteideal sochar pinsin ó scéim na cuideachta sin.

Dheimhnigh mé le cabhair ó chuideachta árachais go raibh an iarfhostaí ina chomhalta den scéim iarbhír. Faoi rialacha na scéime mar a bhí siad ag an am áfach ní raibh an aois íosta le haghaidh teidlíochta ar shochar caomhnaithe sroichte aige nuair a d'fhág sé seirbhís. Mhaigh sé gur tharscaoil na hiontaobhaithe rialacha na scéime chun ligean dó teacht isteach inti go luath. Fiú dá ndéanfadh siad é sin ní bheadh an aois íosta maidir le 'caomhnú' (teidlíocht ar shochar tráth a fhágann duine cuideachta a íoctar ag dáta níos déanaí) bainte amach fós aige. Ní raibh aon fhianaise aige gur fheidhmigh na hiontaobhaithe cumhacht lánroghnach ina fhabhar. Aisghabh an chuideachta lena mbaineann miontuairiscí chruinnithe na n-iontaobhaithe don tréimhse ach ní raibh aon trácht ar aon imeacht den sórt sin.

Más amhlaidh gur cuireadh sochair an ghearánaí ar ceal go héagórach mar gheall ar dhrochriaracháin bheadh an éileamh aige taobh amuigh den teorainn ama chomh fada is a bhaineann sé leis an Oifig seo. Ach dá mba rud é go rabhamar in ann a chruthú go raibh teidlíocht aige d'fhéadfaí an tuiscint a bhaint as an loiceadh gan é a íoc an tráth a raibh sé dlite mar ghníomhaíocht droch-riaracháin reatha. Sa chás seo, áfach, níorbh fhéidir linn a dheimhniú go raibh aon teidlíocht ag an ngearánaí.

I gcás eile, thug an gearánaí ráiteas sochair ársa ar aird maidir lena chomhaltas i scéim áirithe. B'fhada an lá ó cuireadh deireadh leis an scéim.

Ó chló-aghaidh an ráitis scríofa agus ó stíl an chló bhí mé in ann an chuideachta árachais a choinnigh na sochair a aithint. Fuair siad greim ar mhionsonraí pinsin an ghearánaí i gceann cúpla lá.

Is iomchuí dom sa chomhthéacs seo mo bhuíochas ó chroí a ghabháil leis an tionscal árachais agus leis an tionscal pinsin i gcoitinne as a chomhoibríthí is a bhí siad, rud a chuir ar chumas na hOifige dea-thorthaí a bhaint amach. Gan comhoibríú den sórt sin, bheadh achar i bhfad níos faide de dhíth orainn chun na torthaí sin a bhaint amach go deimhin dá bhféadfaí iad a bhaint amach ar chor ar bith.

Bhain cás eile le dearbhú duine aonair go raibh sé i dteideal sochair áirithe. Chuir sé trí shraith ar leith de rialacha scéime pinsin isteach. Ba scéim Ríochta Aontaithe a fhostóra faoina raibh sé ag éileamh sochar ceann amháin acu agus ba ghníomhas é ceann eile a rinneadh tar éis dó seirbhís a fhágáil. Ar an drochuair ní raibh foráil don sochar a bhí sé ag iarraidh sna rialacha a bhí i bhfeidhm ag an dáta a d'fhág sé seirbhís.

Is minic a thagann cásanna os comhair na hOifige maidir le scéimeanna ar cuireadh críoch leo i bhfad ó shin. Níl na fostóirí urraithe (lucht eagraithe na scéime) ar marthain níos mó nó tháinig a ngnólacht faoi úinéireacht chuideachtaí eile in imeacht na mblianta.

Féadfaidh taifid chláráithe an Bhoird Pinsean bheith ina gcúnamh maidir le sochair chailte

What we learned in 2012 (continued)

been an employee of a particular company at a certain time but no records existed in relation to his employment, which predated the computerisation of Social Welfare contribution records. Nevertheless, he was convinced that he had an entitlement to a pension benefit from this company's scheme.

I established, with the help of an insurance company, that this former employee had indeed been a member of the scheme. However, under the rules of the scheme as they were at the time, he had not reached the minimum age for entitlement to a preserved benefit when he left service. He claimed that the trustees had waived the rules of the scheme to allow him early entry. Even had they done so, he would still not have reached the minimum age for 'preservation' – an entitlement to benefit when you leave a company which is paid at a later date. He had no evidence that the trustees had exercised a discretionary power in his favour. The company concerned retrieved the minutes of trustee meetings for the period but there was no mention of any such event.

If the complainant's benefits had been wrongfully cancelled due to poor administration, his claim would have been out of time as far as this Office is concerned. But, if we had been able to establish that he had an entitlement, failure to pay it when it became due could be interpreted as a current act of poor administration. In this case, though, we could not establish that the complainant had any entitlement.

In another case, a complainant produced an ancient benefit statement in respect of his membership of a particular scheme. The scheme had long since been discontinued.

From the typeface and font style of the statement, I was able to identify the insurance company which had held the benefits. They located this complainant's pension details in a matter of days.

It is appropriate in this context for me to record my sincere appreciation of the co-operative attitude of the insurance industry, and of the wider pensions industry, which has made it possible for my Office to achieve results. Without such co-operation, it would take us much longer to achieve those results if, indeed, they could have been accomplished at all.

Another case involved a claim by an individual that he was entitled to a certain benefit. He submitted three separate sets of pension scheme rules. One, which provided the benefit he was claiming, was the UK scheme of his employer; and one was a deed made after he had left service. Unfortunately, the rules in force at the date when he left service did not provide the benefit he wanted.

My Office frequently comes across situations where schemes have been discontinued for a long time, sponsoring employers (scheme organisers) have either ceased to exist or have been taken over by other companies over the years.

Ar fhoghlaimíomar sa bhliain 2012 (ar lean)

a rianú ach creidim gurbh fhiú seirbhís chúí rianaithe a bhunú. Ba bhreá freisin dá ndéantaí athrú ar an reachtaíocht lena cheadú do chuideachtaí árachais déileáil go héifeachtúil le scéimeanna reoite go háirithe nuair nach bhfuil aon fhostóir urraithe ann níos mó, nó i gcás nach féidir teacht ar fhostóir urraithe, ag cur san áireamh gur féidir gurb é an t-iontaobhaí an fostóir urraithe in go leor scéimeanna beaga agus gur féidir éagmais iontaobhaí bheith ina chúis le cuid mhaith deacrachtaí agus moille.

Sa chomhthéacs sin creidim gur gá go mbeadh foráil éigin scríofa isteach sa dlí chun déileáil le cásanna a bhaineann le mainneachtain iontaobhaithe a gcuid oibleagáidí a chomhlíonadh. Tháinig sin chun cinn i roinnt gearán a bhaineann le hOrduithe Coigeartú Pinsin. Maidir le céile nach bhfuil ina c(h)omhalta a bhaineann sochar as ordú den sórt sin tá ceart dlíthiúil aige/aici roinnt dá c(h)uid sochair a aistriú amach as an scéim. Más é an fostóir an t-iarchéile agus ina theannta sin más é an t-iontaobhaí an fostóir beidh moill agus b'fhéidir cailteanas ann de thoradh aon loiceadh comhoibriú leis an bpróiseas. Níl an fhadhb teoranta do chásanna Dlí Teaghlaigh amháin áfach, agus teastaíonn struchtúr ginearálta chun déileáil le mainneachtain iontaobhaithe. Níor cheart go mbeadh ar dhuine aonair gearán a chur os comhair an Ombudsman ar an aon chúis amháin go gcuirfí iallach ar iontaobhaithe a gcuid dualgas a chomhlíonadh.

Gearáin ó thionscal na tógála

Tagann gearáin chuig an Oifig go leanúnach maidir le neamhíoc ranníocaíochtaí atá dlite do Scéim Pinsin na nOibrithe Tógála.

Bhíothas á mhaíomh sna gearáin nach raibh na hoibrithe cláraithe sa scéim ar chor ar bith nó gur baineadh ranníocaíochtaí as a bpá ach nár íocadh isteach sa scéim iad mar a éilítear faoi Acht na bPinsean.

In a lán cásanna bhí na cuideachtaí lena mbaineann imithe as gnó. Is lú is coitianta leachtuithe ná cásanna ar baineadh cuideachtaí de chlár na hOifige um Chlárú Cuideachtaí (CRO) nó ar éirigh siad as bheith ag trádáil gan leachtaitheoir a cheapadh. In a lán cásanna is beag sócmhainn a bheadh fágtha nó sócmhainn ar bith a bhféadfadh an leachtaitheoir déileáil léi.

Mura bhfuil leachtú ann ní féidir ranníocaíochtaí atá dlite laistigh de 12 mhí ó dháta na dócmhainneachta a aisghabháil. Bhí a lán de na cuideachtaí lena mbaineann ina gcuideachtaí beaga agus minic go leor d'fhéidhmigh siad mar fhochoonraitheoirí do chuideachtaí níos mó ná iad. Theip ar na cuideachtaí móra ar a seal a raibh dlite do na fochoonraitheoirí a íoc agus tá siad féin imithe as gnó.

Is mór an bhá atá agam le cuideachtaí beaga ar caitheadh leo ar an mbealach sin ach ní dhéanann sé aon difear don fhíric gurb é an fostaí fear cailte na himeartha ar deiridh thiar sna cásanna sin. Tagann cásanna thar bheith tragóideach agus brónach go dtí an Oifig a bhaineann le bean chéile nó páirtí agus leanaí cleithiúnacha fostaí san earnáil tógála a fuair bás i seirbhís. Ciallaíonn ranníocaíochtaí gan íoc nach bhfuil aon sochar báis iníoctha ón scéim agus ní féidir aon sásamh a fháil i gcás go bhfuil an chuideachta tógála anois faoi leachtú nó nach bhfuil sí ann ar chor ar bith níos mó.

What we learned in 2012 (continued)

Pensions Board registration records can be a help in tracing some lost benefits, but I believe there would be merit in setting up a proper tracing service. A change in legislation to allow insurance companies to deal effectively with frozen schemes would be a good idea too, particularly where there is no longer any sponsoring employer, or where none can be located, bearing in mind that, in very many smaller schemes, the sponsoring employer may well be the trustee and the absence of a trustee can cause considerable difficulty and delay.

In that context, I believe there needs to be some provision written into the law to deal with cases involving trustees failing to meet their obligations. This has emerged in some complaints involving Pension Adjustment Orders. A non-member spouse who benefits from such an order has a legal right to have their share of the benefits transferred out of the scheme. If their former spouse is the employer and, in turn, the employer is the trustee, failure to co-operate in the process will result in delay and possible loss. The problem is not confined to Family Law cases, however, and we need a general structure to deal with trustee default. An individual should not have to bring a complaint to an Ombudsman just to oblige trustees to do their duty.

Construction industry complaints

My Office continues to receive complaints about unpaid contributions due to the Construction Workers' Pension Scheme. The complaints were either that workers

were not registered in the scheme at all, or that contributions were deducted from their pay but were not paid into the scheme as required by the Pensions Act.

In many cases, the companies concerned have gone out of business. Liquidations are less common than situations where companies are either struck off the Companies Registration Office (CRO) register or have simply ceased to trade without appointing a liquidator. In many cases, there would be very few or no assets at all for a liquidator to deal with.

If there is no liquidation, contributions due within 12 months of the date of insolvency cannot be recovered. Many of the companies concerned were small companies and, quite often, they have acted as subcontractors for larger companies. These large companies, in turn, have failed to pay the subcontractors what they were due and have gone out of business themselves.

I have great sympathy for small companies that have been treated in this way, but it does not alter the fact that the ultimate loser in these situations is the employee. Particularly tragic and sad cases come to my Office relating to the wife or partner and dependent children of construction employees who have died in service. Unpaid contributions mean that there is no death benefit payable from the scheme and no redress can be obtained where the construction company is now in liquidation or has simply ceased to exist.



Examples of customer cases
dealt with in 2012

Samplaí de chásanna
custaiméirí ar déileáladh
leo i 2012

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Samplaí de chásanna custaiméirí ar déileáladh leo i 2012

Cás 1 Moill i gcás riaracháin

Is iarfhostaí í Carol de chuideachta seirbhísí airgeadais. Dúirt sí gur cuireadh moill gan chúis ar obair riaracháin a cuid sochar nuair a d'éirigh sí as a post agus nach raibh sí ag fáil freagairt shásúil ó na hiontaobhaithe maidir leis an imní a chuir sí in iúl dóibh.

Chuaigh an Oifig i dteagmháil leis na hiontaobhaithe ar tóir eolais agus ba léir uaidh sin gurbh fhadhb í a bhain le soláthraí na scéime pinsin atá ar cheann de na soláthraithe is mó sa tír. Siocair a mhéad is atá sé tá rannóga faoi leith ann le haghaidh polasaithe pearsanta scéime pinsin agus le haghaidh scéimeanna pinsin corparáideacha.

Bhí na sochair phinsean ceirde a bhí dlite do Carol á riar ag rannóg chorparáideach an tsoláthraí agus bhí na sochair phearsanta a bhí dlite di á riar ag an rannóg eile. Cuireadh moill ar obair riaracháin a cuid sochar de bharr fadhbanna a bhain leis an gcumarsáid idir an dá rannóg.

Fiú nuair a bhí cúis na faidhbe sonraithe ní raibh ceachtar den dá rannóg sásta a rá gurbh uirthi amháin a bhí an fhreagracht maidir léi. Chuir gach aon rannóg acu an milleán ar an gceann eile maidir leis an moill. Níorbh fholáir a chuir ar a shúile don soláthraí gur chuma cé acu den dá rannóg ba chúis leis an moill go gcaithheadh an soláthraí an fhreagracht a ghlacadh ar deireadh thiar.

Go gairid i ndiaidh sin fuair amach gur thairg an soláthraí cúiteamh do Carol agus gur ghlac sise leis.

Cás 2 Foirceannadh Scéime

Ba comhalta iarchurtha é Dónal de scéim phinsin chuideachta theicneolaíochta a bhí

ar tí bheith foirceanta. Ciallaíonn comhalta iarchurtha duine atá scortha lena fhostóir ach nach bhfuil pinsean á fháil aige fós.

I luath-thréimhse d'fhoirceannadh na scéime chuir na hiontaobhaithe ráiteas tosaigh chuig Dónal maidir le sochar ionchasach maille le foirm chéadrogha ar a bhféadfadh sé an áit arbh fhearr leis go seolfaí an sochar chuige a chur in iúl. Roghnaigh Dónal an sochar a infheistiú i mBanna Ceannaigh-thar-barr-amach le ceann de sholáthraithe móra an mhargaidh Éireannaigh. Sheol sé ar ais an fhoirm céadrogha ag an am céanna agus í sínithe.

Tar éis do na hiontaobhaithe na ráitis tosaigh maidir le sochair ionchasaigh a sheoladh amach chuig na comhaltaí arbh eol dóibh bheith ann fuair siad amach go raibh comhaltaí eile ann a bhí i dteideal sochar faoin scéim i ngan fhios dóibh. Ós rud é go ndéanfadh líon breise na gcomhaltaí a bhí ann i ngan fhios dóibh difear do mhéideanna na sochar a bheadh iníoctha faoin scéim choimisiúnaigh na hiontaobhaithe saineolaí chun iniúchadh a dhéanamh ar chomhaltas iomlán na scéime d'fhonn ainm a chur le gach duine arbh fhéidir go raibh sé bainteach léi.

Ar an drochuair maidir le Dónal ba phróiseas fada é sin agus ní raibh na hiontaobhaithe in ann na sochair a scaoileadh amach sula raibh sé curtha i gcrích. A fhad a bhí an próiseas sin ar siúl, bhí méadú suntasach ar phraghas aonaid an Bhanna Ceannaigh-thar-barr-amach a raibh Dónal ag iarraidh a chuid sochair a infheistiú. Níorbh fhéidir le Dónal aon tairbhe a bhaint as an méadú sa luach áfach de bhrí go raibh an sochar a bhí dlite dó faoi ghlas sa chiste pinsin; ní bheadh

Examples of customer cases dealt with in 2012

Case 1 Delayed administration

Carol is a former employee of a financial services company. When she retired from work, she claimed there had been an unnecessary delay in administering her benefits and that the trustees of her scheme were not giving her satisfactory answers to the concerns she raised.

My Office contacted the trustees and it became clear that the problem lay with the pension scheme provider which is one of the largest in the country. Due to its size, this provider has separate divisions for personal pension policies and corporate pension schemes.

Carol had occupational benefits that were being administered by the provider's corporate division and personal benefits that were being administered by the other division. The delay in the administration of her benefits had arisen because of communication problems between the two.

Even after the source of the problem had been identified, neither division would take responsibility for the problem, each division blaming the other for the delay. It was necessary to point out to the provider that it did not matter which division was responsible for the delay - ultimately, the provider would have to accept responsibility.

Shortly after making this point to the provider we learned that it had offered a generous compensation sum to Carol, which she accepted.

Case 2 Scheme wind up

Dónal was a 'deferred' member of a technology company's pension scheme that was being wound up. A 'deferred' member is someone who has left the employment but is not yet receiving a pension.

During the early part of the scheme wind up, Dónal received an initial statement of expected benefit from the trustees along with an option form for him to indicate the preferred destination for his benefit. Dónal chose to invest his benefit in a Buy out Bond with a major provider in the Irish market. He returned the signed option form immediately.

After the trustees had sent the initial statements of expected benefits to the known members of the scheme, they discovered there were other members that they had not known about, who were entitled to benefits under the scheme. As the existence of these previously unknown members could affect the benefits payable to all members, the trustees commissioned an expert to audit the scheme membership with a view to identifying all possible members of the scheme.

Unfortunately for Dónal, this process took a long time and the trustees could not release his benefit before the process was completed. While it was taking place, the unit price of the Buy out Bond where Dónal wanted to invest his benefit had increased significantly. Dónal, though, could not gain from the growth in value because his benefit was still locked away in the pension fund

Samplaí de chásanna custaiméirí ar déileáladh leo i 2012 (ar lean)

aon athrú ar luach an chiste a bhí anois dí-infheistithe, i.e. athruithe go hairgead tirim agus dá bhrí sin ní raibh cos á choinneáil aige le hathruithe sa mhargadh. Chuir Dónal gearán chuig an Oifig faoi cé chomh fada is a bhíothas i mbun fhoirceannadh na scéime agus faoi cé chomh mall is a bhíodar ag scaoileadh a shochar leis an mBanna Ceannaigh-thar-barr-amach ba rogha leis.

Tig le próiseas foirceannadh scéim pinsin bheith an-fhada. Ní mór do na hiontaobhaithe sáriarracht a dhéanamh ainm a chur le comhaltaí uile na scéime ar a n-áirítear comhaltaí iarchurtha chomh maith le comhaltaí atá ag íoc ar bhonn gníomhach agus pinsinéirí atá ag fáil sochair cheana féin.

Níl aon fhráma ama maidir le scéim a fhoirceannadh sonraithe in Acht na bPinsean. Ní éilítear san Acht ach go ndéanfadh na hiontaobhaithe an scéim a fhoirceannadh gan "mhoill mhíchuí". Sa chás seo, níorbh fhéidir liom aon mhoill mhíchuí a chur i leith phróiseáil phríomhshochair Dhónail sa scéim tráth a rinneadh foirceannadh ar an scéim.

Ghoin sé m'aire áfach go raibh Ranníocaíochtaí Deonacha Breise (AVCanna) ag Dónal sa scéim freisin.

Rinneadh na ranníocaíochtaí sin a dhí-infheistiú go gairid i ndiaidh eisiúint an fhógra go rabhthas chun an scéim a fhoirceannadh, ach chuaigh ceithre mhí thart sular cuireadh na hAVCanna ar aghaidh go dtí comhairleoir airgeadais Dónail lena n-infheistiú sa Bhanna Ceannaigh-thar-barr-amach.

Ós rud é nach mbeadh aon tionchar ag iniúchadh an chomhaltais ar luach AVCanna Dónail, chinn mé nach raibh an

mhoill cheithre mhí inghlactha. D'ordaigh mé na hiontaobhaithe an difear idir luach na nAVCanna a infheistíodh sa Bhanna Ceannaigh-thar-barr-amach agus an luach a bheadh acu dá mba rud é gur infheistíodh ceithre mhí níos luaithe iad a íoc.

Cás 3 Aicme ÁSPC mícheart

Cuireadh in iúl don iarmhúinteoir Andrea díreach roimh scor go raibh sí ag íoc ranníocaíochtaí ÁSPC ag ráta Aicme A ar feadh 12 bliain nuair ba cheart di a bheith ag íoc ag ráta modhnaithe.

Íocann fostaithe sa tseirbhís phoiblí a chuir tús leis an bhfostaíocht tar éis 5 Aibreán 1995 ranníocaíocht ÁSPC ag an ráta Aicme A céanna agus fostaithe in earnálacha fostaíochta eile agus is féidir leo na sochair leasa shóisialaigh chéanna a éileamh agus na fostaithe sin, lena n-áirítear an Pinsean Stáit (Ranníocach). Bíonn an ranníocaíocht pinsean ceirde a íocann na fostaithe sin sa tseirbhís phoiblí (lena n-áirítear a ranníocaíochtaí ÁSPC) níos lú ná an méid a íocann na daoine a chuir tús lena bhfostaíocht roimh 5 Aibreán 1995. Íocann siadsan an ranníocaíocht ÁSPC ag an ráta modhnaithe ach ní bhíonn siad i dteidil na sochar sóisialach céanna.

Maidir le Andrea, de bhrí gur íoc sí na ranníocaíochtaí ag an ráta ÁSPC mícheart bhí an iomarca ranníocaíochtaí ÁSPC íoctha aici agus ní raibh a dhóthain ranníocaíochtaí pinsean ceirde íoctha aici.

Bhain an Roinn Oideachais agus Scileanna na ranníocaíochtaí pinsin a bhí fós gan bheith íoctha as cnapshuim scoir Andrea agus mhol di dul go dtí an Roinn Coimirce Sóisialaí chun

Examples of customer cases dealt with in 2012 (continued)

which had been 'disinvested' (this means converted to cash) and was, therefore, not keeping pace with changes in the markets. Dónal complained to me about how long it was taking to wind up the scheme and release his benefit to his chosen Buy out Bond.

The process of winding up a pension scheme can take a long time. The trustees must make significant efforts to identify all of the members of a scheme, including deferred members as well as members who are actively contributing, and existing pensioners who are already in receipt of benefits.

The Pensions Act does not specify a timeframe for winding up a scheme. The Act merely requires the trustees to wind up the scheme "without undue delay". In this case, I could not find any undue delay in the processing of Dónal's main scheme benefits on the wind up of the scheme.

However, it came to my attention that Dónal also had Additional Voluntary Contributions (AVCs) in the scheme. These contributions were disinvested very soon after the announcement that the scheme would be wound up, but it took the trustees over four months to pass the AVCs on to Dónal's financial advisor for investment in his Buy out Bond.

As the membership audit would not have any impact on the value of Dónal's AVCs, I determined that the four-month delay was unacceptable. I directed the trustees to pay the difference between the value of

the AVCs that were invested in the Buy out Bond and the value that they would have had if they had been invested four months earlier.

Case 3 Incorrect PRSI class

Andrea, a former teacher, was informed just before retirement that she had been paying PRSI contributions at the Class A rate for 12 years when she should have been paying at a modified rate.

Public servants who started their employment after 5 April 1995 pay PRSI at the same Class A rate as other employment sectors and can claim the same Social Welfare benefits as those employees, including the State contributory pension. The occupational pension contribution paid by these public servants (in addition to their PRSI contribution) is lower than that paid by those who started their employment prior to 5 April 1995, who pay the "modified rate" of PRSI contribution, but are not entitled to the same Social Welfare benefits.

For Andrea, the result of paying at the incorrect PRSI rate was that she had paid too much PRSI and had not paid enough in occupational pension contributions.

The Department of Education and Skills deducted all the outstanding pension contributions from Andrea's retirement lump sum and directed her to the Department of Social Protection for a refund of the overpaid PRSI.

Samplaí de chásanna custaiméirí ar déileáladh leo i 2012 (ar lean)

an ró-íocaíocht maidir le ranníocaíochtaí ÁSPC a fháil ar ais.

Ar an drochuair áfach athródh na rialacháin, rud a chiallaigh nach raibh de dhualgas ar an Roinn Coimirce Sóisialaí ach na ranníocaíochtaí ÁSPC le haghaidh na ceithre bliana is déanaí a aisíoc.

Dhiúltaigh an Roinn Oideachais agus Scileanna na ranníocaíochtaí ÁSPC a d'íoc Andrea thar mar bhí dlite di a íoc a aisíoc cé gurbh é botún na Roinne ba chúis leis gur íoc Andrea ranníocaíochtaí ÁSPC ag an ráta mícheart.

Theip orthu an botún a thabhairt dá n-aire tráth a rinneadh dianscrúdú ar shochair Andrea cúpla bliain sula ndeachaigh sí ar scor.

Tháinig sé chun solais ina dhiaidh sin gur bhain na cúinsí céanna le múinteoirí eile - mná den chuid is mó, a bhí i ndáiríre "ath-iontrálaithe" sa tseirbhís, nó a bhí ag obair go páirtaimseartha nó nó i bpost sealadach sular tugadh buan dóibh.

Ar an drochuair, tá ceisteanna a bhaineann le haicmí ÁSPC taobh amuigh de mo dhlínse. Ba mhór an bhuairt a bhí orm áfach maidir le caillteanas airgid Andrea agus na ndaoine eile agus mhol mé don dá Roinn réiteach a fháil ar an gceist. Ar deireadh thiar, i ndiaidh don Oifig spreagadh breise a thabhairt, rinne an dú Roinn socrú i dteannta a chéile a thug aghaidh ar an bhfadhb.

Bhí siad ag íoc na ranníocaíochtaí ag an ráta Aicme A iomlán nuair ba cheart dóibh bheith ag íoc ag an ráta modhnaithe.

Is dócha go mbíonn ar líon suntasach d'fhostaithe i réimsí eile sa tseirbhís phoiblí

aghaidh a thabhairt ar na ceisteanna ceannann céanna agus mholfainn do gach roinn Rialtais agus do gach gníomhaireacht Stáit seiceáil a dhéanamh ar na haimhrialtachtaí sin, mar a mhoille is atáthar ag tabhairt aghaidh ar an bhfadhb is ea is measa a bheidh sí ar deireadh.

De réir mo thaithí féin, is minic a dhéanann rialacha scéime neamhaird ar phleananna cosanta ioncaim agus ar na héifeachtaí atá acu, agus theipeann orthu foráil shonrach a dhéanamh do riarachán cuí sochar pinsin dóibh siúd atá ag fáil íocaíochtaí cosanta ioncaim.

Cás 4 Coimisiún

Is iarfhostaí í Bernadette de chuideachta dáileacháin. Le linn di bheith ag obair sa chuideachta, bhí sí ag fáil buntuarastal móide choimisiún feidhmíocht bhunaithe ina pápfaicéad. Chuir scéim pinsin na cuideachta sochair ar fáil bunaithe ar an tuarastal ag am scoir móide an meánhoimisiún sna trí bliana díreach roimh scor.

Faigheann go leor fostaithe íocaíocht i bhfoirm tuarastail móide choimisiún.

Is minic a chuireann scéimeanna pinsean ceirde sochar ar fáil atá bunaithe ar na híocaíochtaí rialta uile a fuair an fostaí lena n-áirítear tuarastal agus coimisiún.

Bhí sé de mhí-ádh ar Bernadette, gur bhuail tinneas í cúig bliana roimh an ghnáthaois scoir agus go raibh uirthi éirí as obair. An tráth a d'éirigh sí as bhí sí ag fáil liúntas míchumais ó scéim cosanta ioncaim na cuideachta, ach ní raibh sí ag fáil tuarastail nó coimisiúin. Chinntigh an scéim cosanta ioncaim nár chuaigh comhaltas Bernadette

Examples of customer cases dealt with in 2012 (continued)

Unfortunately for Andrea, a change in regulations meant that the Department of Social Protection was obliged to repay only the PRSI contributions for the most recent four years. The Department of Education and Skills would not refund Andrea's overpaid PRSI contributions even though it was the Department's mistake that she had paid PRSI at the wrong rate. They had failed to spot the mistake when an intensive examination of Andrea's benefits had taken place a few years before she retired. It later emerged that other teachers were in the same position – most were women, who were in reality "re-entrants" to the service, or who had been working in part-time or temporary jobs before becoming permanent.

Issues relating to PRSI class are outside of my jurisdiction. However, I had great concerns about the financial loss suffered by Andrea and the others and encouraged both Departments to come up with a solution. Eventually, after some further encouragement from my Office, an arrangement was reached between the Departments which addressed the problem.

It is probable that a significant number of public servants in other areas may also have to face the same issues and I would urge all Government Departments and State agencies to check for these anomalies, as the problem is likely to get worse if there is any delay in facing it.

Case 4 Commission

Bernadette is a former employee of a distribution company. Her pay package had included a flat salary and a performance-based commission. The company pension scheme provided benefits based on salary at retirement plus the average commission over the three years immediately before retirement.

Many employees receive payment in the form of salary and commission. Occupational pension schemes often provide benefits that are based on all regular payments received by the employee including both salary and commission.

Unfortunately for Bernadette, she became ill five years before her normal retirement age and had to give up work. At the time of her retirement, she was receiving a disability allowance from the company's income protection scheme but was not receiving salary or commission. The income protection scheme kept up Bernadette's membership of the pension scheme, so she was still an "active" member at the time of her retirement even though she had not been working for the previous five years.

The pension scheme administrators calculated Bernadette's retirement benefits using her salary from the time she had last worked and adjusted it for changes that had happened between then and her retirement date. They did not include any commission in the calculation of her benefits because she had not earned any commission since she had given up work due to illness.

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sa scéim pinsin i léig sa chaoi is go raibh sí fós ina comhalta gníomhach ag am a scoir in ainneoin nach raibh sí ag obair ar feadh na cúig bliana roimhe sin.

Ríomh riarthóirí na scéime pinsin sochair scoir Bernadette ar bhonn an tuarastail a fuair sí an am deireanach a bhí sí i mbun oibre ach coigeartú a dhéanamh air sin chun athruithe a tharla idir sin agus an dáta scoir a chur san áireamh. Níor chuimsigh siad aon choimisiún in áireamh na sochair toisc nach raibh aon choimisiún tuillte aici ón uair a d'éirigh sí as obair de bharr tinnis.

Ba léir ó imscrúdú críochnúil a rinne an Oifig ar an scéim nach raibh tosca sonracha Bernadette clúdaithe faoi na rialacha. Ní raibh aon ní sna rialacha a thug tacaíocht don mhodh a ríomh riarthóirí na scéime sochair scoir Bernadette.

Chinn mé nár chúig do riarthóirí na scéime coigeartú a dhéanamh ar a tuarastal ón am a d'éirigh sí as obair agus gan coigeartú a dhéanamh ar an meánchoimisiún ar an mbealach céanna. D'ordaigh mé riarthóirí scéim pinsin sochair Bernadette a ríomh in athuair agus an meánchoimisiún coigeartaithe a chur san áireamh sa ríomh nua.

Cás 5 Athrú ar Ghnáthaois Pinsin

Cuimsíodh Claire i scéim pinsin ranníoca sainithe a bhí urraithe ag an bhfostóir i mí Lúnasa 1987. An aidhm a bhí leis an scéim sin ba ea pinsean a chur ar fáil do Claire a bheadh iníoctha a luaithe a bheadh 65 bliana slánaithe aici agus clúdach báis maille le sochar míchumais a sholáthar idir an dá linn.

Ghlac úinéir nua seilbh ar an gcuideachta. Choinnigh an eagraíocht nua an scéim phinsin ach tugadh isteach roinnt athruithe a bhain le leibhéal na ranníocaíochta. Chuir siad fógra amach chuig na comhaltaí ag an am sin.

Chuir an chuideachta nua in iúl don árachóir go rabhthas aontaithe faoi go laghdófaí an ghnáthaois pinsin ó 65 go 60 le héifeacht ó 1996. Dúirt Claire nár cuireadh an t-athrú sin in iúl di ag an am.

Nuair a bhí an 60 bliain d'aois slánaithe ag Claire, ní dheachaigh an fostóir ná údarás na scéime pinsin i dteagmháil léi maidir leis an scor agus ní dhearnadh dada maidir le híocaíocht sochar scéime.

Rinneadh Claire iomarcach nuair a bhí sí 62 bliana d'aois agus tairgeadh íocaíocht láithreach pinsin di. Chuir sí gearán chuig an Oifig ag líomhain go raibh an gnáthaois pinsin athraithe faoin scéim i ngan fhios di agus gur fhulaing sí cailteanas maidir le sochar pinsin dá bharr.

Dheimhnigh an t-imscrúdú:

- Nach raibh aon fhianaise ann a léirigh gur cuireadh an t-athrú ar ghnáthaois an phinsin in iúl do Claire ach gur tugadh le fios sna ráitis sochair bhliantúla a fuair sí tar éis dháta an athraithe gurbh í 60 bliain d'aois an gnáthaois pinsin faoin scéim.
- Ní dhearnadh aon bheart maidir leis an dul ar scor nuair a bhí an 60 bliain slánaithe aici agus níor cuireadh stop le ranníocaíochtaí scéime pinsin ach oiread.

Examples of customer cases dealt with in 2012 (continued)

A thorough examination of the scheme by my Office revealed that the rules did not cover Bernadette's specific situation. There was nothing in the rules to support the way the scheme administrators had calculated Bernadette's retirement benefits.

I determined that it was not appropriate for the scheme administrators to choose to adjust her salary only from the time that she stopped working and not to adjust her average commission in the same way. I directed the administrators of Bernadette's pension scheme to recalculate her benefits and to include her adjusted average commission in the new calculations.

In my experience, scheme rules often ignore the existence and effects of income protection plans, and fail to make specific provision for the proper administration of pension benefits to those in receipt of income protection payments.

Case 5 Change in Normal Pension Age

Claire was included in an employer-sponsored, defined contribution pension scheme in August 1987. This scheme was to provide Claire with a pension payable from age 65 and death and disability benefit cover in the meantime.

The company was taken over. The new organisation kept the pension scheme, but introduced some changes relating to contribution levels. They notified members at the time.

The insurer was advised that it had been agreed to reduce the normal pension age from 65 to 60 with effect from 1996. Claire stated that she was not advised of this change at the time.

When Claire reached age 60, neither her employer nor the pension scheme authorities contacted her regarding her retirement and nothing was done about paying out scheme benefits.

When Claire was made redundant at 62, she was offered immediate payment of a pension. She submitted a complaint to my Office alleging that the normal pension age had been changed under the scheme without her knowledge and that she suffered loss of pension benefit as a result.

The investigation established that:

- There was no evidence to show that Claire was informed of the change in normal pension age but the annual benefit statements she received after the date of the change showed the normal pension age under the scheme to be 60.
- No action was taken to retire her at age 60, nor did pension scheme contributions stop.

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- I gcás Claire níor cuireadh an t-athrú go 60 bliain d'aois ar an ngnáthaois pinsin faoin scéim i bhfeidhm iarbhir agus dá bhrí sin ní raibh aon tionchar aige ar an sochar deireanach a fuair sí faoin scéim. D'fhabhraigh na sochair a fuair sí faoin scéim ranníoca shainithe di ar bhonn leanúnach a fhad is a bhí sí fostaithe.

Níorbh fhéidir seasamh leis an ngearán de bhrí nach raibh aon laghdú ar shochair Claire faoin scéim. Níor cuireadh an t-athrú chun feidhme ina cás. Lean sí léi i mbun oibre agus íocadh ranníocaíochtaí isteach sa scéim ar a son tar éis don 60 bliain a bheith slánaithe aici. Íocadh sochair di faoin scéim pinsin sula raibh na 65 bliana slánaithe aici de bhrí go ndearnadh iomarcach í ag 62 bhliain d'aois. Níor cuireadh an laghdú ar ghnáthaois an phinsin i bhfeidhm riamh ina cás.

Cás 6 Rátaí blianachta ráthaithe

Ba chomhalta aonair é Benjamin de scéim a bhí urraithe ag na gcuideachta; bhí an fostóir ag gníomhú mar iontaobhaí. Infheistítí na ranníocaíochtaí leis an scéim i gconradh brabúsáraithe a raibh rátaí blianachta ráthaithe ag baint leis - shainigh iadsan an ráta ag a n-athrófaí caipiteal carntha go pinsean ag am scoir.

Leagadh amach na rátaí blianachta sa doiciméad polasaí bunaidh.

Ba é tuiscint Benjamin go mbeadh feidhm ag na rátaí blianachta ráthaithe a bhí luaite sa doiciméad polasaí bunaidh ar an gciste iomlán a bhí carntha aige ar éirí as dó. Sula ndeachaigh sé ar scor iarbhir áfach, chuir na hárachóirí in iúl dó go ndearnadh dhá athrú ráta ó dháta tosaigh an pholasaí

a raibh tionchar acu ar ranníocaíochtaí todhcháiocha agus méadaithe. Chuir siad fógra amach chuig bróicéirí, custaiméirí agus iontaobhaithe ag am na n-athruithe.

De thoradh na n-athruithe sin bheadh rátaí difriúla i bhfeidhm maidir le roinnt codanna difriúla de chiste Benjamin ag an aois scoir agus gheobhadh sé pinsean níos lú ná mar a gheobhadh dá mbeadh feidhm ag na rátaí bunaidh i leith an chiste ar fad.

Ní féidir leis an Oifig rialacha aon scéim pinsin a athrú nó aon chur isteach a dhéanamh ar choinníollacha an pholasaí, ach is féidir léi imscrúdú a dhéanamh ar riarachán na scéime lena chinntiú go bhfuil an sochar á riar de réir na rialacha agus na coinníollacha sin.

Le linn dom imscrúdú a dhéanamh sa chás seo, d'fhéach mé le heolas agus soiléiriú a fháil ó na hárachóirí maidir le coinníollacha an pholasaí, leis an bpróiseas riaracháin, agus leis na fógraí a seoladh amach chuig na hiontaobhaithe maidir leis na hathruithe ráta.

Rinne na hárachóirí athbhreithniú ar chás Benjamin agus d'admhaigh go raibh fadhbanna leis an bpróiseas riaracháin. Ghlac siad leis nach raibh sainmhíniú na cumhachta a bhí acu coinníollacha an pholasaí a athrú déanta mar arbh fhearr leo go mbeadh sé agus nach raibh nochtadh na n-athruithe ar na rátaí a cuireadh amach chuig na hiontaobhaithe sách soiléir.

Sa chás seo, chuir na hárachóirí tairiscint socraíochta faoi bhráid Benjamin – chuirfí an ráta bunaidh i bhfeidhm maidir lena chiste iomlán, rud a thabharfadh dó an leibhéal pinsin a raibh súil aige ón fhaisnéis sa doiciméad polasaí.

Examples of customer cases dealt with in 2012 (continued)

- The change in the scheme's normal pension age to 60 was not actually implemented in Claire's case and, therefore, the change had no effect on her eventual benefit from the scheme. She continued to accrue benefits under the defined contribution scheme while was employed.

This complaint could not be upheld because Claire did not suffer any reduction in benefits under the scheme. The change was not applied to her. She continued working and contributions were paid into the scheme for her after age 60. The pension scheme benefits became payable to her before age 65 because she was made redundant at 62. The reduction in normal pension age had never applied in her case.

Case 6 Guaranteed annuity rates

Benjamin was the sole member of a company-sponsored scheme, with the employer acting as trustee. The scheme contributions were invested in a with-profits insured contract that had guaranteed annuity rates – these defined the rate at which accumulated capital would be turned into pension on retirement. The annuity rates were set out in the original policy document.

Benjamin's understanding was that, on retiring, the guaranteed annuity rates quoted in the original policy document would apply to his entire accumulated fund. However, before his actual retirement, the insurers advised that there had been two

rate changes since the policy started which affected future and increased contributions. They had notified brokers, customers and trustees at the time the changes happened.

The result of these changes meant that different annuity rates would apply to several separate parts of Benjamin's fund at retirement and that he would receive a lower pension than if the original rates were applied to his entire fund.

My Office cannot change the rules of any pension scheme nor interfere with the policy conditions, but we can examine the scheme's administration to make sure that the benefit is being managed in accordance with those rules and conditions.

In examining this case, I looked for information and clarification from the insurers about the policy conditions, the administration process and the notifications sent to the trustees about the rate changes.

The insurers reviewed Benjamin's case and acknowledged that there had been problems with the administrative process. They accepted that their power to alter the policy conditions was not as well-defined as they would have liked and that the disclosure of the rate changes was not communicated clearly enough to the trustees.

In this case, the insurers made a settlement offer which Benjamin accepted whereby the original guaranteed annuity rate would be applied to his entire fund, giving him

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Ba mhór ag an Oifig comhoibriú na nárachóirí i ndáil le réiteach a fháil ar an gcás.

Cás 7 Asbhaint riaráistí ranníocaíochta as aisce scoir eárnála poiblí

Is gnách go mbíonn socrú pinsin seirbhíse poiblí comhdhéanta de dhá scéim comhpháirte - an scéim aoisliúntais a sholáthraíonn sochair scoir, agus scéim Céilí agus Leanaí a chuireann pinsin ar fáil do chleithiúnaí má bhásann an comhalta, roimh nó tar éis scoir.

Nuair a d'éirigh Orla as obair sa tseirbhís phoiblí, cuireadh in iúl di go raibh riaráistí ranníocaíochta dlite di faoi Scéim na gCéilí agus na Leanaí i leith tréimhse ama a raibh sí ag obair lena linn sular ghlac sí ballraíocht sa scéim. Baineadh an méid i gceist as a haisce scoir.

Dhearbhaigh Orla nár dúradh riamh léi go raibh riaráistí dlite di agus nár tugadh an deis di – mar ba chóir- na riaráistí a íoc trí asbhaintí tuarastail nuair a ghlac sí ballraíocht sa scéim.

Mhínigh an Oifig di go mbeadh sí fós faoi iachall na riaráistí ranníocaíochta a íoc is cuma ar tugadh nó nár tugadh an deis di iad a ghlanadh níos luaithe. Mar sin féin rinneamar an cás a imscrúdú lena chinntiú go ndearnadh an asbhaint óna aisce scoir mar ba chóir.

Faoi Scéim na gCéilí agus na Leanaí ba chóir rogha a thabhairt do na comhaltaí aon riaráistí ranníocaíochta a ghlanadh laistigh de thrí mhí ón lá a ghlac siad ballraíocht.

Is féidir ceann amháin de dhá bhealach a roghnú chun riaráistí a íoc. Is féidir:

glacadh le hasbhaint thréimhsiúil de 1.5% den tuarastal reatha maidir le gach bliain a bhfuil riaráiste dlite ina leith;

nó

glacadh le hasbhaint aonuaire de 1% den tuarastal deiridh as an aisce scoir maidir le gach bliain a bhfuil riaráiste dlite ina leith.

Sa chás seo, rinneadh riaráistí Orla a ríomh de réir an dara modh.

D'iarr an Oifig ar an bhfostóir a cás a athbhreithniú ó tharla nach raibh sí ar an eolas faoi na riaráistí nuair a ghlac sí ballraíocht sa scéim agus, dá bhrí sin, nár tugadh an deis di iad a íoc ag an am. Chuireamar in iúl freisin go raibh cinneadh déanta maidir lena macasamhail de chásanna ag an Ombudsman Pinsean.

Tar éis an cás a athbhreithniú, cuireadh in iúl don fhostóir go mbeadh méid na riaráistí a bheadh dlite di níos lú dá dtairgtí di rogha na hasbhainte tréimhsiúla.

Dá thoradh sin d'aontaigh an fostóir úsáid a bhaint as an modh ríofa sin agus fuair Orla aisíoc de bheagnach a leath den méid a baineadh as a haisce scoir.

Cás 8 Sochar báis i gcomhréir le doiciméid scéime

Ba chomhalta Frank de scéim sochair shainithe a bhí á foirceannadh. I ndiaidh an fhoirceanta cuireadh in iúl dó go n-aistreofaí a theidlíocht ar shochar sainithe go dtí plean eile agus go gcuirfí an sochar báis i seirbhís ar fáil faoin bplean ranníoca sainithe nua.

Examples of customer cases dealt with in 2012 (continued)

the level of pension he expected from the information in the policy document.

My Office appreciated the co-operation shown by the insurers in resolving the case.

Case 7 Deduction of contribution arrears from public sector retirement gratuity

Public service pension arrangements usually have two component schemes – a Superannuation Scheme which provides retirement benefits, and a Spouses' and Children's Scheme, which provides pensions for dependants on the member's death, before or after retirement. When Orla retired from public service, she was advised that she owed contribution arrears under the Spouses' and Children's Scheme, in respect of a period of time she had worked before joining the scheme. The amount in question was deducted from her retirement gratuity.

Orla maintained that she had never been told that arrears were due and that she had not been given the opportunity – as she should have been – to settle the arrears by way of salary deductions when she joined the scheme.

My Office explained that Orla would still have had to pay arrears of contributions regardless of whether or not she had been given an opportunity to clear the arrears earlier. However, we examined her case to make sure that the deduction from her retirement gratuity had been made correctly.

Under the Spouses' and Children's Scheme, members should be given the option to clear any contribution arrears within three months of joining.

Arrears can be paid in one of two ways. Either:

as a periodic deduction of 1.5% of current salary for each back year owed;

or

as a once-off deduction from the retirement gratuity of 1% of final salary for each back year owed.

In this case, Orla's arrears had been calculated using the second method.

My Office asked Orla's employer to review her case in light of the fact that Orla had not been informed of the arrears when she joined the scheme and, therefore, had not been given an opportunity to pay them at the time. We also pointed out that similar cases had been determined by the Pensions Ombudsman.

Following the review, Orla's employer was advised that the amount of arrears due would be less if the option of periodic deductions had been offered.

As a result, the employer agreed to use this method of calculation and Orla got a refund of almost half of what had been deducted from her retirement gratuity.

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Bhí na comhaltaí mearaithe faoi chiall na cumarsáide a cuireadh chucu maidir le méid an chnapshuim báis-i-seirbhís a bhí ar fáil. Sa chéad fhógra a fuair Frank cuireadh in iúl dó go gcuirfí clúdach ar leibhéal ab ionann agus a cheithre oiread a thuarastail ar fáil dó. B'ionann sin agus an chlúdach a bhí ar fáil faoin scéim roimhe sin.

Cuireadh in iúl dó ina dhiaidh sin áfach gurbh earráid é sin agus nach mbeadh sé anois i dteideal ach clúdach ab ionann agus tuarastal faoin scéim nua. Mar chomhartha dea-mhéine thabharfaí sochar báis-i-seirbhís ionann is a cheithre oiread a thuarastal do Frank agus do roinnt comhaltaí eile as sin go ceann dháta na hathnuachana dar gcionn. Ina dhiaidh sin más rud é go mbeadh sé fós ag iarraidh an leibhéal clúdaigh níos airde ionann is a cheithre oiread an tuarastail bheadh air ballraíocht a ghlacadh i scéim pinsin ranníoca sainithe an fhostóra agus ranníocaíochtaí pinsin a íoc.

Ní raibh aon fonn ar Frank ballraíocht a ghlacadh sa scéim nua agus dúirt gur chóir go mbeadh sé i dteideal an leibhéal céanna clúdaigh agus a cuireadh ar fáil faoin tseanscéim shochair shainithe. Bhí sochair dlite dó cheana féin faoin scéim sin.

Rinne an Oifig athbhreithniú ar na doiciméid a chuir Frank agus a fhostóir ar fáil. Cuireadh in iúl don fhostóir nach ndearnadh foráil ar leith maidir leis an leibhéal clúdaigh níos ísle a bhain le cás Frank nó le cásanna chomhaltaí eile na scéime i ngníomhas rialaithe na scéime ranníoca sainithe nua ag an am sin. Dhealraigh sé go raibh sé iarbhír i dteideal an leibhéal chlúdaigh níos airde.

Chuaigh an fostóir sa tóir ar chomhairle dhlíthiúil faoin gceist agus d'aontaigh gurbh amhlaidh an cás. D'aontaigh an fostóir an leibhéal sochar báis-i-seirbhís níos airde, ionann agus a cheithre oiread a thuarastal, a chur ar fáil do Frank as sin go ceann na gnáthaoise scoir 65 bliana d'aois.

Ní raibh an gearán seo ina ábhar imscrúdaithe. Baineadh úsáid as idirghabháil. Chomhoibrigh na páirtithe go huile, rud a d'fhág go ndearnadh an gearán a réiteach i bhfabhar Frank.

Cás 9 An difear a dhéanann íocaíocht sochar míchumais do shochair scoir

Mhaigh Vincent go raibh an figiúr tuarastail ar baineadh úsáid as i ríomh a shochair scoir mícheart. Dar leis ba é an figiúr ba chóir a bheith ann in áit an fhigiúir sin méid an tuarastail a thuill sé sular éirigh sí as obair faoi scéim míchumais na cuideachta ach é formhéadaithe de 5% in aghaidh na bliana go dtí an dáta scoir.

Bhí tuairim agus súil Vincent bunaithe ar litir a fuair sé ó chomhairleoirí pinsin na scéime sular cuireadh tús le híocaíochtaí ó scéim na cuideachta. Scríobhadh sa litear sin:

... dá n-éireofá as obair anois faoin scéim míchumas bheadh an pinsean a gheobhadh tú nuair a bheadh an 60 bliain d'aois slánaithe agat bunaithe ar do thuarastal lena n-áirítear formheadú ag ráta 5% iolraithe in aghaidh na bliana.

Rinne an Oifig athbhreithniú ar dhoiciméid agus ar leabhráin rialaithe na scéime mar chuid den imscrúdú. Ba léir go raibh an fhaisnéis a tugadh do Vincent sa litir

Examples of customer cases dealt with in 2012 (continued)

Case 8 Death benefit in accordance with scheme documents

Frank was a member of a defined benefit scheme which was winding up. On the wind up, Frank was informed that his defined benefit entitlement would be transferred to a different defined benefit and his death-in-service benefit would be provided under the new defined contribution plan.

The communication to members about the level of death-in-service lump sum available was confusing. The first notice that Frank received indicated that the level of cover provided would equal four times his salary. This was the same as the cover under the previous scheme.

However, Frank was later advised that this was an error and he would only be entitled to cover equal to one year's salary under the new scheme. As a gesture of goodwill, death-in-service benefit of four times his salary would be extended for Frank and a number of other members until the following renewal date. After that, if he wanted the higher cover of four times his salary, he would need to join the employer's defined contribution pension scheme and make pension contributions.

Frank did not wish to join the new scheme and claimed that he should be entitled to the same level of cover that had been provided under the old defined benefit scheme. He already had benefits under that scheme.

My Office reviewed the documents provided by Frank and his employer. It was pointed out to the employer that the governing deed for the new defined contribution scheme did not, at that time, make separate provision for the lower level of cover in respect of Frank or the other members of the scheme. It appeared that Frank was, in fact, entitled to the higher level of cover.

The employer sought legal advice on the matter and agreed that this was the case. The employer agreed to provide Frank with the higher level of death-in-service benefit equal to four times his salary until his normal retirement age of 65.

This complaint was not the subject of an investigation. Mediation was used and the parties co-operated fully, which led to the resolution of the complaint in favour of the complainant.

Case 9 Effect of payment of disability benefits on retirement benefits

Vincent claimed that the salary figure used to calculate his retirement benefits was incorrect. He believed the figure should have been the salary he earned before he was accepted for disability benefit from the company's disability scheme (increased by 5% a year to the date of retirement).

Vincent's belief and expectation was based on a letter he received from the scheme's pension consultants before payment from the company's disability scheme had begun. This letter stated:

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mícheart. Mar sin féin, bhí ríomh an tsochair scoir ceart agus i gcomhréir le forálacha na scéime – ní raibh formhéadú ar an tuarastal roimh mhíchumas ina fhoráil den scéim.

Bhí teorainn lenarbh fhéidir do Vincent a dhéanamh nuair a rinneadh an fáthmheas ar a thinneas. Níorbh fhéidir leis leanúint i mbun oibre; bheadh cead an fhostóra de dhíth le haghaidh an luathscoir agus bhí íocaíocht an tsochair mhíchumais faoi réir fhormheas na cuideachta árachais. Ní raibh an dara rogha ag Vincent. Deonaíodh an sochar míchumais i ndiaidh do fhrithgheallaithe na scéime glacadh le fianaise liachta agus dá bhrí sin, ní raibh aon tionchar ar an ábhar ag an litir ó chomhairleoirí na scéime pinsin.

Is cinnte go riabh drochriarachán i gceist sa chás seo sa mhéid is gur tugadh faisnéis mhícheart do Vincent maidir leis an gcaoi ar caitheadh lena shochair scoir a fhad is a bhí sé ag fáil sochair faoi pholasaí na híocaíochta míchumais. Níor fulaing sé aon chaillteanas airgid áfach ós rud é go bhfuair sé an méid a raibh sé ina theideal ó cheart faoin scéim. Sin an fáth nár seasadh leis an ngearán.

Cás 10 Sócmhainneacht scéime agus a tionchar sin ar luach aistrithe

Sa chás seo, bhí Angela den tuairim nach raibh sé ag fáil cothrom na féinne i gcomparáid le comhalta eile den scéim pinsin, Mary, i bhfianaise an luach aistrithe a luadh dó agus an méid a íocadh le Mary, ag cur san áireamh nach raibh ach fad cúpla lá idir an dá bheart. Is é is luach aistrithe ann luach reatha an tsochair scoir ag pointe áirithe ama i gcúrsa na scéime.

Léirigh an amlíne, arna dheimhniú ag an árachóir gurbh é an t-iarratas ar an luach aistrithe ó Angela agus an t-iarratas ar shochair luathscoir ó chomhalta eile ag teacht i sála a chéile a thug an spréach a chuir faoi deara go ndearnadh seiceáil sócmhainneachta ar an scéim. Léiríonn seiceáil sócmhainneachta cibé acu atá nó nach bhfuil cistí na scéime in ann a ndlíteanais a riar mar a leagtar amach in Acht na bPinsean. Faoi láthair, bíonn de chúram ar achtúire deimhniú bliantúil maidir le sócmhainneacht scéime a chur ar fáil ach déantar seiceálacha níos minice má tá na coinníollacha infheistíochta ag dul i ndonacht nó má tá méadú gan choinne ar líon na n-íocaíochtaí amach ón scéim. Más amhlaidh atá d'fhéadfadh sé gur ghá luachanna aistrithe a laghdú.

Sa chás seo chuaigh an comhairleoir iontaobhaí agus na hiontaobhaithe féin i mbun gnímh de réir chomhairle an achtúire, is é sin cinneadh gur ghá an luach aistrithe a laghdú. Dá bhrí sin laghdaíodh luach aistrithe Angela sular íocadh leis é ar an ábhar gurbh é leibhéal sócmhainneachta na scéime a rialaigh leibhéal na luachanna aistrithe iníoctha.

Bhí an doiciméadú uile i ndáil le híocaíocht an luacha aistrithe iomláin sínithe ag an iontaobhaí. Níor laghdaíodh an luach aistrithe ach amháin i ndiaidh comhairle a fháil ón achtúire maidir le staid na sócmhainneachta.

Bhí an t-uainiú maidir le hiarratas Angela ríthábhachtach. Ní raibh aon bhaint ag íocaíocht an luacha aistriúcháin iomláin do Mary lena chás. Go deimhin, dá ndéantaí sochar Mary a phróiseáil ag dáta níos

Examples of customer cases dealt with in 2012 (continued)

... if you were to go out on disability now, when you reach age 60, your pension would be based on your salary including escalation at a rate of 5% compound per annum.

My Office reviewed the governing documents and booklets of the scheme as part of our investigation. It was clear that the information given to Vincent in the letter was wrong. However, the calculation of his retirement benefits was right and was in accordance with the scheme provisions – escalation of the pre-disability salary was not a provision of the scheme.

Vincent's options were limited once he was diagnosed with his illness. He could not continue to work; employer consent would have been needed for early retirement; and the payment of the disability benefit was subject to approval by the insurance company. The disability benefit was granted on medical evidence being accepted by the scheme's underwriters and therefore the letter from the pension scheme's consultants had no bearing on the matter.

There was certainly poor administration in this case, in that wrong information was given to Vincent about the treatment of his retirement benefits while he received benefit from the disability payment policy. However, he had not suffered any financial loss as he received his correct entitlement under the scheme. The complaint, therefore, was not upheld.

Case 10 Scheme solvency and effect on transfer value

In this case, Angela believed that she had been treated unfairly in comparison to another member of the pension scheme, Mary, in terms of the transfer value quoted to her and that paid to Mary within days of each other. The transfer value is the current value of retirement benefit at a particular point in the scheme.

The timeline, confirmed by the insurer, indicated that it was a combination of the request for the transfer value from Angela and the request for early retirement benefits from another member of the scheme that triggered a solvency check in the scheme. A solvency check shows whether or not the scheme's funds can meet its liabilities as set out in the Pensions Act. At present, an actuary has to provide annual certification regarding the solvency of a scheme, but more frequent checks are done if investment conditions disimprove or if there is an unexpected number of payouts from the scheme. In these conditions, transfer values may need to be reduced.

In this case, the trustee adviser and the trustees acted on the actuary's advice which was that the transfer value had to be reduced. Angela's transfer value was, therefore, reduced before being paid to her as the solvency level of the scheme dictated the level of transfer values payable.

All documentation had been signed by the trustee in relation to payment of the full transfer value. The transfer value was

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deireanaí, is dóigh go laghdófaí a sochair ise chomh maith céanna.

An cor chun donais sna margáí infheistíochta agus a chinnte is atá sé go mbeadh na hiontaobhaithe agus a gcuid comhairleoirí ar an eolas faoin dtitim i luach na gcistí, go háirithe ó fhómhar na bliana 2008 ar aghaidh, curtha san áireamh, ba chóir an déileáil le hiarratais aistrithe bheith déanta ar bhealach i bhfad níos cúramaí.

D'fhéadfadh foláireamh go mb'fhéidir go mbeadh gá le laghdú bheith ina chuid de fhreagra tosaigh na n-iontaobhaithe ar aon iarratas ar aistriú fiú sula ndearnadh aon ríomh athbhreithnithe.

Laghdaíodh luach aistrithe Angela áfach mar gheall ar an titim shuntasach i margáí na bpinsean a raibh tionchar uafásach aici ar shócmhainneacht na scéime. Mar sin, cé nach raibh caighdeán na cumarsáide chomh maith agus ar chóir dó bheith níorbh fhéidir seasamh leis an ngearán.

Cás 11 Siardhátú pinsean easláinte

Deonaíodh pinsean easláinte do Jonathan ach dúirt sé gur cheart an pinsean a bheith siardhátaithe go dtí an dáta a chuir sé isteach air i gcéaduair.

Léirigh an doiciméadú a ndearna an Oifig athbhreithniú air mar chuid den imscrúdú gur deonaíodh pinsean easláinte a nuair a d'fhág an fostaí seirbhís; bhí an nós sin bunaithe ar fhorálacha na scéime. Níor scoir Jonathan de bheith fostaithe ach amháin nuair a d'éirigh sé as mar gheall ar easláinte. Bhí feidhm ag a chonradh fostaíochta go dtí an dáta sin. Dá bhrí sin níorbh fhéidir pinsean easláinte a íoc ach amháin ón dáta sin.

Rinne dochtúir oifigiúil seachtrach na cuideachta imscrúdú ar thuarascálacha liachta a chuir comhairleoir leighis Jonathan ar fáil. Ba léir ó na tuairimí a nocht an dochtúir oifigiúil seachtrach gur mheas comhairleoir leighis Jonathan, cé go raibh forais easláinte ann arbh údar scoir iad, nach leor iadsan chun na téarmaí a bhí leagtha amach i bhforálacha na scéime a shásamh.

Deonaíodh an pinsean easláinte ar achomharc faoi phróiseas achomhairc na cuideachta tar éis tuairim eile leighis a iarradh agus tar éis do chomhairleoir leighis Jonathan tuarascáil bhreise a chur ar fáil.

Níor seasadh leis an ngearán agus, dá bhrí sin, cuireadh tús leis an bpinsean easláinte ón dáta ar deonaíodh é faoi phróiseas achomhairc na cuideachta.

Cás 12 Ragobair agus pinsin aoisliúntais

Cuir Eric gearán chuig an Oifig ag líomhain nach gceadódh a fhostóir, Údarás Áitiúil, íocaíochtaí ragoibre i ríomh pinsin aoisliúntais. Bhain an ragobair le hobair athchóirithe ar choimpléasc tithíochta mar ar aistríodh fostaithe ó stóras amháin go dtí stóras eile lena linn ar feadh ré an tionscadail. Ba é cinneadh na comhairle contae gur ghanntanais foirne ba chúis leis gur theastaigh an ragobair agus, dá bhrí sin, nach raibh sí incháilithe chun bheith cuimsithe i ríomh pinsean aoisliúntais.

Tá Scéim Aoisliúntais an Rialtais Áitiúil neamhghnách sa mhéid is go bhfuil ragobair ceadaithe bheith inphinsin ar chor ar bith, ach forchuirtear coinníollacha dochta faoin Scéim nach mór a bheith ann má tá sí le

Examples of customer cases dealt with in 2012 (continued)

reduced only after the actuary had advised of the solvency position.

The timing of Angela's application was crucial. Payment of the full transfer value to Mary had no bearing on her case. In fact, if Mary's benefits had been processed at a later date, it is quite likely that her benefits might also have been reduced.

Given the downturn in the investment markets and the fact that the trustees and their advisers would have been aware of the fall in the value of funds, particularly from autumn 2008, trustees should have been more cautious in dealing with transfer requests.

The trustees' initial response to any request for a transfer could have included a warning that a reduction might apply, even before any revised calculations were done.

However, Angela's transfer value suffered a reduction due to the significant fall in the investment markets which had a drastic effect on the scheme's solvency. So, while the standard of communication was not as good as it should have been, the complaint could not be upheld.

Case 11 Backdating ill-health pension

Jonathan was granted an ill-health pension but claimed that the pension should have been backdated to the date when he originally applied for it.

The documentation my Office reviewed as part of the investigation showed that,

based on the provisions of the scheme, an ill-health pension was granted only when the employee left service. Jonathan ceased to be employed only when he retired due to ill-health. His contract of employment ran up to that date. Therefore, an ill-health pension could only be paid from that date.

The company's external medical officer examined medical reports provided by Jonathan's medical consultant. It was clear from comments made by the external medical officer that Jonathan's medical consultant considered that, although there were grounds for retirement on ill-health, these were not sufficient to satisfy the terms set out in the scheme provisions.

The ill-health pension had been granted on appeal after a further medical opinion was sought and a further report was provided by Jonathan's medical consultant.

The complaint was not upheld and, therefore, the ill-health pension started from the date it had been granted under the appeals process.

Case 12 Overtime and superannuation pensions

Eric complained to my Office alleging that his employer, a Local Authority, would not allow overtime payments in the calculation of a pension. The overtime related to the refurbishment of a housing complex, where employees from one depot were transferred to another depot for the duration of the project. The county council concluded that the overtime arose from staff shortages and,

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bheith curtha san áireamh. Tá achran ag baint le cuimsiú ragoibre i ríomh pinsean aoisliúntais maidir le hoibríthe i gcomhairlí contae ar fud na tíre i bhfianaise líon na ngearán a thagann isteach faoin ábhar. An fhadhb sna cásanna sin is ea conas Ciorclán 12/91 a léirmhíniú. Déileálann an ciorclán le ceist chuimseachán na ragoibre agus leagtar amach ann conas ba chóir na rialacha measúnaithe a chur i bhfeidhm d'fhonn a dheimhniú cibé acu atá nó nach bhfuil an ragobair a cuireadh i gcrích inchuimsithe i ríomh pinsean aoisliúntais.

Le go mbeidh ragobair incháilithe le bheith cuimsithe i bpinsean aoisliúntais, ní mór go mbeidh sí ina cuid de na téarmaí agus de na coinníollacha fostaíochta. I bhfocail eile, caithfidh sé gur ragobair éigeantach a bheidh inti agus ní mór na coinníollacha seo a leanas a bheith comhlíonta:

- Ní bheidh an dara rogha ag an oibrí agus ní cheadófar dó diúltú don obair.
- Beidh an obair tráthrialta agus athfhillteach.
- Ní féidir an obair a dhéanamh ach amháin taobh amuigh de na gnáthuaireanta.
- Ní féidir gur gantannas foirne is cúis leis an obair.

Baineann na gearáin a thagann isteach leis an malairt tuairime atá ann idir fostóirí agus oibríthe sa chomhairle contae faoi cad atá incháilithe mar ragobair chun críche ríomh pinsean aoisliúntais.

Mar Ombudsman, is cásanna iadsan a dtéann sé rite réiteach a fháil orthu a dhifriúla le chéile is a bhíonn an dá pháirtí ina smaointeoireacht. Is é an cur chuige atá ag

an Oifig go leor iarratas ar bhreis faisnéise a chur amach agus na doiciméid uile atá ar fáil a shoiléiriú agus a mheas d'fhonn teacht ar réiteach.

Tháinig réiteach na faidhbe sa chás áirithe seo i bhfoirm ríomhphoist ó Chléireach na nOibreacha (ar son an ailtire) chuig Roinn Acmhainní Daonna na comhairle contae á rá nár cheart go mbeadh na fostaithe lena mbaineann thíos leis toisc gurbh ionann méid na n-uaireanta a oibríodh agus an méid a d'oibreofaí dá ndéantaí an obair sa stóras bunaidh. Bhí an obair a rinneadh sa stóras bunaidh rangaithe mar obair incháilithe le haghaidh pinsin.

Léirigh an ríomhphost sin go raibh an lucht bainistíochta aontaithe an ragobair sin a chuimsiú faoi théarmaí agus faoi choinníollacha na n-oibríthe ag an láithreán i gceist. Ba léir go raibh ráiteas na comhairle contae gur theastaigh an ragobair mar gheall ar ghanntanas foirne ag teacht salach ar an gcomhaontú a bhí ann idir ailtire an chontae agus na hoibríthe ag an láithreán. Dá réir sin bhí an ragoibair a rinneadh anois ina cuid de téarmaí agus de choinníollacha fostaíochta Eric agus measadh í bheith cuimsithe ina chonradh fostaíochta.

Dá mba rud é nár nochtadh an ríomhphost ó Chléireach na n-Oibreacha le linn an imscrúdaithe, seans nárbh fhéidir liom an gearán a réiteach i bhfabhar Eric.

I gcás eile, d'éiligh gearánaí go mbeadh ragobair maidir le huairéanta oibre a d'oibrigh sé de bhrí go raibh sé ina shealbhóir eochrach d'áitreabh na comhairle contae cuimsithe i ríomh a pinsean aoisliúntais. Dhiúltaigh an chomhairle contae don

Examples of customer cases dealt with in 2012 (continued)

therefore, was not eligible for inclusion in pension calculations.

The Local Government Superannuation Scheme is unusual in allowing for overtime to be pensionable at all, but imposes strict conditions which must be present if it is to be taken into account. The inclusion of overtime in pensions for county council workers across the country is troublesome judging by the number of complaints I receive on the matter. The problem in these cases is how Circular 12/91 is interpreted. This deals with the inclusion of overtime and outlines how the assessment rules should be applied in order to establish whether overtime worked is eligible for inclusion in the calculation of a pension.

In order for overtime to be eligible for inclusion in a superannuation pension, it must be part of the terms and conditions of employment. In other words, it must be compulsory overtime and it must fulfill all the following conditions:

- The worker has no choice in the matter and cannot refuse to do the work.
- The work must be regular and recurring.
- The work can only be done outside normal hours.
- The work cannot be due to staff shortages.

The complaints I receive relate to differences of opinion between county council employers and workers about what is eligible overtime for a pension.

As an Ombudsman, I find that these cases are difficult to resolve, as both parties differ greatly in their thinking. The approach by my Office involves making many requests for further information and clarification and assessing all the available documents to arrive at a solution.

The key to resolving this particular case was an email from the Clerk of Works (on behalf of the architect) to the HR Department of the county council, stating that the employees concerned should not be treated differently to their colleagues at the depot, as the hours worked were the same as if they had worked from the original depot. In the original depot, overtime worked there was classed as eligible for pension.

This email showed that management had agreed to include this overtime within the terms and conditions of the workers on this site. The county council's claim that the overtime occurred due to staff shortages clearly contradicted the agreement in place between the county architect and the workers on the site. As such, the overtime worked was now part of Eric's terms and conditions of employment and could be deemed to have been included in his contract of employment.

If the email from the Clerk of Works had not been disclosed to the investigation, I might not have been able to resolve the complaint in Eric's favour.

In another case, Jack sought inclusion of overtime in his pension for hours worked

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éileamh ar an ábhar nach raibh an ragobair éigeantach agus gurbh fhéidir leis an bhfostaí lena mbaineann í a dhiúltú.

Rinne an Oifig imscrúdú agus cinneadh gurbh é an gearánaí an t-aon bhall foirne a raibh eochair an áitribh ina sheilbh aige leis na blianta fada agus murar oscail sé an áitreabh go luath do lucht seachadta earraí nó murar fhan sí ann go dtí uaireanta deiridh an lae nuair a bhí innealra ag filleadh ar ais nach raibh aon duine eile ar fáil chun an jab a dhéanamh. Chuir mé an cheist caidé arbh fhéidir leis an gcomhairle contae bheith ag súil leis go dtarlódh dá ndiúltaíodh an fostaí an ragobair a dhéanamh. B'fhéidir gurbh fhearr don chomhairle contae eochracha a eisiúint chuig roinnt de na fostaithe ar an ábhar go dtabarfadh sin le fios go raibh an ragobair roghnach toisc go bhféadfadh daoine eile iad féin a chur ar fáil chun an jab a dhéanamh.

Sheas mé leis an ngearán i bhfabhar an ghearánaí de bhrí go raibh seisear den tuairim nach raibh de rogha aige ach a bheith ar fáil chun an obair sin a dhéanamh. Mura ndéanadh bheadh an áitreabh fágtha dúnta agus, dá bhrí sin, b'éigeantach i ndáiríre an ragobair a rinneadh.

Faightear réiteach ar go leor cásanna den chineál céanna trí idirghabháil agus molaim na comhairlí contae as an gcomhoibriú a rinneadar leis an Oifig. Go deimhin, i roinnt cásanna inar dheimhnigh mé go soiléir gur chóir go mbeadh an ragobair curtha san áireamh ghlac na comhairlí contae leis an gcomhairle neamhfoirmiúil sin agus rinne cinneadh athbhreithnithe chun sástachta an ghearánaí agus na comhairle.

Examples of customer cases dealt with in 2012 (continued)

due to the fact that he was the keyholder for a county council premises. The council refused the claim as it held that the overtime was not compulsory and that the employee concerned could have refused to do it.

On investigation, I found that Jack was the only staff member with the key to the premises for many years, and that if he did not open up early for deliveries, or stay late when machinery was returning, there was nobody else available to do the job.

I asked what the county council would have expected to happen had Jack had refused to do the overtime. It might have been better if the county council had issued a number of employees with keys - this would have signalled that the overtime was optional as others could have made themselves available to do the job.

I upheld the complaint in Jack's favour, as he believed that he had no option but to make himself available to do this work. The premises would otherwise have remained closed and, therefore, the overtime performed was, in fact, compulsory.

Many cases of a similar nature are resolved through mediation and I compliment the county councils for their co-operation with my Office. In fact, in a number of cases where I have established clearly that the overtime should be included, the county councils have accepted my informal advice and have made a revised decision to the satisfaction of both the complainant and the council concerned.



Financial Accounts for 2012

Cuntais Airgeadais don bhliain 2012

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Cuntais Airgeadais don bhliain 2012

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Tuarascáil an Ard-Reachtair Cuntas agus Ciste

Oifig an Ombudsman Pinsean

Tá ráitis airgeadais Oifig Fhear an Phobail um Pinsin don bhliain dar chríoch 31 Nollaig 2012 iniúchta agam de réir Acht na bPinsean, 1990, arna leasú. Is éard atá sna ráitis airgeadais, a ullmhaíodh de réir na bpolasaithe cuntasáíochta dá bhforáiltear ansin, Ráiteas na bPolasaithe Cuntasáíochta, an Cuntas Ioncaim agus Caiteachais, an Ráiteas faoi Ghnóthachain agus Caillteanais Aitheanta Iomlána, an Clár Comhardaithe agus na nótaí gaolmhara. Tá an creat tuairiscithe airgeadais a cuireadh i bhfeidhm le linn an ullmhúcháin ina ndlí infheidhme agus is é an Cleachtas Cuntasáíochta a nGlactar i gCoitinne leis in Éirinn.

Freagrachtaí an Ombudsman Pinsean

Tá an tOmbudsman Pinsean freagrach as ullmhúchán na ráiteas airgeadais, as a chinntiú go dtugann siad léargas fíorcheart ar staid chúrsaí agus ar ioncam agus ar chaiteachas na gOifige agus as a chinntiú go ndéantar na hidirbhearta mar is ceart.

Freagrachtaí Ard-Reachtair Cuntas agus Ciste

I é an fhreagracht atá orm na ráitis airgeadais a iniúchadh agus tuairisc a dhéanamh fúthu de réir dlí infheidhme.

Déanaim an t-iniúchadh faoi threoir na n-imthosca speisialta a bhaineann le Comhlachtaí Stáit i dtaca lena mbainistiú agus lena bhfeidhmiú.

Déanaim an t-iniúchadh i gcomhréir leis na Caighdeáin Idirnáisiúnta Iniúcháireachta (RA agus Éire) agus i gcomhlíontas na gCaighdeán Eiticíúil d'iniúcháirí atá leagtha síos ag an mBord um Chleachtas Iniúcháireachta.

Raon Feidhme an Iniúchta ar na Ráitis Airgeadais

Is éard atá i gceist le hiniúchadh fianaise leordhóthanach a bhailiú i leith na méideanna agus an nochtá sna ráitis airgeadais le go mbeidh cinnteacht réasúnta ann go bhfuil na ráitis airgeadais saor ó mhíráiteas ábhartha, cibé acu calaois nó earráid eile is cúis leis. Áirítear leis sin measúnú ar:

- oiriúnacht na bpolasaithe cuntasáíochta do na himthosca a bhaineann le hOifig an Ombudsman Pinsean, agus measúnú ar ar cuireadh i bhfeidhm go comhréireach agus ar nochtadh go leordhóthanach iad
- réasúntacht meastúcháin shuntasacha chuntasáíochta a rinneadh le linn ullmhúcháin na ráiteas airgeadais, agus
- cur i láthair na ráiteas airgeadais tríd is tríd.

Déanaim iarracht freisin fianaise a fháil i gcúrsa an iniúchta faoi rialtacht na n-idirbheart airgeadais.

Tuairim faoi na Ráitis Airgeadais

Is é mo thuairim go dtugann na ráitis airgeadais a ullmhaíodh go cuí de réir an Chleachtas Chuntasáíochta a nGlactar i gCoitinne leis in Éirinn léargas fíorcheart ar staid chúrsaí Oifig an Ombudsman Pinsean an 31 Nollaig 2012 agus ar a hioncam agus a caiteachas don bhliain dar chríoch an dáta sin.

Tá mé mo thuairim gur choinnigh Oifig an Ombudsman Pinsean leabhair chuí chuntais. Tá na ráitis airgeadais ag teacht leis na leabhair chuntais.

Report of the Comptroller and Auditor General

Office of the Pensions Ombudsman

I have audited the financial statements of the Office of the Pensions Ombudsman for the year ended 31 December 2012 under the Pensions Act 1990, as amended. 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 Statement of Total Recognised Gains and Losses, the Balance Sheet and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and Generally Accepted Accounting Practice in Ireland.

Responsibilities of the Pensions Ombudsman

The Pensions Ombudsman is responsible for the preparation of the financial statements, ensuring that they give a true and fair view of the state of the affairs of the Office and of its income and expenditure and for ensuring the regularity of transactions.

Responsibilities of the Comptroller and Auditor General

My responsibility is to audit the financial statements and report on them in accordance with applicable law.

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation.

My audit is carried out in accordance with the International Standards on Auditing (UK and Ireland) and in compliance with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements, sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of:

- whether the accounting policies are appropriate to the circumstances of the Office of the Pensions Ombudsman, and have been consistently applied and adequately disclosed,
- the reasonableness of significant accounting estimates made in the preparation of the financial statements, and
- the overall presentation of the financial statements.

I also seek to obtain evidence about the regularity of financial transactions in the course of audit.

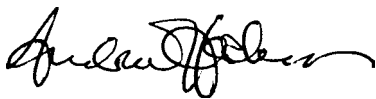
Tuarascáil ab Ard-Reachtair Cuntas agus Ciste (ar lean)

Ábhar a Thuairiscím de réir Eisceachta

Tuairiscím de réir eisceachta

- mura bhfuil an fhaisnéis agus na míniúcháin uile a theastaíonn chun críocha an iniúchta faighte agam, nó
- má thugtar aon ásc ábharach faoi deara le linn an iniúchta nár caitheadh airgead faoi chomhair na gcuspóirí a bhí ceaptha dó nó nach raibh na hidirbhearta i gcomhréir leis na húdaráis a rialaíonn iad, nó
- mura léiríonn an Ráiteas faoi Rialú Airgeadais Inmheánach go bhfuil an Oifig ag comhlíonadh an Chóid Chleachtais maidir le Rialachán Comhlachtaí Stáit, nó
- má fhaighim amach go bhfuil aon ábhar ábhartha eile ann a bhaineann leis an gcaoi a ndearnadh gnó poiblí.

Níl aon rud le tuairisciú agam maidir leis na hábhair ar a bhfuilim ag tuairisciú de réir eisceachta.



Andrew Harkness

Le haghaidh agus thar ceann an Ard-Reachtair Cuntas agus Ciste

11 Aibreán 2013

Report of the Comptroller and Auditor General (continued)

Opinion on the Financial Statements

In my opinion, the financial statements, which have been properly prepared in accordance with Generally Accepted Accounting Practice in Ireland, give a true and fair view of the state of the affairs of the Office of the Pensions Ombudsman at 31 December 2012 and of its income and expenditure for the year then ended.

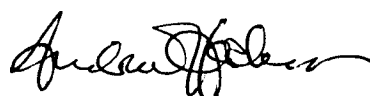
In my opinion, proper books of account have been kept by the Office. The financial statements are in agreement with the books of account.

Matters on which I Report by Exception

I report by exception if

- I have not received all the information and explanations I required for my audit, or
- my audit noted any material instance where moneys have not been applied for the purposes intended or where the transactions did not conform to the authorities governing them, or
- the Statement on Internal Financial Control does not reflect the Office's compliance with the Code of Practice for the Governance of State Bodies, or
- I find there are other material matters relating to the manner in which public business has been conducted.

I have nothing to report in regard to those matters upon which reporting is by exception.



Andrew Harkness

For and on behalf of the
Comptroller and Auditor General

11 April 2013

Ráiteas maidir le Freagrachtaí an Ombudsman Pinsean

Éilítear de réir Alt 143(1) d'Acht na bPinsean 1990, (arna chur isteach ag Alt 5 d'Acht na bPinsean (Leasú) 2002) go n-ullmhóidh an tOmbudsman Pinsean ráitis airgeadais i cibé foirm a cheadóidh an tAire Coimirce Sóisialaí i ndiaidh dó dul i gcomhairle leis an Aire Airgeadais. Le linn dó na ráitis airgeadais seo a ullmhú ceanglaítear ar an Ombudsman Pinsean:

- Polasaithe oiriúnacha cuntasáochta a roghnú agus iad a chur i bhfeidhm go comhsheasmhach.
- Breithiúnais agus meastacháin a dhéanamh atá réasúnach agus críonna.
- A rá cé acu ar cloíodh nó nár cloíodh leis na caighdeáin chuntasaíochta infheidhme faoi réir aon difriú ábhartha a nochtadh agus a míníodh sna ráitis airgeadais.
- Na ráitis airgeadais a ullmhú faoi mar ba ghnóthas leantach a bheadh i gceist mura bhfuil sé iomchuí a mheas go leanfaidh an Oifig ag feidhmiú.

Tá an tOmbudsman Pinsean freagrach as leabhair chuí chuntais a choinneáil ina bhfuil nochtadh ag aon am amháin léargas fíorcheart ar staid airgeadais na hOifige agus a chuireann ar a cumas a chinntiú go bhfuil Alt 143(1) den Acht á chomhlíonadh sna ráitis airgeadais.

Tá an tOmbudsman Pinsean freagrach freisin as sócmhainní na hOifige a choimeád faoi choimirce agus as céimeanna réasúnacha a ghlacadh chun calaois agus mírialtachtaí eile a chosc.



Paul Kenny

An tOmbudsman Pinsean

28 Márta 2013

Statement of Responsibilities of the Pensions Ombudsman

Section 143(1) of the Pensions Act 1990, as inserted by Section 5 of the Pensions (Amendment) Act, 2002 requires the Pensions Ombudsman to prepare financial statements in such form as may be approved by the Minister for Social Protection after consultation with the Minister for Finance. In preparing those financial statements, the Ombudsman is required to:

- Select suitable accounting policies and then apply them consistently.
- Make judgements and estimates that are reasonable and prudent.
- State whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements.
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Office will continue in operation.

The Ombudsman is responsible for keeping proper books of account, which disclose in a true and fair manner at any time the financial position of the Office and which enable it to ensure that the financial statements comply with Section 143(1) of the Act.

The Ombudsman is also responsible for safeguarding the assets of the Office and for taking reasonable steps for the prevention and detection of fraud and other irregularities.



Paul Kenny
Pensions Ombudsman

28 March 2013

Ráiteas maidir le Rialú Inmheánach Airgeadais

Freagracht as an gCóras Rialaithe Airgeadais Inmheánach

Is Oifig bheag í Oifig an Ombudsman Pinsean inarb ionann costais tuarastail agus 70% den chaiteachas iomlán. Tá foireann deichniúr ann, lena n-áirítear an tOmbudsman, Stiúrthóir, ceithre imscrúdaitheoir, bainisteoir oifige agus trí oifigeach breise.

Is ormsa mar Ombudsman Pinsean atá an fhreagracht a chinntiú go bhfuil córas éifeachtach rialaithe inmheánaigh coinnithe ar siúl agus ag feidhmiú. Is féidir le haon chóras dá leithéid cinnteacht réasúnta a sholáthar ach ní féidir leis cinnteacht absalóideach a sholáthar go mbeidh idirbhearta údaraithe agus cláraithe mar is cuí, go mbeidh sócmhainní faoi choimirce, agus go gcuirfear cosc ar earráidí ábharacha nó ar mhírialtachtaí nó go mbraithfear iad ar mhodh thráthúil.

Tá bearta glactha agam agus ag foireann na hOifige lena chinntiú go mbeidh córas láidir rialaithe airgeadais ann, go gcuirfear faisnéis ar chaiteachas ar fáil go tráthrialta don bhainistíocht agus go mbeidh nósanna imeachta riaracháin trédhearcacha in éifeacht, lena n-áirítear saindeighilt dualgais i gcóras ina dtarmilgítear freagracht ar mhodh soiléir. Cuimsíonn sin na nósanna imeachta a leanas:

- Cuirfear meastachán bliantúil faoi riachtanais airgeadais ar fáil dár Roinn mhaoinithe, don Roinn Coimirce Sóisialaí.
- Nuair a aontaófar an buiséad don bhliain ullmhófar próifíl caiteachais mhíosúil.
- Clárófar caiteachas uile na hOifige seo i gcóras cuntasáochta mhórleabhar ginearálta na Roinne. Ullmhóidh brainse Cuntasáochta na Roinne tuarascáil chaiteachais mhíosúil. Ansin cuirfidh bainisteoir na hoifige i gcomparáid í leis na taifid atá coinnithe san Oifig.

- Ullmhóidh bainisteoir na hoifige ráiteas caiteachais míosúil ina ndéanfar comparáid idir an caiteachas iarbhír agus an phróifíl chaiteachais. Scaipfear sin ar na baill foirne uile agus déanfaidh mé féin athbhreithniú uirthi.
- Cuirfear tuarascáil ar fáil don Roinn dhá uair in aghaidh na bliana ina ndéanfar comparáid idir caiteachas iarbhír agus caiteachas measta.
- Tá na dualgais a bhaineann le híocaíochtaí a dheimhniú, a údarú, agus a íoc deighilte óna chéile.
- Is í an Roinn tuismitheora a dhéanann na híocaíochtaí agus na ríomhanna uile maidir le tuarastal agus le cúrsaí gaolmhara.
- Ullmhóidh cuideachta cuntasáochta/ iniúchóireachta na dréacht-chuntais bhliantúla sula gcuirfear faoi bhráid an Ard-Reachtair Cuntas agus Ciste iad.
- Tá feidhm iniúchóireachta inmheánach curtha ar bun san Oifig maille le nósanna imeachta airgeadais doiciméadaithe agus mórleabhar mionairgid.

Ina theannta sin tá feidhm iniúchóireachta inmheánach le fáil sa Roinn Coimirce Sóisialaí. Clúdóidh aon iniúchadh a dhéanfar ar fheidhm íocaíochta na Roinne 70% de chaiteachas na hOifige seo. Déantar monatóireachta rialaithe párolla ar bhonn míosúil.

Deimhním go ndearna mé athbhreithniú ar chóras na hOifige maidir le Rialú Inmheánach Airgeadais i rith na bliana 2012.



Paul Kenny
An tOmbudsman Pinsean

28 Márta 2013

Statement on Internal Financial Control

Responsibility for the System of Internal Financial Control

The Office of the Pensions Ombudsman is a small office where salary costs represent some 70% of total expenditure. There is a staff of 10 – the Ombudsman, Director, four investigators, an office manager and three further officials.

The responsibility for ensuring that an effective system of internal controls is maintained and operated falls to myself, as Pensions Ombudsman. Any such system can provide reasonable, but not absolute, assurance that transactions are certified, authorised and properly recorded, assets are safeguarded and that material errors or irregularities are either prevented or are detected in a timely manner.

The staff of this Office and I have taken steps to ensure that there is a robust system of financial control in place, with regular information on expenditure being supplied to management and transparent administrative procedures in force, including segregation of duties through a clear system of delegation of responsibility. This includes the following procedures:

- An annual estimate of financial requirements is provided to our funding Department, the Department of Social Protection.
- When the budget for the year is agreed, a monthly profile of expenditure is prepared.
- All expenditure by this Office is recorded on the Department's general ledger accounting system. A monthly expenditure report is prepared by the Department's Accounts branch. This is then checked by the office manager against the records held in the Office.

- The office manager prepares a monthly statement of expenditure which compares actual with profile. This is circulated to members of staff and is reviewed by myself.
- A twice yearly report is provided to the Department which compares estimated and actual expenditure.
- A segregation of duties exists between the certification, authorisation and execution of payments.
- All pay (and related calculations) and non-pay payments are made by the parent Department.
- The draft annual accounts are prepared by an independent accounting/auditing company prior to submission to the C&AG.
- An internal audit function operates in the Office, together with documented financial procedures and a petty cash ledger.

In addition, an internal audit function is available within the Department of Social Protection. Any audit of Departmental pay function will cover 70% of the expenditure by this Office. Payroll control monitoring is conducted on a monthly basis.

I confirm that I reviewed the Office's system of internal financial control during the year 2012.



Paul Kenny
Pensions Ombudsman

28 March 2013

Ráiteas maidir le Polasaithe Cuntasaíochta

1. Bunús Ullmhúcháin

Ullmhaítear na ráitis airgeadais ar bhonn fabhráithe, cé is moite den chás atá léirithe thíos, de réir na bprionsabal cuntasaíochta a bhfuil glacadh leo go ginearálta faoin gcoinbhinsiún costais stairiúil, agus comhlíonann siad na caighdeáin tuairiscithe airgeadais infheidhme agus ceanglais Alt 143 d'Acht na bPinsean 1990, (arna gcur isteach ag Alt 5 d'Acht na bPinsean (Leasú) 2002).

2. Deontas Oireachtais

Is éard atá sa Deontas Oireachtais na híocaíochtaí iomlána a rinne an Roinn Coimirce Sóisialaí thar cheann na hOifige i mbliain an chuntais.

3. Pinsin

Is Státseirbhísigh na fostaithe in Oifig Fhear an Phobail um Pinsin agus mar sin tá siad clúdaithe ag socruithe pinsin na Státseirbhíse. Tugadh isteach scéim aoisliúntais sochair shainithe don Ombudsman Pinsean i 2007 le héifeacht ó 2006. Maoinítear an scéim go bliantúil ar bhonn íoc-mar-a-úsáidtear ó airgead a chuirtear ar fáil lena haghaidh ar a n-áirítear airgead a chuireann an Roinn Coimirce Sóisialaí ar fáil.

Meastar dliteanais scéime pinsin ar bhonn achtúireach trí úsáid a bhaint as modh chreidiúint réamh-mheasta an aonaid.

Is léiriú costais phinsin ar shochair phinsin atá tuillte ag an Ombudsman Pinsean sa tréimhse agus taispeántar iad glan ó ranníocaíochta pinsin dá chuid atá coinnithe siar ag an Roinn Coimirce Sóisialaí. Aithnítear méid is ionann agus an muirear pinsin mar ioncam sa mhéad agus a bhfuil sé inghnóthaithe agus déanfar é a fhritháireamh in aghaidh deontais a fuarthas i rith na bliana chun íocaíochtaí pinsin a ghlanadh.

Aithnítear gnóthachan nó cailteanas achtúireach a eascraíonn as athruithe i dtoimhdeana achtúireacha agus as barrachais agus as easnaimh saintaithí sa Ráiteas um Ghnóthachain agus um Chaillteanais Iomlána don bhliain ina dtarlaíonn siad agus aithnítear coigeartú comhréireach sa mhéid atá inghnóthaithe ón Roinn Coimirce Sóisialaí.

Is ionann dliteanais phinsin agus luach láithreach íocaíochtaí todhchaíocha pinsin arna dtuilleamh ag an Ombudsman Pinsean go dáta. Is ionann maoiniú pinsin iarchurtha agus an tsócmhainn chomhréireach a bheidh gnóthaithe ar ais ón Roinn Coimirce Sóisialaí i dtréimhsí todhchaíocha.

4. Sócmhainní Seasta Inláimhsithe

Luaitear Sócmhainní Seasta Inláimhsithe ar a gcostas nó ar a luacháil lúide luachlaghdú carntha. Déantar soláthar do luachlaghdú ar bhonn líne díreach ag rátaí a measfar go laghdóidh siad na sócmhainní go luachanna inréadaithe faoi dheireadh an tsaoil úsáidigh a measfar a bheith i ndán dóibh mar a leanas:

TE agus Trealamh Oifige	20%	Líne Díreach
Troscán agus Feistis	10%	Líne Díreach

5. Cuntas Caipitil

Is ionann an Cuntas Caipitil agus luach neamh-amúchta an ioncaim arna fheidhmiú le haghaidh caiteachas caipitil.

6. Ráiteas faoi Shreabhadh Airgid Thirim

Ní chuirtear aon Ráiteas um Shreabhadh Airgid Thirim i láthair, rud a thagann leis na heisceachtaí atá deonaithe in FRS 1.

7. Costais Dlí a Deonaíodh

Is ar bhonn airgead tirim a iontráiltear i gcuntas deontas na cúirte i leith costais dlí i bhfabhar Oifig an Ombudsman Pinsean.

Statement of Accounting Policies

1. Basis of Preparation

The financial statements are prepared on an accruals basis, except as outlined below, in accordance with generally accepted accounting principles under the historic cost convention and comply with applicable financial reporting standards and with the requirements of Section 143 of the Pensions Act 1990 (inserted by Section 5 of the Pensions (Amendment) Act 2002).

2. Oireachtas Grant

Oireachtas Grant represents the total payments made by the Department of Social Protection on behalf of the Office, in the year of account.

3. Pensions

The employees of the Pensions Ombudsman, being civil servants, are covered by the civil service pension arrangements. A defined benefit superannuation scheme for the Pensions Ombudsman was introduced in 2007 with effect from 2006. The scheme is funded annually on a pay as you go basis from monies available to it, including monies provided by the Department of Social Protection.

Pension costs reflect pension benefits earned by the Ombudsman in the period and are shown net of his pension contributions which are retained by the Department of Social Protection. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable, and offset by grants received in the year to discharge pension payments.

Actuarial gains or losses arising from changes in actuarial assumptions and from experience surpluses and deficits are recognised in the Statement of Total Recognised Gains and Losses for the year in which they occur and a corresponding adjustment is recognised in the amount recoverable from the Department of Social Protection.

Pension liabilities represent the present value of future pension payments earned by the Ombudsman to date. Deferred pension funding represents the corresponding asset to be recovered in future periods from the Department of Social Protection.

4. Tangible Fixed Assets

Tangible Fixed Assets are stated at cost or valuation less accumulated depreciation. Depreciation is provided for on a straight line basis at rates which are estimated to reduce the asset to their realisable values by the end of their expected useful lives as follows:

IT and Office Equipment	20% Straight Line
Furniture and Fittings	10% Straight Line

5. Capital Account

The Capital Account represents the unamortised value of income applied for capital expenditure.

6. Cash Flow Statement

No Cash Flow Statement is presented in line with the exemptions granted in FRS 1.

7. Legal Costs Awarded

Court awards of legal costs in favour of the Office of the Pensions Ombudsman are brought to account on a cash receipts basis.

An Cuntas Ioncaim agus Caiteachais

don bhliain dar chríoch 31 Nollaig 2012

	<i>Nótaí</i>	2012	2011
Ioncam		€	€
Deontas Oireachtais	1	976,745	906,388
Lúide Aisíocaíocht leis an Roinn Coimirce Sóisialaí	1	(32,503)	
Lúide Ranníocaíochtaí Aoisliúntais a Íocadh ar ais	8a	(7301)	(7302)
Deontas Oireachtais Glan		936,941	899,086
Glanmhaoiniú larchurtha le haghaidh Pinsean		44,000	41,000
Aistriú go Cuntas Caipitil	6	24,464	21,928
Ioncam Eile	2	13,100	
Lúide Ioncam Eile a cuireadh ar aghaidh	2	(13,100)	
Ioncam Iomlán		1,005,405	962,014
Caiteachas			
Costais Foirne	3	754,922	726,984
Riarachán	4	254,763	218,670
Táille Iniúchta		4,380	3,290
Luachlaghdú	5	24,464	24,428
Caiteachas Iomlán		1,038,529	973,372
Easnamh don bhliain		(33,124)	(11,358)
Farasbarr ar 1 Eanáir		24,615	35,973
Farasbarr/ (Easnamh) ar 31 Nollaig		(8,509)	24,615

Is cuid de na ráitis airgeadais seo Ráiteas na bPolasaithe Cuntasaíochta agus Nótaí 1 go 10.



Paul Kenny

An tOmbudsman Pinsean

Dáta: 28 Márta 2013

Income and Expenditure Account

for the year ended 31 December 2012

	Notes	2012 €	2011 €
Income			
Oireachtas Grant	1	976,745	906,388
Less Refund to Department of Social Protection	1	(32,503)	-
Less Superannuation Contributions Repaid	8a	(7,301)	(7,302)
Net Oireachtas Grant		936,941	899,086
Net Deferred Funding for Pensions		44,000	41,000
Transfer from Capital Account	6	24,464	21,928
Other Income	2	13,100	-
Less Other Income Remitted	2	(13,100)	-
Total Income		1,005,405	962,014
Expenditure			
Staff Costs	3	754,922	726,984
Administration	4	254,763	218,670
Audit Fee		4,380	3,290
Depreciation	5	24,464	24,428
Total Expenditure		1,038,529	973,372
Deficit for the year		(33,124)	(11,358)
Surplus at 1 January		24,615	35,973
Surplus/(Deficit) at 31 December		(8,509)	24,615

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



Paul Kenny

Pensions Ombudsman

Date: 28 March 2013

Ráiteas maidir le Gnóthachain agus le Cailteanais Aitheanta Iomlána

don Bhliain dar Chríoch 31 Nollaig 2012

	<i>Nótaí</i>	2012 €	2011 €
Easnamh don bhliain		(33,124)	(11,358)
Gnóthachain actúireacha maidir le dliteanais scéim pinsin	<i>8d</i>	9,000	8,000
Athruithe ar na toimhdeanna is bun le luach dliteanais scéim pinsin faoi láthair		-	-
Gnóthachan achtúireach maidir le Dliteanais Phinsin	<i>8b</i>	9,000	8,000
Coigeartú ar Mhaoiniú Pinsin Iarchurtha		(9,000)	(8,000)
Gnóthachan (Cailteanas) Aitheanta Iomlán don bhliain		(33,124)	(11,358)

Is cuid de na ráitis airgeadais seo Ráiteas na bPolasaithe Cuntasaíochta agus Nótaí 1 go 10.



Paul Kenny

An tOmbudsman Pinsean

Dáta: 28 Márta 2013

Statement of Total Recognised Gains and Losses

for the year ended 31 December 2012

	<i>Notes</i>	2012 €	2011 €
Deficit for year		(33,124)	(11,358)
Experience gains on pension scheme liabilities	<i>8d</i>	9,000	8,000
Changes in assumptions underlying present value of pension scheme liabilities		-	-
Actuarial gain on Pension Liabilities	<i>8b</i>	9,000	8,000
Adjustment to Deferred Pension Funding		(9,000)	(8,000)
Total Recognised Loss for the year		(33,124)	(11,358)

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



Paul Kenny

Pensions Ombudsman

Date: 28 March 2013

An Clár Comhardaithe ar 31 Nollaig 2012

	<i>Nótaí</i>	2012	2012	2011	2011
		€	€	€	€
Sócmhainní Seasta					
Sócmhainní Seasta Inláimhsithe	5		18,887		43,351
Sócmhainní Reatha					
Fiachóirí agus Réamhíocaíochtaí	7	6,364		40,888	
Banc agus Airgead Tirim		212		101	
		<u>6,576</u>		<u>40,989</u>	
Dlíteanais Reatha					
Creidiúnaithe		5,888		960	
Fabhruithe		9,197		15,414	
		<u>15,085</u>		<u>16,374</u>	
Glansócmhainní (Dlíteanais) Reatha			<u>(8,509)</u>		<u>24,615</u>
Sócmhainní Iomlána Iúide Dlíteanais Reatha			<u>10,378</u>		<u>67,966</u>
Maoiniú Pinsin Iarchurtha	8d		294,000		259,000
Dlíteanas Pinsin	8b		(294,000)		(259,000)
Glansócmhainní			10,378		67,966
Arna Airgeadú ag					
Cuntas Caipitil	6		18,887		43,351
Cuntas Ioncaim agus Caiteachais			(8,509)		24,615
			<u>10,378</u>		<u>67,966</u>

Is cuid de na ráitis airgeadais seo Ráiteas na bPolasaithe Cuntasaíochta agus Nótaí 1 go 10.



Paul Kenny
An tOmbudsman Pinsean

Dáta: 28 Márta 2013

Balance Sheet as at 31 December 2012

	Notes	2012	2012	2011	2011
		€	€	€	€
Fixed Assets					
Tangible Fixed Assets	5		18,887		43,351
Current Assets					
Debtors and Prepayments	7	6,364		40,888	
Bank and Cash		212		101	
		<u>6,576</u>		<u>40,989</u>	
Current Liabilities					
Creditors		5,888		960	
Accruals		9,197		15,414	
		<u>15,085</u>		<u>16,374</u>	
Net Current Assets/(Liabilities)			<u>(8,509)</u>		<u>24,615</u>
Total Assets Less Current Liabilities			<u>10,378</u>		<u>67,966</u>
Deferred Pension Funding	8d		294,000		259,000
Pension Liability	8b		<u>(294,000)</u>		<u>(259,000)</u>
Net Assets			<u>10,378</u>		<u>67,966</u>
Financed By					
Capital Account	6		18,887		43,351
Income and Expenditure Account			<u>(8,509)</u>		<u>24,615</u>
			<u>10,378</u>		<u>67,966</u>

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



Paul Kenny

Pensions Ombudsman

Date: 28 March 2013

Nótaí maidir leis na Ráitis Airgeadais

1 Deontas Oireachtais

Is í an Roinn Coimirce Sóisialaí a mhaoiníonn Oifig an Ombudsman Pinsean agus is í a dhéanann gach íocaíocht thar ceann na hOifige. Is ionann an deontas iomlán agus an tsuim a mhuirearaítear ar Chuntas Leithreasa na Roinne sin. In 2012 fuair an Roinn Coimirce Sóisialaí luach €32,503 de Leithreasaí i gCabhair ó Oifig na nOibreacha Poiblí (OOP). Íocadh an méid sin cheana leis an OOP chun oibreacha athchóirithe a dhéanamh thar ceann Oifig an Ombudsman Pinsean. Dá thoradh sin bhí laghdú de €32,503 ar an maoiniú glan a theastaigh ó Oifig an Ombudsman Pinsean le haghaidh na bliana 2012.

2 Ioncam Eile

Baineann ioncam eile a fuarthas le costais dlíthiúla a bhronn na Cúirteanna maidir le cásanna dlí a rinne Oifig an Ombudsman Pinsean. Cuireadh an t-ioncam sin ina iomláine ar aghaidh chuig an Roinn Coimirce Sóisialaí mar Leithreasaí i gCabhair in 2012.

3 (a) Costais Foirne

		2012	2011
		€	€
Luach Saothair agus Tuarastal		710,706	684,050
Taisteal		7,517	9,236
Costais Phinsin	8(a)	36,699	33,698
Iomlán		754,922	726,984

Rinne an Roinn Coimirce Sóisialaí Asbhaint maidir le Pinsin ar luach €48,604 (€47,530 in 2011) ó thuarastail foirne agus choinnigh siad í.

(b) Líon na bhFostaithe

Seo mar a ríomhtar meánlíon na bhfostaithe sa tréimhse:

	2012	2011
An tOmbudsman Pinsean	1	1
Foireann Riaracháin	9	9
Iomlán	10	10

(c) Tuarastal an Ombudsman Pinsean

	2012	2011
	€	€
Tuarastal	125,655	125,655

Ní fuair an tOmbudsman Pinsean aon bhreisíocaíocht bunaithe ar fheidhmíocht agus ní ghabhann a theidlíochtaí pinsin thar mhúnla scéim na státseirbhíse.

Notes to the Financial Statements

1 Oireachtas Grant

Funding for the Office of the Pensions Ombudsman is provided by the Department of Social Protection which makes all payments on behalf of the Office. The total grant matches the sum charged to the Appropriation Account of that Department. In 2012 the Department of Social Protection received €32,503 of Appropriations-in-Aid from the Office of Public Works (OPW). This amount had previously been advanced to the OPW to carry out refurbishment works on behalf of the Office of the Pensions Ombudsman. This reduced the net funding required by the Office of the Pension Ombudsman for 2012 by €32,503.

2 Other Income

Other income received relates to legal costs awarded by the Courts in respect of legal cases undertaken by the Office of the Pensions Ombudsman. This income was remitted in full to the Department of Social Protection as Appropriations-in-Aid in 2012.

3 (a) Staff Costs

	2012	2011
	€	€
Wages and Salaries	710,706	684,050
Travel	7,517	9,236
Pension Costs	8(a) 36,699	33,698
Total	754,922	726,984

Pension Related Deductions of €48,604 (2011: €47,530) were made from staff salaries and retained by the Department of Social Protection.

(b) Employee Numbers

The average number of employees during the period was made up as follows:

	2012	2011
Ombudsman	1	1
Administrative Staff	9	9
Total	10	10

(c) Ombudsman Salary

	2012	2011
	€	€
Salary	125,655	125,655

The Ombudsman did not receive a performance related bonus and his pension entitlements do not extend beyond the model civil service scheme.

Nótaí maidir leis na Ráitis Airgeadais (ar lean)

4 Costais Riaracháin

	2012	2011
	€	€
Costais Ghinearálta	12,947	15,792
Post agus Teileachumarsáide	15,132	15,817
Clódóireacht agus Stáiseanóireacht	18,222	14,926
TE/Sáslach Oifige (Neamhshócmhainn)	17,426	7,316
Obair Chothabhála	28,552	49,303
Fógraíocht/Seimineáir/Foilseacháin	50,539	39,054
Táillí Dí	111,945	76,462
	<u>254,763</u>	<u>218,670</u>

5 Sócmhainní Seasta

	€	€	€
	Crua-earra agus Bogearra TE agus Trealamh Oifige	Troscán agus Feistis	Iomlán
Sócmhainní ar a gCostas			
Comhardú ar 1 Eanáir 2012	117,000	152,714	269,714
Breiseanna	-	-	-
Comhardú ar 31 Nollaig 2012	<u>117,000</u>	<u>152,714</u>	<u>269,714</u>
Luachlaghdú			
Comhardú ar 1 Eanáir 2012	(98,386)	(127,977)	(226,363)
Muirear don bhliain	(12,740)	(11,724)	(24,464)
Comhardú ar 31 Nollaig 2012	<u>(111,126)</u>	<u>(139,701)</u>	<u>(250,827)</u>
Luach Leabhair Glan			
Comhardú ar 31 Nollaig 2012	<u>5,874</u>	<u>13,013</u>	<u>18,887</u>
Comhardú ar 31 Nollaig 2011	<u>18,614</u>	<u>24,737</u>	<u>43,351</u>

Notes to the Financial Statements (continued)

4 Administration Costs

	2012	2011
	€	€
General Expenses	12,947	15,792
Postage and Telecommunications	15,132	15,817
Printing and Stationery	18,222	14,926
IT/Office Machinery	17,426	7,316
Maintenance	28,552	49,303
Advertising/Seminars/Publications	50,539	39,054
Legal Fees	111,945	76,462
	<u>254,763</u>	<u>218,670</u>

5 Fixed Assets

	€	€	€
	IT Hardware, Software and Office Equipment	Furniture and Fittings	Total
Assets at Cost			
Balance at 1 January 2012	117,000	152,714	269,714
Additions	-	-	-
Balance at 31 December 2012	117,000	152,714	269,714
Depreciation			
Balance at 1 January 2012	(98,386)	(127,977)	(226,363)
Charge for the year	(12,740)	(11,724)	(24,464)
Balance at 31 December 2012	(111,126)	(139,701)	(250,827)
Net Book Value			
Balance at 31 December 2012	5,874	13,013	18,887
Balance at 31 December 2011	18,614	24,737	43,351

Nótaí maidir leis na Ráitis Airgeadais (ar lean)

6 Cuntas Caipitil

	€	€
Comhardú ar 1 Eanáir 2012		43,351
Ceannach Sócmhainne Seasta	-	
Amúchadh i gcomhréir le Luachlaghdú	(24,464)	
Luachlaghdú ar Athluacháil	-	
Aistriú go Cuntas Ioncaim agus Caiteachais		(24,464)
Comhardú ar 31 Nollaig 2012		18,887

7 Fiachóirí agus Réamhíocaíochtaí

	2012	2011
	€	€
Fiachóirí	828	33,854
Réamhíocaíochtaí	5,536	7,034
	<u>6,364</u>	<u>40,888</u>

8 Pinsin

a) Anailís ar chostais iomlána pinsin muirearaithe ar chaiteachas

	2012	2011
	€	€
Costas Láithreach Seirbhíse	30,000	29,000
Ús ar dhliteanas Scéim Pinsin	14,000	12,000
Ranníocaíochtaí Fostaithe	(7,301)	(7,302)
Maoiniú inghnóthaithe maidir le costais pinsin na bliana reatha	<u>36,699</u>	<u>33,698</u>

b) Gluaiseacht maidir le glandliteanas pinsin i rith na bliana airgeadais

	2012	2011
	€	€
Glandliteanas Pinsin an 1 Eanáir	259,000	226,000
Costas Láithreach Seirbhíse	30,000	29,000
Costas Seirbhíse san Am Atá Caite	-	-
Costas Úis	14,000	12,000
(Gnóthachan)/Caillteanas Achtúireach	(9,000)	(8,000)
Pinsin íoctha sa bhliain	-	-
Glandliteanas Pinsin an 31 Nollaig	<u>294,000</u>	<u>259,000</u>

Notes to the Financial Statements (continued)

6 Capital Account

	€	€
Balance at 1 January 2012		43,351
Purchase of Fixed Asset	-	
Amortisation in line with Depreciation	(24,464)	
Loss on Disposal	-	
Transfer to Income and Expenditure Account		(24,464)
Balance at 31 December 2012		<u>18,887</u>

7 Debtors and Prepayments

	2012	2011
	€	€
Debtors	828	33,854
Prepayments	5,536	7,034
	<u>6,364</u>	<u>40,888</u>

8 Pensions

a) Analysis of total pension costs charged to expenditure

	2012	2011
	€	€
Current Service Cost	30,000	29,000
Interest on Pension Scheme Liabilities	14,000	12,000
Employee contributions	(7,301)	(7,302)
Funds recoverable in respect of current year pension costs	<u>36,699</u>	<u>33,698</u>

b) Movement in net pension liability during the financial year

	2012	2011
	€	€
Net Pension Liability at 1 January	259,000	226,000
Current Service Cost	30,000	29,000
Past Service Cost	-	-
Interest Cost	14,000	12,000
Actuarial (gain)/loss	(9,000)	(8,000)
Pensions paid in the year	-	-
Net Pension Liability at 31 December	<u>294,000</u>	<u>259,000</u>

Nótaí maidir leis na Ráitis Airgeadais (ar lean)

8 Pinsin (ar lean)

c) Sócmhainní Maoinithe Iarchurtha le haghaidh Pinsean

Aithníonn Oifig an Ombudsman Pinsean an méid sin mar shócmhainn atá comhréireach leis an dliteanas iarchurtha neamh-mhaoinithe le haghaidh pinsean ar bhonn shraith na dtoimhdeana a bhfuil cur síos orthu ag (e) agus ar bhonn roinnt imeachtaí san am atá thart. Cuimsíonn na himeachtaí sin foras reachtúil chun an scéim pinsin a bhunú agus an polasaí agus an dea-chleachtas atá ann faoi láthair maidir le maoiniú pinsin seirbhíse poiblí ar a n-áirítear ranníocaíochta fostaithe agus próiseas na meastachán bliantúil. Níl aon fhianaise ag Oifig an Ombudsman Pinsean nach n-íocfar suimeanna dá leithéid go leanúnach tríd an maoiniú sin de réir an chleachtais atá ann faoi láthair.

Seo a leanas an ghlanmhaoiniú iarchurtha le haghaidh pinsean a bhí aitheanta sa chuntas ioncaim agus caiteachais:

	2012	2011
	€	€
An maoiniú atá inghnóthaithe maidir le costais phinsin na bliana reatha	44,000	41,000
Deontas Stáit curtha chun feidhme d'fhonn pinsinéirí a íoc	-	-
	44,000	41,000

Ba é €294,000 (2011: €259,000) méid na sócmhainne maoinithe iarchurtha le haghaidh pinsin an 31 Nollaig 2012.

d) Stair Dhliteanais Scéime agus cailteanais/(gnóthachain) saintaithí

	2012	2011	2010
	€	€	€
Dlitéanas Scéime	294,000	259,000	226,000
(Gnóthachan)/cailteanas saintaithí i ndáil le dliteanais scéime	(9,000)	(8,000)	(25,000)
Céatadán luach láithreach dhliteanais na scéime	-3%	-3%	-11%

Notes to the Financial Statements (continued)

8 Pensions (continued)

c) Deferred Funding Assets for Pensions

The Office of the Pensions Ombudsman recognises this amount as an asset corresponding to the unfunded deferred liability for pensions on the basis of the set of assumptions described at (e) and a number of past events. These events include the statutory basis for the establishment of the pension scheme and the policy and practice currently in place in relation to funding public service pensions including contributions by employees and the annual estimates process. The Office of the Pensions Ombudsman has no evidence that this funding policy will not continue to meet such sums in accordance with current practice.

The net deferred funding for pensions recognised in the Income and Expenditure Account was as follows:

	2012	2011
	€	€
Funding recoverable in respect of current year pension costs	44,000	41,000
State Grant applied to pay pensioners	-	-
	44,000	41,000

The deferred funding asset for pensions as at 31 December 2012 amounted to €294,000 (2011: €259,000).

d) History of Scheme Liabilities and experience losses / (gains)

	2012	2011	2010
	€	€	€
Scheme Liability	294,000	259,000	226,000
Experience (gain)/loss on scheme liabilities	(9,000)	(8,000)	(25,000)
Percentage of the present value of scheme liabilities	-3%	-3%	-11%

Nótaí maidir leis na Ráitis Airgeadais (ar lean)

8 Pinsin (ar lean)

e) Cur síos Ginearálta ar an Scéim

Sochar sainithe shocrú pinsin an tuarastail deiridh atá sa scéim pinsin ina sainmhínítear sochair agus ranníocaíochta trí thagairt a dhéanamh do rialacháin múnla reatha scéim na hearnála poiblí Soláthraítear pinsean (ochtódú in aghaidh bliain seirbhíse), aisce ar chnapshuim (trí ochtódú in aghaidh bliain seirbhíse), agus pinsin chéile agus leanaí tríd an scéim. Is ionann an gnáthaois scoir agus an aois a bhfuil 65 bliana slán ag an gcomhalta agus beidh teidlíocht ag an lucht a bhí ina gcomhaltaí roimh 2004 ar laghdú achtúireach ón dáta a mbeidh 60 bliain slán acu. Méadaíonn pinsin atá á n-íoc (agus pinsin iarchurtha) i gcomhréir le boilsciú ginearálta tuarastal seirbhíse poiblí.

Tá an luacháil a mbaintear úsáid as le haghaidh nochtadh FRS17 (Athbhreithnithe) bunaithe ar luacháil iomlán achtúireach a rinne achtúire cáilithe neamhspleách ar an 23 Feabhra 2010 inar cuireadh ceangail an FRS san áireamh d'fhonn dliteanais na scéime ar an 31 Nollaig 2012 a mheas.

Seo a leanas na príomhthoimhdeanna achtúireacha:

	2012	2011
Ráta ardaithe tuarastal	4%	4%
Ráta méadaithe pinsean atá á n-íoc	4%	4%
Ráta Lascaine	5.50%	5.50%
Ráta Boilscithe	2%	2%

Cuirtear feabhais ar ionchas saoil in imeacht ama san áireamh sa bhunús báis atá glactha sa chaoi is go mbeidh ionchas saoil ag an aois scoir ag brath ar an mbliain a shroichfidh comhalta an aois scoir (65 bliana d'aois). Léirítear sa tábla thíos ionchas saoil na gcomhaltaí a mbeidh 65 bliana slán acu in 2011 agus in 2012.

65 bliana slán sa bhliain	2012	2011
Ionchas saoil - fear	87	87
Ionchas saoil - bean	90	90

9 Áitreabh

Tá an chóiríocht atá á háitiú ag Oifig Fhear an Phobail ag 36 Sráid an Mhóta Uachtarach, Baile Átha Cliath 2 léasaithe agus íoctha ag Oifig na nOibreacha Poiblí. Is é €200,000 an cíos bliantúil reatha a íocann OOP. Rachaidh an léas in éag i 2017. Ní íocann Oifig an Ombudsman Pinsean aon mhuirear maidir leis an gcóiríocht sin.

10 Clár Athchóirithe na Seirbhíse Poiblí

Mar chuid de Chlár Athchóirithe na Seirbhíse Poiblí, cuireadh Oifig an Ombudsman Pinsean san áireamh ar liosta athbhreithnithe criticiúil de na comhlachtaí a bhféadfaí a chónascadh. Tá se socraithe ar Oifig an Ombudsman Pinsean a cheangal le Biúró an Ombudsman um Sheirbhísí Airgeadais.

Notes to the Financial Statements (continued)

8 Pensions (continued)

e) General Description of the Scheme

The pension scheme is a defined benefit final salary pension arrangement with benefits and contributions defined by reference to current "model" public sector scheme regulations. The scheme provides a pension (one eightieth per year of service), a gratuity or lump sum (three eightieths per year of service) and spouses' and children's pensions. Normal retirement age is a member's 65th birthday, and pre 2004 members have an entitlement to retire without actuarial reduction from age 60. Pensions in payment (and deferment) normally increase in line with general public sector salary inflation.

The valuation used for FRS17 (Revised) disclosures has been based on a full actuarial valuation on 23 February 2010 by a qualified independent actuary taking account of the requirements of the FRS in order to assess the scheme liabilities at 31 December 2012.

The principal actuarial assumptions were as follows:

	2012	2011
Rate of increase in salaries	4%	4%
Rate of increase in pensions in payment	4%	4%
Discount Rate	5.50%	5.50%
Inflation Rate	2%	2%

The mortality basis adopted allows for improvements in life expectancy over time, so that life expectancy at retirement will depend on the year in which a member attains retirement age (age 65). The table below shows the life expectancy for members attaining age 65 in 2011 and 2012.

Years of attaining age 65	2012	2011
Life expectancy - male	87	87
Life expectancy - female	90	90

9 Premises

The accommodation occupied by the Office of the Pensions Ombudsman at 36 Upper Mount Street, Dublin 2 is leased and paid for by the Office of Public Works. The current annual rent paid by the OPW is €200,000. The lease expires in 2017. There is no charge to the Office of the Pensions Ombudsman in respect of this accommodation.

10 Public Sector Reform Programme

As part of the Public Service Reform Programme, the Office of the Pensions Ombudsman was included on a critical review list of bodies that might be amalgamated. The critical review considered a possible merger for the Office of the Pensions Ombudsman with the Financial Services Ombudsman's Bureau. A decision has been reached to amalgamate the two offices.

Conclúid

Léirítear sa tuarascáil seo go raibh méadú breise suntasach ar an éileamh ar sheirbhísí na hOifige seo. Tá sé soiléir go bhfuil níos mó daoine ar an eolas faoin Oifig i bhfianaise an mhéadaithe de 79% ar fhiosrúcháin nua agus de 24% ar na comhaid ghearáin imscrúdaithe mionsonraithe nua a osclaíodh in 2012 i gcomparáid le 2011. Tig leis an scor bheith ina hócáid lán struis agus is ócáid í a mbíonn cumarsáid shoiléir agus eolas cuimsitheach de dhíth ar dhaoine. De thoradh na ndeacrachtaí eacnamúla leanúnacha tagann a lán daoine chuig an Oifig agus imní orthu ag iarraidh réiteach a fháil maidir le deacrachtaí pinsin. Ar na saolta dúshlánacha seo tá sé den riachtanas go mbeadh seirbhís ann a mbeadh teacht uirthi go héasca ag daoine agus a bhféadfadh siad sásamh a fháil tríthi sa chás go mbeadh fadhbanna acu lena bpinsean ceirde.

In 2012 sheas an Oifig le 64% de na comhaid ghearáin a rinneadh Cinneadh Críochnaitheach ina leith. Tá an t-achar ama a theastaíonn chun cásanna a réiteach ag méadú agus táimid ag déanamh gach ar féidir chun dul i ngleic leis an bhfadhb sin. Tá an meánachar ama a theastaíonn chun imscrúdú mionsonraithe a chur i gcrích méadaithe ó 81 seachtaine i 2010 go 113 seachtaine i 2011 agus go 128 seachtaine i 2012.

Bíonn obair mhaith á déanamh ag an bhfoireann i gcónaí ag cur seirbhís den scoth ar fáil.



Conclusion

This report shows that there has been a further significant increase in the demand for the services of this Office. It is clear that more people are aware of the Office with an increase of 79% in new enquiries and 24% of new detailed investigation complaint files opened in 2012 over 2011. Retirement can be a stressful time, and it is a time when people require clear communication and comprehensive information. The continuing economic difficulties result in many anxious people consulting my Office trying to resolve pension difficulties. In these challenging times, it is essential that people have a service of redress that is easily accessible to them, should they experience problems with their occupational pensions.

In 2012 we upheld 64% of complaint files which went to Final Determination. The length of time taken to resolve cases is increasing and we are doing everything possible to address this. The average length of time to complete a detailed investigation has increased from 81 weeks in 2010, to 113 weeks in 2011 to 128 weeks in 2012.

The staff have continued to work well to provide a first-class service.

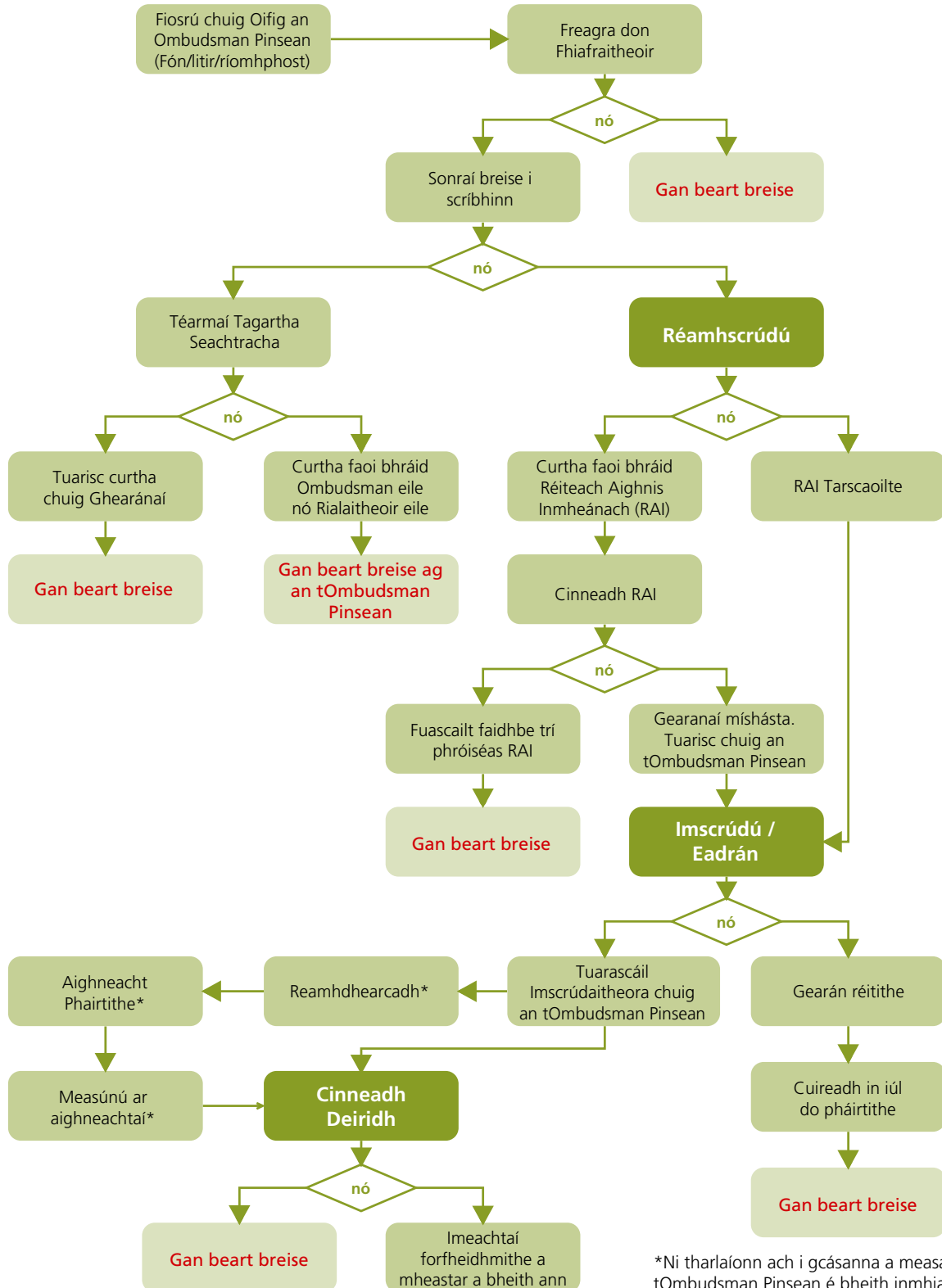


Appendices

Aguisíní

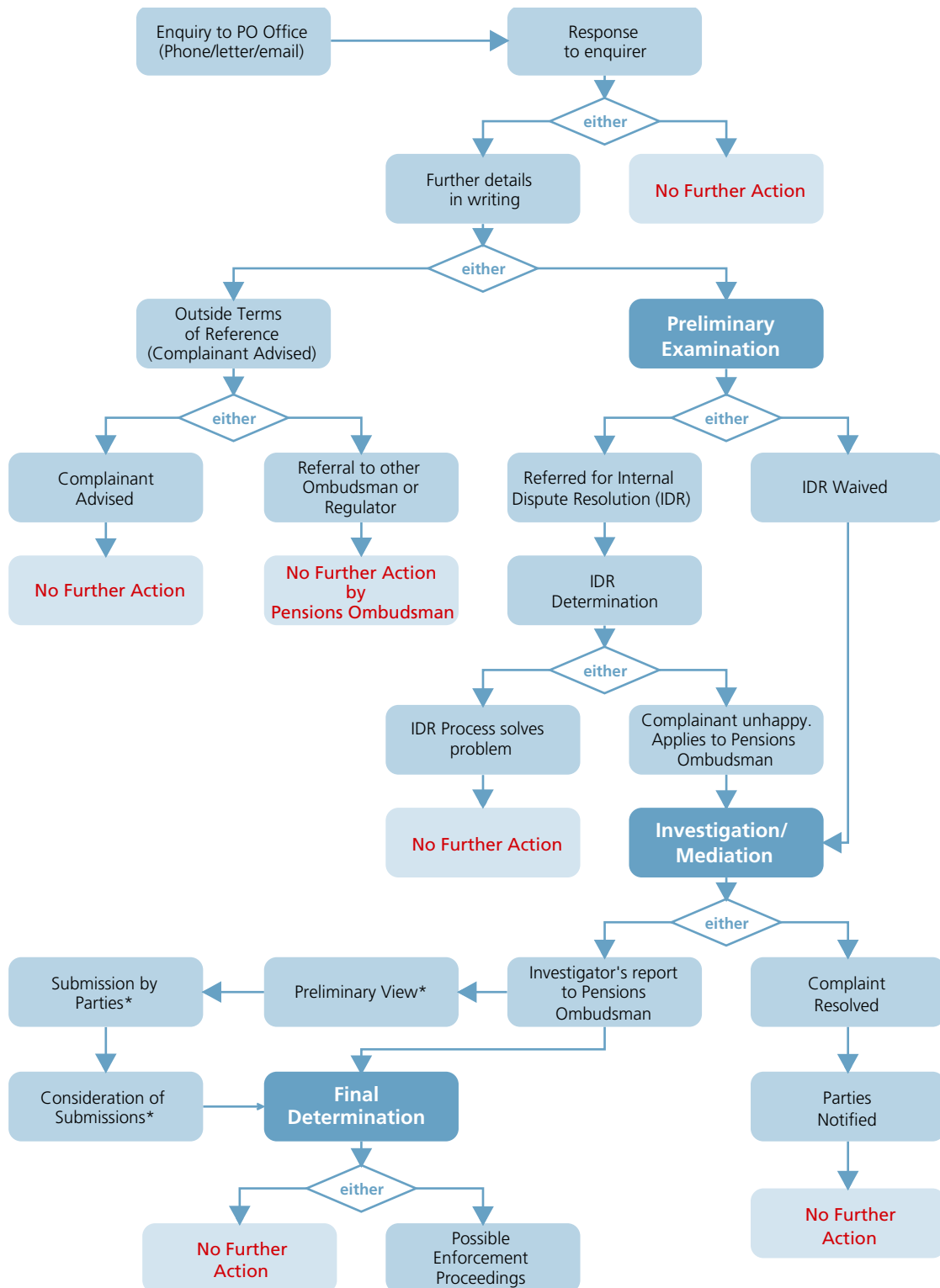


Aguisín A: An chaoi a ndéantar gearán a láimhseáil de ghnáth



*Ni tharlaíonn ach i gcásanna a measann an tOmbudsman Pinsean é bheith inmhiamaithe

Appendix A: How a complaint is normally handled



*Occurs only in cases where the Pensions Ombudsman considers it desirable

Aguisín B: Reachtaíocht Rialaithe

Acht na bPinsean 1990

Acht na bPinsean (Leasú), 2002)

Acht Leasa Shóisialaigh (Forálacha Ilghnéitheacha), 2003

Ionstraim Reachtúil Uimh 119 de 2003

Ionstraim Reachtúil Uimh 397 de 2003

Ionstraim Reachtúil Uimh 398 de 2003

Ionstraim Reachtúil Uimh 399 de 2003

Aoisliúntas na Seirbhíse Poiblí (Forálacha Ilghnéitheacha), 2004

Acht Leasa Shóisialaigh (Forálacha Ilghnéitheacha), 2004

Athchóiriú an Dlí Leasa Shóisialaigh agus um Pinsin, 2006

Acht Leasa Shóisialaigh agus Pinsean 2007

Ionstraim Reachtúil Uimh 181 de 2007

Ionstraim Reachtúil Uimh 182 de 2007

Rialacha Cúirte maidir le hAchomhairc i leith Chinntí an Ombudsman Pinsean:

Ionstraim Reachtúil Uimh 14 de 2007

Acht Leasa Shóisialaigh agus Pinsean 2008

Acht Leasa Shóisialaigh agus Pinsean (Uimh. 2), 2009

Rialacha Cúirte maidir le Forfheidhmiú Chinntí an Ombudsman Pinsean:

Ionstraim Reachtúil Uimh 446 de 2010

Acht Leasa Shóisialaigh agus Pinsean, 2012



Appendix B: Governing Legislation

Pensions Act, 1990

Pensions (Amendment) Act, 2002

Social Welfare (Miscellaneous Provisions) Act, 2003

Statutory Instrument No. 119 of 2003

Statutory Instrument No. 397 of 2003

Statutory Instrument No. 398 of 2003

Statutory Instrument No. 399 of 2003

Public Service Superannuation (Miscellaneous Provisions) Act, 2004

Social Welfare (Miscellaneous Provisions) Act, 2004

Social Welfare Law Reform and Pensions Act, 2006

Social Welfare and Pensions Act 2007

Statutory Instrument No. 181 of 2007

Statutory Instrument No. 182 of 2007

Rules of Court for Appeals from Determinations of the Pensions Ombudsman:

Statutory Instrument No. 14 of 2007

Social Welfare and Pensions Act, 2008

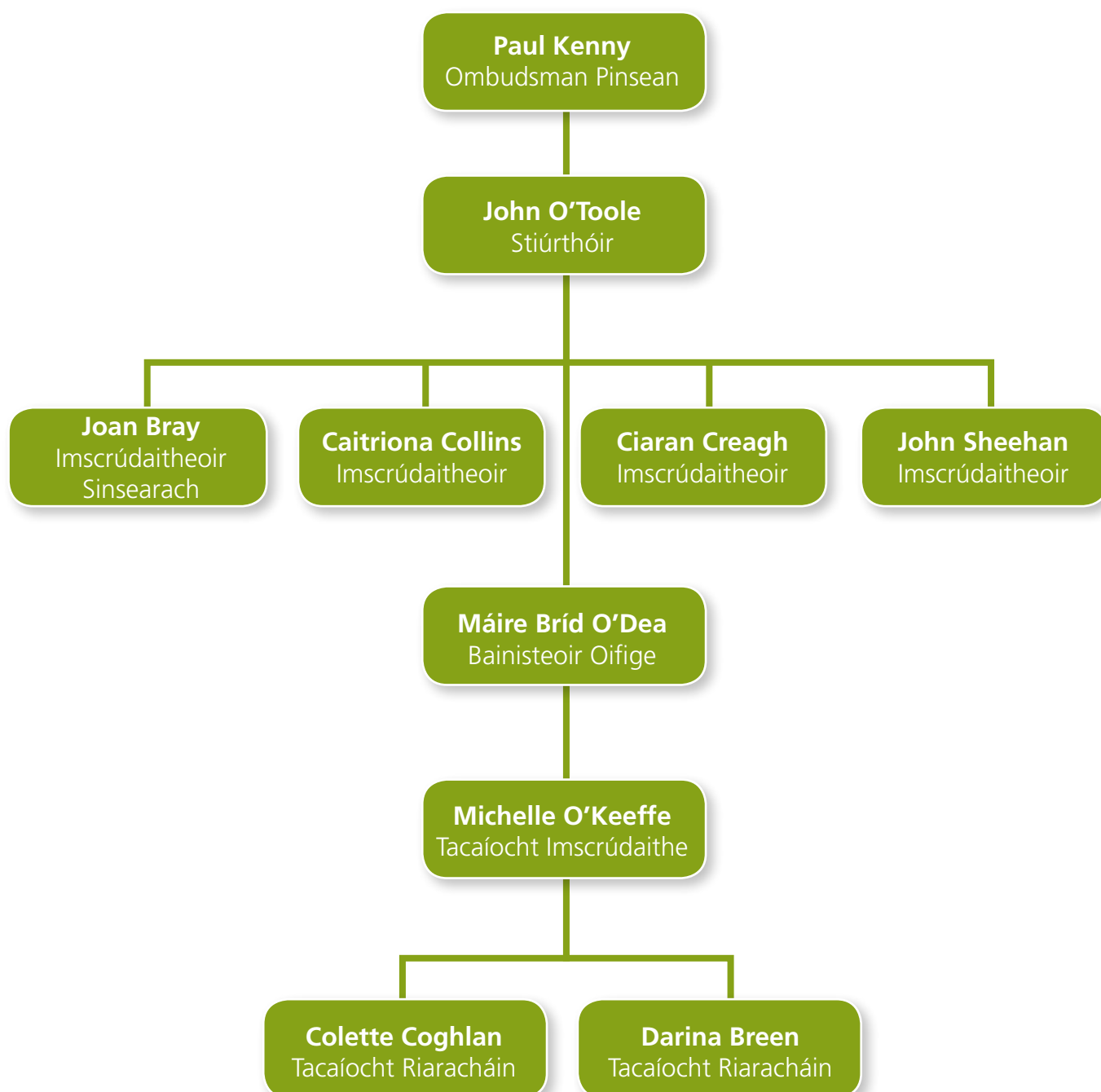
Social Welfare and Pensions (No. 2) Act, 2009

Rules of Court for Enforcement of Determinations of the Pensions Ombudsman:

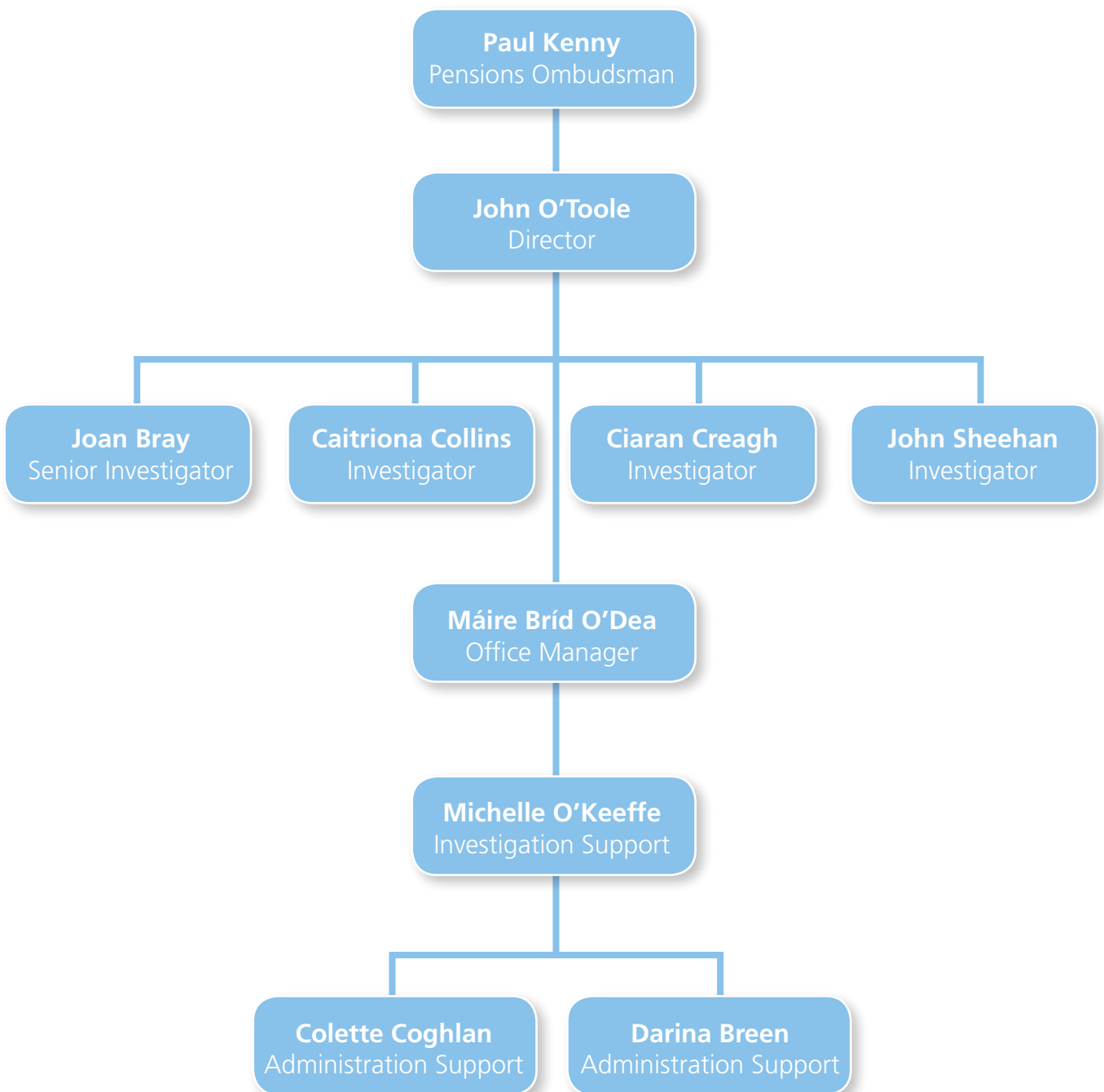
Statutory Instrument No. 446 of 2010

Social Welfare and Pensions Act, 2012

Aguisín C: Cairt eagraíochta an 1 Eanáir, 2013



Appendix C: Organisation chart at 1 January 2013







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