



SOCIAL WELFARE

APPEALS  
OFFICE

| annual report 2001 |





# | annual report 2001 |

PN 11732

# | to the minister for social, community and family affairs, Mary Coughlan, T.D., |

Cuirim tuairisc maidir le gníomhartha na hOifige Achomhairc Leasa Shóisialaigh i 2001 faoi bhreith de réir fhorálacha Ailt 254(1) den Acht Leasa Shóisialaigh (Comhdhlúthú), 1993.

In accordance with the provisions of Section 254(1) of the Social Welfare (Consolidation) Act, 1993, I submit the report of the Social Welfare Appeals Office for 2001.

As I will be retiring from the public service this year and this will be my final report, I would like to take the opportunity to thank all who have provided support and co-operation in the running of the appeals service during my time as Chief Appeals Officer. To the Ministers who have served during the period, to Departmental management and staff I would like to express my sincere appreciation.

I would especially wish to record my gratitude to all staff who have served in the Office during my time there. Their loyal support and their commitment to their work were invaluable to me in fulfilling my role.

Finally, and in particular, I would like to express my thanks to the Deputy Chief Appeals Officer, John O'Donnell, who is also retiring from the public service this year. The social welfare appeals service had undergone quite considerable change over the years and many of the improvements are attributable to his vision and dedication. He was an inspiration to all who had the good fortune to work with him in the delivery of the appeals service.

Sean Reade

Chief Appeals Officer

June 2001

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# | the business of the social welfare appeals office in 2001 |

The provision of a formalised, accessible and transparent system of appeal for customers who are dissatisfied with decisions on entitlements is a principle in the Department of Social, Community and Family Affairs Strategy Statement 2001-2004, "Peoples, Policies, Services".

International Instruments of the Council of Europe and the International Labour Office in the field of social security which have been ratified by Ireland also require that "every claimant shall have a right of appeal in the case of refusal of the benefit or complaint as to its quality or quantity".

The Social Welfare Appeals Office provides this service as a statutory right. The service includes a right of appeal to persons dissatisfied with certain decisions made by Health Boards in regard to Supplementary Welfare Allowances.

The mission of the Office is "to provide an independent, accessible and fair appeals service for entitlement to social welfare payments and to deliver that service in a prompt and courteous manner".

With due regard to the interests of other parties to the appeals process - the Department, Exchequer and the personnel of the Office - business plans of the Office focus primarily on the service to appellants, including particularly the scope for improving the service, whether through changed processes or the use of new technology. As provided for in the 2001 Plan, Locall was introduced during the year to facilitate contact with the Office. More fundamentally, however, a consultancy review was initiated to undertake a comprehensive review of the organisation and process of the appeals service.

The appeals system, involving as it does in the oral hearing process the personal presentation of views by appellants, provides the opportunity to hear at first hand issues which customers of the Department see as of concern to them. Feedback to the Department on such issues arising on appeals is seen as an important feature of the appeals process. Procedures are in place to effect this, such as meetings with the Department's Decisions Advisory Officer and also directly through input at courses organised by the Department for its Deciding Officers.

In that such procedures provide the opportunity to inform Departmental officers of the functioning of the appeals process, they thereby also help to ensure that the system is used to best effect in the primary function of resolving issues of contention. The need to provide value for money in respect of the resources deployed is, of course, an integral part of the management practices and is so provided for in the business plans.

Recognition of the commitment and contribution of the personnel of the Office also featured prominently in the business plan for 2001. In line with the undertakings in the Plan, a Partnership Committee was established to enable staff to contribute more systematically as stakeholders to the operation of the Office.

For staff in those grades involved, appropriate training for the introduction of Performance Management and Development was provided and the necessary action was taken to implement the various stages of the process.

# | statistical trends 2001 |

# | statistical trends 2001 |

## Introduction

The number of appeals received during 2001 showed a decrease of almost 1,700 on the corresponding figure for 2000. At 15,961, it was nonetheless still above the numbers received in the three prior years. This, with the 7,537 on which work was in progress at the start of the year represented a very demanding workload of over 23,500 appeals.

During 2001 the number of appeals disposed of exceeded by over 500 the number of appeals received with the result that the number of appeals on hands had fallen to under 7,000 by the end of the year.

Table 1 (page 9) sets out the receipts and output in summary format as between the various types of appeals dealt with. The figures are considered in greater detail in the paragraphs following.

## Appeals received

At 15,961, the number of appeals received during 2001 was down by 1,689 (9%) on the corresponding receipts figure for the year 2000.

Table 2 (page 9) shows the numbers of appeals received by type each year since 1997. The continuing upward trend over the 1997 - 2000 period seems to have peaked though the 2001 receipts are still above the pre-2000 figures.

Appeals against decisions disallowing unemployment payments where the issues are the conditions of being unemployed, available for and genuinely seeking employment are mainly the reason for the reduction in numbers. The number of such appeals was down by over 20% on the 2000 figure. As seen in Table 2, they are, however, still considerably above the number of such appeals received annually in earlier years.

The only other changes of note during the year were in the Disability Benefit and Carer's Allowances schemes.

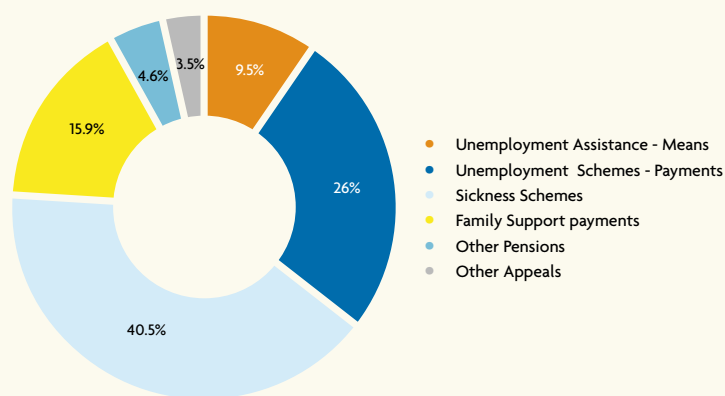
The former showed a decrease of over 500 (13%) on the year 2000 while the Carer's scheme continued the upward trend being experienced since 1997. That year 288 such appeals were received; in 2001 the number was 1,334. Over the period there have been changes in the conditions attaching to the scheme extending eligibility and easing the conditions governing entitlement and the increased numbers of appeals no doubt reflects the increased uptake by those eligible to apply. Of their nature they tend to raise issues of a more contentious nature as, apart

from the normal test of means that has to be applied, such appeals can also raise issues as to whether full-time care and attention is required in the particular case and whether it is being provided or not.

The chart at Figure A shows appeals received by broad category - sickness schemes accounting for about 40% with the unemployment payments schemes accounting for a further 35%.

Figure A

## Appeals received 2001



## Appeals disposed of - summary

Appeals are disposed of (a) where a revised decision is made by a Deciding Officer on foot of further information advanced by the person by way of grounds of appeal, (b) where action by the Deciding Officer is not possible and the appeal is referred to an Appeals Officer for determination and (c) where for one reason or another the person withdraws or decides not to pursue the appeal.

Table 1 shows the number of cases disposed of in each way. In all, 16,525 appeals were resolved during 2001 with 3,822 revised decisions being made by Deciding Officers, 10,450 appeals decided by Appeals Officers and the remaining 2,253 cases withdrawn.

## Revised decisions by Deciding Officers

The statutory provisions underlying the operation of the appeals process provides that where an appeal is made to the Chief Appeals Officer against a decision made by a Deciding Officer, notice of the appeal must be given to the Minister. The procedures also provide that a statement be made by or on behalf of the Deciding Officer indicating the extent to which the facts and contentions advanced in the grounds of appeal are

accepted or disputed. In the context of this procedure, it is open to the Deciding Officer to revise the initial decision if this would be in favour of the appellant.

About 23% (3,822) of appeals completed in 2001 were disposed of in this way. The figure is a small increase on the 2000 figure of 3,788. The majority of such revised decisions are made on appeals relating to medical issues and usually follow a second medical examination made by a Departmental Medical Assessor.

This procedure is, in effect, a process enabling a review of the Deciding Officer's decision prior to reference to an Appeals Officer. In the context of improving the service provided to customers, the Department will be initiating a review process inviting dissatisfied customers the opportunity of having their cases reviewed prior to making an appeal to the Appeals Office. See also page 28.

## Determinations by Appeals Officers

At 10,450, the number of appeals decided by Appeals Officers is down slightly on the corresponding figure of 10,671 in the previous year. This is accounted for by changes in the mix of the number of appeals for attention as between the various schemes. The number of unemployment payment appeals for determination, which can be disposed of more readily, was down and replaced by appeals, such as Carer's Allowances, which are more contentious in nature and so requiring more time to determine.

Of the determinations made by Appeals Officers, 3,166 (over 19% of all appeals disposed of) were allowed fully in favour of the appellant while in a further 505 cases, some improvement was made in the person's favour. Typically the latter would be some easing in the income assessed in means-tested schemes or some increase in the percentage of disablement assessed in injury benefit cases for loss of faculty.

In the remaining 6,779 appeals decided by Appeals Officers, the initial decision by the Deciding Officer was adjudged to be correct and the appeal was disallowed.

Of the 10,450 appeals decided by Appeals Officers, over 59% (6,186) followed an oral hearing of the appeal. This is about the same as the corresponding figure in 2000. The hearings were held at venues throughout the country. A list of the venues is in Appendix 1. In a small number of exceptional cases, where

an appellant is unfit to travel, arrangements are made to hear the appeal at the person's home.

In other years I have commented on a worrying high number of occasions where oral hearings have to be adjourned either because of the non-appearance of the appellant, the unavailability of the appellant or his/her representative or because the appellant is not in a position to process the appeal at the oral hearings - this notwithstanding timely notification and literature explaining the purpose and the format of the oral hearing. In the year 2001, almost 7,200 oral hearing were scheduled for the 6,200 appeals approximately which were actually decided. While this represents an improvement on earlier years, it is still disappointingly high.

## Appeals withdrawn

During the year, a total of 2,253 appeals were withdrawn or otherwise not pursued by appellants. This represents 13.6% of appeals disposed of. The corresponding figure for 2000 was 2,601 (15.2%).

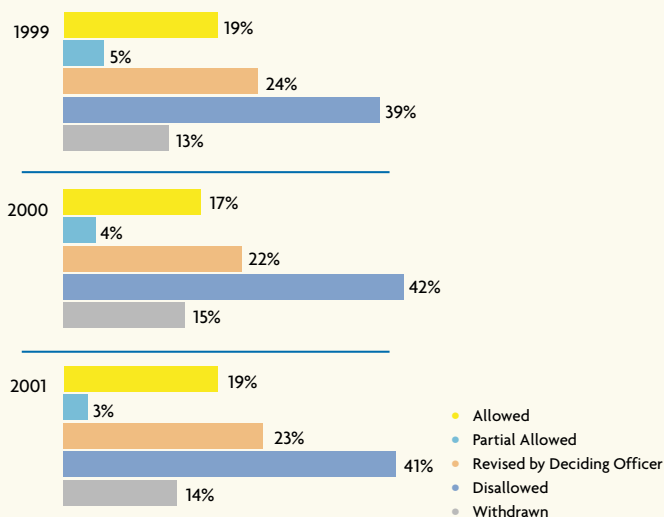
There is no evident reason for the reduction in the figure over the prior year. One possibility may be that through better explanatory documentation, customers of the Department now have a better understanding of the initial decision of the Deciding Officer and only those with sound grounds are availing of the appeals process. It had been the feeling over the years that a number of appeals arose because the person did not fully understand the reason for the initial decision and submitted an appeal. In the course of the appeal process when the reason for the decision became clear, the appeal was not pursued.

No cases arose in 2001 where the provisions of Section 253A of the Social Welfare (Consolidation) Act, 1993 were applied. This provides that where the normal appeals process is deemed inadequate for the processing of an appeal, the Chief Appeals Officer may direct that the appellant pursue the appeal through the Circuit Court. To date, it has only been used where anonymity for witnesses would be required.

## Outcome of appeals - summary

Of the 16,525 appeals disposed of in 2001, over 45% (7,493) resulted in favourable outcomes for appellants. As seen in Figure B, this figure compares with 43% in 2000 and 48% in 1999.

Figure B  
Outcome of Appeals 1999 -2001

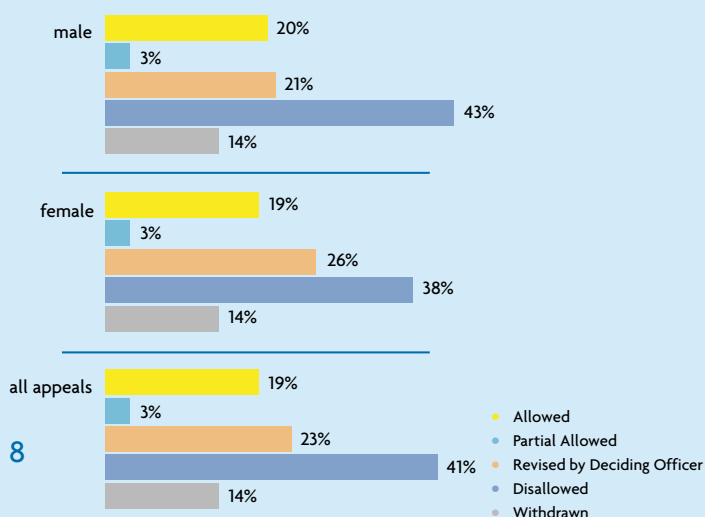


A breakdown of the outcome of appeals as between the various schemes is shown in Table 3 (page 10). Schemes where the outcome is mainly in favour of the appellant are the sickness schemes, largely because of revised decisions by Deciding Officers following a second medical examination by a Departmental Medical Assessor.

Schemes where the initial decision is mainly upheld are the unemployment payments schemes where the issue is meeting the statutory conditions of being available for and genuinely seeking employment.

A breakdown of the outcome of appeals by gender is shown in Figure C. Excluding appeals from corporate entities, the percentage of appeals from men and women were 44% and 56% respectively. About 44% of men and 48% of women were successful in their appeals.

Figure C  
Outcome of Appeals by Gender 2001



## Appeals in progress and clearance times

Given the quasi-judicial nature of the appeals process and the procedures in place to ensure that every appeal gets full and fair consideration, it is inevitable that there will always be some considerable number of appeals on which work is in progress at any time. Because of the significantly increased numbers of appeals received in recent years, the number of appeals on which work is in progress had, however, built up as seen in table 4 (page 10) to a figure of 7,537 at the end of 2000.

It is pleasing to report that during 2001 the number of appeals disposed of exceed input by over 500 with the result that the number of cases on hands decreased to 6,973 by the end of that year.

The work on hands at the end of the year was at various stages of the procedural process as follows (2000 figures in brackets)

- Appeals had been heard and decisions to be finalised or notified **408** (454)
- Oral hearings scheduled for coming weeks **205** (205)
- Work in progress in Social Welfare Appeals Office **2,665** (2,867)
- Work in progress in the Social Welfare Services **3,090** (3,302)
- Response awaited from appellant **605** (709)

A figure of around 4,000 is seen as the desirable number and is the target to which the Office aspires.

Because of the substantial volume of work on hands, the time taken to process appeals is, inevitably, greater than it should be. During the year, the average time taken to process all appeals disposed of was almost 23 weeks. Of this, just over 11 weeks is attributable to processes in the Social Welfare Appeals Office, 2 weeks to where responses were awaited from appellants and the remainder is attributable to work in the Social Welfare Services.

For varying reasons some appeals can be quite protracted. For example some appeals disposed of in 2001 would have been on hands for a number of years pending a judgment from the Courts on the constitutionality of sections of social welfare legislation (as reported in 2000). If allowance is made for the 25% of most protracted cases, the average time to process all appeals is just under 15 weeks.

**Table 1 Appeals received and disposed of - 2001**

	In Progress	Receipts 1-Jan-01	Decided Appeals Officer	Revised Decision Deciding Officer	Withdrawn	In Progress 31-Dec-01
Old Age Pensions	263	575	376	90	40	332
Retirement Pensions	12	25	11	11	2	13
Pre-retirement Allowances	36	32	39	8	7	14
Old Age (contributory) Pensions	47	106	45	27	9	72
Disability Benefit	1,676	3,434	1,247	1,454	887	1,522
Invalidity Pension	352	491	236	241	94	272
Disability Allowance	946	1,861	864	567	524	852
Occupational Injuries Benefits	489	677	616	70	51	429
Treatment Benefit	4	3	6	0	1	0
Unemployment Benefit	682	1,881	1,715	148	118	582
Unemployment Assistance - Payments	719	2,262	2,120	137	117	607
Unemployment Assistance - Means	593	1,511	1,329	243	140	392
Widows/Widowers and Orphans Pensions	113	142	119	43	7	86
One-Parent Family Payment	568	762	369	189	50	722
Maternity Benefit	5	9	8	2	1	3
Child Benefit	18	56	27	19	3	25
Carers Benefit and Allowances	691	1,334	681	444	151	749
Family Income Supplement	40	78	43	30	2	43
Farm Assist	116	157	161	41	19	52
Supplementary Welfare Allowances	50	354	343	3	14	44
Rent Allowance (Private Rented Dwellings Act)	0	2	1	1	0	0
Liabile relatives (contributions)	7	117	21	45	0	58
Insurability of Employment	110	92	73	9	16	104
<b>Totals</b>	<b>7,537</b>	<b>15,961</b>	<b>10,450</b>	<b>3,822</b>	<b>2,253</b>	<b>6,973</b>

**Table 2 Appeals received 1997 - 2001**

	1997	1998	1999	2000	2001
Old Age (non-contributory) and Blind Pensions	665	570	503	558	575
Retirement Pensions	22	29	29	23	25
Pre-retirement Allowances	117	81	38	48	32
Old Age (contributory) Pensions	37	98	87	77	106
Disability Benefit	3,530	3,813	3,917	3,968	3,434
Invalidity Pension	551	543	554	626	491
Disability Allowance	1,243	1,254	1,302	1,750	1,861
Occupational Injuries Benefits	830	793	741	806	677
Treatment Benefit	3	1	1	5	3
Unemployment Benefit	1,263	1,370	1,738	2,481	1,881
Unemployment Assistance - Payments	974	1,157	1,865	2,821	2,262
Unemployment Assistance - Means	3,449	2,911	2,246	1,757	1,511
Widows/Widowers and Orphans Pensions	152	125	103	151	142
One-Parent Family Payment	571	578	597	779	762
Maternity Benefit	22	14	20	16	9
Child Benefit	100	116	85	50	56
Carers Benefit and Allowance	288	285	756	1,009	1,334
Family Income Supplement	63	64	57	63	78
Farm Assist*			481	298	157
Supplementary Welfare Allowances**		115	213	239	354
Rent Allowance (Private Rented Dwellings Act)	1	1	2	1	2
Liabile Relatives (contributions)***			3	18	117
Insurability of Employment	123	96	127	106	92
<b>Totals</b>	<b>14,004</b>	<b>14,014</b>	<b>15,465</b>	<b>17,650</b>	<b>15,961</b>

\* Commenced 7th April 1999 \*\* Commenced 6th April 1998 \*\*\*Commenced 4th May 1999

**Table 3 Outcome of appeals by category - 2001**

	Allowed	Partly	Revised DO	Disallowed Allowed	Withdrawn Decision	Total
Old Age (non-contributory) and Blind Pensions	47 9%	44 9%	90 18%	285 56%	40 8%	506
Disability Benefit	863 24%	8 0%	1,454 41%	376 10%	887 25%	3,588
Invalidity Pension	135 24%	4 1%	241 42%	97 17%	94 16%	571
Disability Allowance	354 18%	27 1%	567 29%	483 25%	524 27%	1,955
Occupational Injuries Benefits	320 43%	103 14%	70 9%	193 26%	51 7%	737
Unemployment Benefit	369 19%	70 4%	148 7%	1,276 64%	118 6%	1,981
Unemployment Assistance - Payments	366 15%	44 2%	137 6%	1,710 72%	117 5%	2,374
Unemployment Assistance - Means	176 10%	74 4%	243 14%	1,079 63%	140 8%	1,712
Widows/Widowers and Orphans pensions	21 12%	10 6%	43 25%	88 52%	7 4%	169
One-Parent Family Payments	121 20%	24 4%	189 31%	224 37%	50 8%	608
Carers Allowances	268 21%	28 2%	444 35%	385 30%	151 12%	1,276
Family Income Supplement	12 16%	3 4%	30 40%	28 37%	2 3%	75
Farm Assist	19 9%	44 20%	41 19%	98 44%	19 9%	221
Supplementary Welfare Allowances	61 17%	6 2%	3 1%	276 77%	14 4%	360
Insurability of Employment	20 20%	8 8%	9 9%	45 46%	16 16%	98
Other Appeals (OA(C)P, Pre-retirement Allowances, Treatment Benefit, etc.)	14 5%	8 3%	113 38%	136 46%	23 8%	294
<b>Totals</b>	<b>3,166 19.2%</b>	<b>505 3.1%</b>	<b>3,822 23.1%</b>	<b>6,779 41.0%</b>	<b>2,253 13.6%</b>	<b>16,525</b>

**Table 4 Appeals in progress at 31 December**

	1997	1998	1999	2000	2001
Old Age (non-contributory) and Blind Pensions	335	229	275	263	332
Retirement Pensions	12	13	10	12	13
Pre-retirement Allowances	60	23	21	36	14
Old Age (con) Pensions	19	30	43	47	72
Disability Benefit	1,212	1,696	1,770	1,676	1,522
Invalidity Pension	227	231	254	352	272
Disability Allowance	582	625	695	946	852
Occupational Injuries Benefits	478	521	522	489	429
Treatment Benefit	1	1	1	4	0
Unemployment Benefit	406	448	618	682	582
Unemployment Assistance - Payments	315	387	686	719	607
Unemployment Assistance - Means	1,434	950	644	593	392
Widows and Orphans Pensions	93	58	64	113	86
One-Parent Family Payment	343	340	379	568	722
Maternity Benefit	7	8	7	5	3
Child Benefit	52	41	33	18	25
Carers Allowances	118	133	449	691	749
Family Income Supplement	42	46	19	40	43
Farm Assist *			301	116	52
Supplementary Welfare Allowance**		14	34	50	44
Rent Allowance (Private Rented Dwellings Act)	1	1	0	0	0
Liabile relatives (contributions)***			2	7	58
Insurability of Employment	118	84	120	110	104
<b>Totals</b>	<b>5,855</b>	<b>5,879</b>	<b>6,947</b>	<b>7,537</b>	<b>6,973</b>

\* Commenced 7th April 1999 \*\*Commenced 6th April 1998 \*\*\*Commenced 4th May 1999

## | meetings of appeals officers |

# | meetings of appeals officers |

In accordance with legislation governing the operation of the appeals system, meetings of Appeals Officers were held on a number of occasions during the year.

The principal purpose of these meetings is to establish consistency of practice among Appeals Officers in administering the social welfare code. Also discussed are the requirements of administrative law as they impact on procedure, as well as ways of keeping the system responsive to the needs of appellants and other customers of the Office, including the Department.

This is to ensure that everybody dealing with the Office is accorded the same fully-informed and fair treatment, irrespective of the particular Appeals Officer who may deal with his or her case. This has special relevance for appellants who, because of their needs and, at times, very difficult circumstances, can rightly expect that their particular situations will be considered with an in-depth knowledge of social welfare provisions and with understanding.

Some of the matters which were addressed at the meetings are set out in the material following. Where appropriate, officers of the Department with responsibilities for the topics under discussion were invited to attend the meetings and their participation is appreciated.

## Carer's Allowance

As indicated in reports of earlier years, Carer's Allowance appeals continue to present certain difficulties because of the nature of the entitlement.

The basic qualifying conditions for the Allowance (apart from a means test) are that the person receiving the care must be so incapacitated as to require full-time care and attention, and the carer has to be providing that full-time care and attention.

The carer is the claimant and, in turn, the appellant for the purposes of any appeal against a decision disallowing payment. Because of the not readily quantifiable considerations involved, oral hearings are required as a matter of course in order to determine these appeals. The carer attends the oral hearing but the person being cared for, whose incapacity is fundamental to the matter, virtually, by definition, ordinarily cannot and does not attend.

The Appeals Officer thus does not have the opportunity of hearing and assessing the evidence of, arguably, the principal party involved, i.e. the person being cared for, at first hand.

Discussions held with the various responsible areas of the Department have not identified an alternative procedure for dealing with claims and appeals. For instance, while introducing, as an integral part of the process, a domiciliary medical examination by a Medical Assessor of the Department and then, in turn, a domiciliary hearing by the Appeals Officer in every appeal case might suggest itself as a way of dealing with the problem, such a step would have unacceptable costs implications, principally because of the additional resources which would be needed.

It is felt, however, that existing evidence-gathering procedures could be usefully supplemented to provide additional information which would help clarify the situation.

At the claim stage it is thought that it would be helpful to invite fuller information on the nature and extent of the care and attention required by the incapacitated person and on how that is provided by the carer. Also considered helpful would be a standardised format of report detailing the relevant features to be addressed whenever a Social Welfare Inspector is asked to report on a claim.

Association of other material about the incapacitated person's medical condition already existing in the Department in relation to any other claim made for a benefit, e.g., Disability Allowance or Benefit, or Invalidity Pension would, as well, help to clarify the situation.

## Disability Allowance

The medical condition for Disability Allowance provides for the Allowance to be payable to a person who, because of a specified disability, is substantially handicapped in undertaking employment of a kind which, if the person were not suffering from that disability, would be suited to that person's age, experience and qualifications. A substantially handicapping disability is one where the person suffers from an injury, disease, congenital deformity or physical or mental illness or defect (and lasting at least a year).

This condition is distinguishable from the corresponding medical test for Disability Benefit which is that the person be incapable of work.

Where satisfying the medical condition is the appeal issue, most Disability Allowance appeals require oral hearings. As well as the medical evidence, it is considered that, because of the occupation dimension which is an inherent part of the statutory requirement, there is also a place in the appeal submission for information on a claimant's standard of education and employment history.

At the oral hearings persons are encountered who may have substantial difficulties in one way or another beyond the specified disability. It may be that a history of alcohol abuse or illiteracy is also present. Another instance could be that of the person who is beyond mid-years, was employed in physical work over very many years, and who had left school at an early age (again, of course, there has to be the necessary specified disability present).

Realistically, it is not easy to envisage a job, no matter how undemanding, which could be held by these persons. It has been found that among such persons are individuals who were disallowed Unemployment Assistance in the measures to move unemployed persons from the Live Register into employment. Some of these may have in fact been advised to claim Disability Allowance.

### Occupational Injuries Benefit

The work of the Department Review Group on the updating of the statutory list of diseases covered by the Occupational Injuries Benefits scheme, i.e. prescribed disease, is ongoing. In that connection, cases are brought to attention by Appeals Officers for consideration by the Review Group in which, following oral hearing, the evidence would strongly seem to point to the disease in question being occupational in origin but not a prescribed disease for the scheme.

### One-Parent Family Payment - Maintenance

One of the statutory conditions for entitlement to One-Parent Family Payment for a separated person is that appropriate efforts be made to obtain maintenance from his or her spouse.

To enable the appellant every opportunity to detail efforts made, oral hearings are held as a matter of course in such appeals. On numbers of occasions at oral hearings it transpires that the person has not in fact taken the necessary steps to get maintenance, especially where the indications are that the spouse has left the jurisdiction. This seems to be due to a lack of appreciation on the individual's part of what is involved.

It is considered that additional information about seeking maintenance, which is provided on a standard basis to claimants, would result in applications succeeding which otherwise would have to proceed to appeal and an oral hearing before succeeding.

### One-Parent Family Payment - living apart

Fundamental to the One-Parent Family Payment scheme for a person claiming as a separated spouse is that the claimant and his or her spouse be living apart. Living apart in this context means that the marriage tie has been broken and not just that a couple are parted through separation by distance (which can be a feature of normal marriage, e.g. in the case of ocean-going seaman, soldier serving abroad, etc.).

Difficulties can arise when a refugee or asylum seeker applies for the payment and there is little, if any, way of investigating what a person's marital position may be in the country of origin. The country may be far distant and conditions there disturbed. In these situations, decisions must be made on the basis of the best evidence available to the Appeals Officer following the holding of an oral hearing, with interpreter assistance as needed.

## Pre-1953 Insurance Pensions

Recent legislative amendments provide a pension entitlement on the basis of contributions under the National Health Insurance Acts, 1911 to 1952. Given the very substantial time lapse involved, difficulties can arise in numbers of cases in establishing the factual position of employment prior to 1953. The person, who may now be of advanced years, may be able to give only approximate information, the employing business may no longer be in existence, and there may be no Departmental record of the employment.

The Office is in contact with the Department with a view to more intensive investigation of claims of pre-1953 employment and possibly earlier resolution of such cases.

## Supplementary Welfare Allowance

As well as questions of entitlement to regular weekly payments under the Supplementary Welfare Allowance scheme, there is a right of appeal to the Social Welfare Appeals Office on issues relating to supplements payable under the scheme, including Diet and Rent Supplements.

Rent Supplements continued to be the most frequently appealed payment to the Office. The number of such appeals has increased, largely because of appeals from asylum seekers in accommodation provided by the Reception and Integration Agency of the Department of Justice, Equality and Law Reform who, for different reasons, consider the accommodation is unsuitable because of their particular needs. Rent Supplement is sought for the renting of private accommodation. The outcome of such an appeal is dependent on whether the evidence establishes that, because of medical, family composition, nature of the accommodation or other pressing reason, the accommodation provided is unsuitable. The issue has been discussed at meetings with Officers of Health Boards and with representatives of the Reception and Integration Agency.

## Unemployment Payments - Information not supplied

An issue referred to in recent years' Reports was that of claims disallowed by the Department because of failure to provide essential supporting documents such as certificates. To finalise the claim process the practice was to make a formal decision disallowing the claim. Such disallowance automatically provided access to the appeals system.

The primary purpose for which the appeals system is designed and provided is to resolve disputes between claimants and the Department about entitlements in law to the different social welfare payments. Use of the system for other purposes, such as in these cases for information-gathering of basic data, means that the resources of the appeals system are not being utilised to best effect.

A new procedure has recently been introduced by the Department to terminate the claim stage and withhold a decision where a claimant fails to co-operate in the processing of his or her claim. The onus will be on the appellant to provide all necessary information at the initial decision-making stage. This measure will help to free-up the appeals system to address the job for which it is designed and will also have an advantage for the Department of no longer having to prepare and submit such cases to the Appeals Office.

## Unemployment Payments - Disadvantaged claimants

Continuing to be of concern to Appeals Officers are claimants who are ill or marginally equipped to take up employment, but who come to attention through normal Departmental efforts aimed at enabling claimants on the Unemployed Register to avail of increased opportunities in the labour market. Because of factors such as illiteracy, an impairment of mental abilities, or a socially deprived background, such claimants are at a real disadvantage in seeking (and holding down) employment.

In some cases the person may have an alcohol or other drug abuse problem and have an address at a hostel for homeless persons. While it is acknowledged that the potential of every claimant to take up employment must be considered, in the case of a person in question here clearly a lot of attention is needed before disallowance as a job-taking incentive could be warranted.

The appropriate social security scheme for persons poorly equipped for open labour employment is, of course, a much bigger question. At present, however, given that such persons need the support of social welfare payment under one heading or another, there would appear to be a clear case for exercising restraint in the withdrawal of payment, in the interests of efficient and meaningful administration and, not least, of good customer-service practice for the claimants themselves.

Consideration of any appeal which arises in such cases is greatly assisted when the observations which the Deciding Officer makes on every appeal, as an integral part of the appeals process, include full briefing on measures which have been taken to help the particular person become job-ready. Such measures would include availing of the services of the local job facilitator and/or of assessment and training by FÁS.

### Unemployment payments - means assessment

An issue discussed in relation to the assessment of means for Unemployment Assistance of a person whose spouse is working abroad is the fixing, by Regulation, of the amount of the deductible allowance from the assessable weekly earnings of the spouse (in recognition of costs attaching to living and working abroad). The amount of this allowance is statutorily prescribed. Travelling expenses incurred are not allowable where the employment is of more than three days per week.

It is felt that flexibility in deciding the amount of the allowance may be appropriate in order to reflect necessary actual expenses, varying from one work situation to another and from country to country, and the matter has been raised with the Department.



# | decisions advisory office |

# | decisions advisory office |

Regular meetings throughout the year with the Director of the Decisions Advisory Office and members of his staff continued to be a most worthwhile forum for liaison between the Office and the Department.

At these meetings legislative issues are addressed with a view to achieving consistency of understanding regarding the application of the statutory conditions for entitlement to social welfare benefits, so that, insofar as possible, payment can be made without a claimant having to have recourse to the appeals system and so at the earliest juncture. Similarly, aspects of procedures are reviewed so as to enhance and quicken necessary and standard interaction between the Office and the Department in the processing of appeals.

The Office wishes to acknowledge and express appreciation of the assistance of the Decisions Advisory Office and of the staff of the Department throughout the year.

## | court proceedings |

# | court proceedings |

## Pay-Related Social Insurance (PRSI) Rate of Contribution

### - *Share Fishermen*

Judgement was given by Ms Justice Carroll on 2 October 2001 in the action against the decision by an Appeals Officer that the PRSI status of certain persons working on fishing vessels remunerated by a share of the fish catch was at the class A (employee) rate of contribution.

In the course of the judgement, the Justice referred to the legal position following DPP -v-McLoughlin (1986 1 I.R.355) that share fisherman in the same or similar position to share fishermen in that case were legally partners on a joint venture with the boat owner. Even were the scale of operation different, the old tradition and concept of one person providing a boat and others labour would not be altered.

The court made an order accordingly that PRSI class A did not apply.

### - *Contract of service*

There are currently two other cases pending in the High Court involving the issue of whether employment is under a contract of service as an employee or not. One involves the employment of an office clearer by a telecommunications service company and the other relates to the employment of artificial inseminators engaged by a cattle-breeding body. In both cases the employing body is contesting the decision of the Appeals Officer that the persons are engaged as employees.

| some appeals officers decision cases |

# | some appeals officers decision cases |

## Old Age (Non-Contributory) Pension - Whether means of persons are separately or jointly assessable.

*Where the claimant is one of a couple living together, his or her means are assessed as one-half of their joint means.*

The claimant applied for a pension as a single person and, on the basis of her own income, would have qualified for nearly full-rate pension.

On investigation the Social Welfare Inspector reported that the claimant was sharing accommodation with a male person who was in full-time remunerative employment. The parties had shared their present accommodation for over two decades and for most of that time had lived together as man and wife.

They had been in business together at one stage but the business had failed and the relationship fractured. She had continued to share the accommodation with the man as she had nowhere else to go and, not being in the best of health, she did not want to live on her own.

The claimant and the male resident shared day-to-day living expenses, such as foodstuffs, heat and laundry. She did the shopping and cooked the main meal daily for both of them. While at one time they did socialise together, the claimant said that the co-resident went out on his own every night and they did not go on holidays together.

She herself was separated from her husband for very many years but, even were she to obtain a divorce, she would not contemplate marriage to the person.

They had applied to be housed by the local authority as joint-tenants in two-bedroomed accommodation. If they were to get the accommodation they each would pay half of the rent.

The Deciding Officer considered that, on balance, the evidence indicated that there was a marriage-like relationship between the persons. The means of both were accordingly assessable and the pension application failed, as one-half of the joint means exceeded the limit for entitlement to any rate of pension.

The claimant lodged an appeal against the refusal of pension and attended the oral hearing, which the other party also attended.

The appellant re-stated her evidence as previously furnished to the Department. The other party was also married but had lost touch with his family. She explained that there had been a breakdown in the trust that existed in their relationship and as a result sexual relations between them had ceased. She did the shopping and household chores and while there was a sharing of accommodation and living expenses, she submitted they lived separate lives.

In his comments, the Appeals Officer observed that the parties behaved as a married couple in every respect, except that there had been a cessation of sexual relations. Their demeanour throughout the hearing showed a genuine regard for each other.

For a couple dwelling under the same roof to be treated as living apart, the law required that each party be living in the main as if he or she were residing alone, that is, with each having his or her own living, as well as sleeping, arrangements and with little, if any, interaction between them. The Appeals Officer did not find that to be the case here and the appeal failed.

## One-Parent Family Payment - Whether a couple are living apart

*One-Parent Family Payment is for a parent who has the responsibility for rearing a child or children without a partner. A qualifying condition for separated spouses is that a claimant and his or her spouse have lived apart for at least three months at the time of claim.*

A foreign national made a claim for a One-Parent Family Payment for herself and her child. The person first came to Ireland to study at a third level institution. She returned to her native country for the following summer holidays and married a fellow national during that time.

Her husband, then a third-level student in their own country, remained behind when the person returned to Ireland and their child was born here. Later the person went back to her own country for a holiday and on her return to Ireland made the claim for a One-Parent Family Payment. Her husband, who had become a university lecturer, again remained behind. There was no break in the marriage tie.

The One-Parent Family Payment claim was disallowed by the Deciding Officer on the grounds that the qualifying condition requiring that a claimant and spouse must have lived apart for at least three months was not fulfilled. The Deciding Officer considered that the separateness of the couple was one of geographic distance solely and the couple were not living apart within the meaning of the governing law.

In her appeal the appellant stated that her husband was unable to send her financial support because of his low earnings in their own country.

At the oral hearing of the appeal the appellant confirmed the particulars of her case as earlier given and stated that she and her husband kept in touch with each other on the 'phone and by letter. He intended to come to Ireland to join her, where she herself was now able to stay and take up employment, but there was a problem about getting a visa to leave their own country.

In his comments on the case the Appeals Officer referred to a number of court authorities in the matter.

A High Court judgement [1998 no 89M] held that living apart "must be construed as something more than mere physical separation..." "Marriage is not primarily concerned with where the spouses live.... and indeed there can be a number of circumstances in which the matrimonial relationship continues even though the parties are not living under the same roof as, for example, where one party is in... an institution... or is obliged to spend a great deal of time away from home in the course of his or her employment."

The English case of Santos v Santos [1972] when dealing with the phrase 'living apart' refers to a volume of authority which "makes it abundantly clear that 'living apart'... when used in a statute concerned with matrimonial affairs, normally imports something more than physical separation..." "A relationship does not end so long as both spouses *bona fide* recognise it as subsisting, and, in particular, it does not end by reason of a separation brought about by the pressure of external circumstances, such as absence on professional or business pursuits."

Accordingly in the light of the facts and of the law the Appeals Officer disallowed the appeal.

## Orphan's (Contributory) Pension - Whether child is an orphan

*A statutory requirement for entitlement to an Orphan's (Contributory) Pension (or to the corresponding social assistance means-tested Orphan's Allowance) is that the parents have abandoned or have refused or failed to provide for the child.*

A person, in receipt of a widow's pension, applied for an Orphan's Pension in respect of a grandchild who was living with her. The child had been living with her for the best part of 15 years and there was no contact with the child's mother or father.

The claim was investigated in the usual way and the Social Welfare Investigator reported that the child's mother had left the child when very young with the claimant, because she was unable to care for the child. The stay was to be a temporary one but the mother never took the child back. There had been no contact at all by the child's father. A statement from the claimant's doctor to the effect that the child had been living with the claimant for very many years was furnished.

Initially, her husband, who was then alive, had received an increase for the child on his sickness benefit payment from the Department and, afterwards, there was an increase in her widow's pension for the child. Also submitted was a statement from the child's mother saying that she had placed her child in her mother's care as she herself had no stable living arrangements.

On the evidence, and given that the mother had apparently arranged with her own mother, the claimant, for the child to be looked after, the Deciding Officer disallowed the claim on the grounds that the child had not been abandoned and that there had not been parental refusal or failure to provide for the child.

A report by a social worker supporting the claim for the Orphan's Pension was submitted with the appeal against the decision. The report stated that the child had been living in an unstable and unsafe life-style when with her own mother and commended the claimant for her care of the child. No financial contributions for the upkeep of the child were made by the child's parents. There had been very little contact by the child's mother over the years and even a Christmas present was virtually unknown.

The appellant attended the oral hearing accompanied by a member of her family. Going back to when the child first came to stay with her, she said that a son of hers had called on his sister and child and found them living in poor accommodation. Also his sister's partner at the time, and father of the child, was using drugs and involved in drug pushing.

Her son brought the child back home for a short holiday to enable his sister to provide more suitable accommodation. From there the situation drifted and eventually the child's mother asked her to take and rear the child completely.

The last visit by the mother was a number of years ago when she came for a family wedding. The child did not want to recognise her mother as such. Her mother had another partner and a child also in that relationship and took no interest in the child. The child's father was understood to be in contact with her mother on an occasional basis, but had no contact with the child.

In the initial years with her, the appellant stated that the child was quite a frightened person. However, over the years she had grown out of that and was now doing well, both at school and in other social activities.

In her comments on the case the Appeals Officer stated that, irrespective of what may have happened when the child first came to live with the appellant, she considered that the child had been shown to be an orphan as regards the appellant's entitlement to the Orphan's Pension. The evidence showed that each parent had manifestly failed in the discharge of fundamental and ordinary parental duties to the child and thus had abandoned the child.

The appeal was accordingly allowed.

### **Pay-Related Social Insurance Contributions (PRSI) - Whether Contributions requalifying a person to receive Unemployment Benefit were validly paid**

*The most frequently occurring question relating to PRSI which comes before an Appeals Officer for decision is that of the nature of the employment contract, i.e. whether it is a contract of employment*

*(where the engaged person is an employee) or, alternatively, is a contract for services (and the person doing the work is a self-employed person). That decision in turn determines the rate of PRSI applicable, Class A, mainly, for an employee, and Class S for a self-employed person.*

*A type of PRSI question which arises at times is whether claimed employment genuinely attracts the PRSI contributions which have been paid, and so whether the entitlement to social welfare benefits thereby created is valid.*

Some time after exhausting entitlement to Unemployment Benefit, the person made another claim to Unemployment Benefit on the basis of PRSI contributions in respect of employment during the intervening period with her son, who lived with herself and her husband.

The Department's local office requested a report from the Social Welfare Inspector giving some further particulars of the claimed employment.

On the basis of this report, the question of the genuineness of the employment and validity of the related PRSI Class A contributions paid was referred for a formal decision by a Deciding Officer.

The son's business was in the financial services area. The claimant stated that she had filled in at short notice for employees on short-term absences, such as holidays or sick leave. There were discrepancies in the parties' statements regarding the amount of the remuneration and it was stated that payment was made from petty cash.

The Deciding Officer, in the light of the investigation report, considered that the situation was simply a parent helping out a member of her family at short notice, whenever the need arose, and that the claimant could not be regarded as an employee in the ordinary and legal meaning for PRSI purposes.

Both parties appealed against the decision, contending that the PRSI contributions were properly paid because the employment relationship was a normal employer-employee one.

Both parties were present at the oral hearing and the investigating Social Welfare Inspector also attended.

The engaged party stated that she provided substitution cover if one of her son's ordinary employees was absent because of holidays or sickness; the extent of the substitution could vary from one day to a week. The son said that his mother also worked if the business was very busy.

On being asked how the amount of wages paid as given at the hearing differed from the amounts which had earlier been given to the Social Welfare Inspector, which varied in themselves, the engaged party stated that this was because of differences in the number of hours worked at particular times.

In regard to this wages question, the son stated that he could not recall the amount paid. It would have been dependent on the number of days worked. Payment would have been made by cheque or in cash.

Given that the evidence being offered was that the engaged party was called on to cover for ongoing absences by ordinary employees, the parties were invited to explain how it was that throughout the substantial period when Unemployment Benefit was drawn at an earlier date, no break at all occurred for any employment. To this no satisfactory explanation was forthcoming.

On detailed examination and assessment of the all the evidence offered in relation to the hours worked and remuneration paid, the Appeals Officer concluded that, allowing for figures claimed for full weeks and part-weeks, the rate of remuneration claimed was unacceptably low for a person who would be employed under a realistic contract of service. He also observed that the total amount of remuneration returned on the cessation of employment P45 form was just marginally sufficient for the engagement to qualify for inclusion under the PRSI system.

The Appeals Officer further commented that, in his view, the sequence of events in the case pointed to an artificial arrangement designed to gain weeks of insurable employment which would result in requalification for entitlement to Unemployment Benefit. While it was possible that there was some degree of work or helping out by the engaged person, it would be difficult to accept that an employer/employee relationship existed.

The appeal consequently failed.

## Old Age (Non-Contributory) Pension - Whether property disposed of in order to qualify for a pension

*Old Age (Non-Contributory) Pension is a means-tested social assistance payment for persons aged 66 years and over. Money or property given away in order to satisfy the means test continues to be assessable as a claimant's means.*

On application for pension the claimant was assessed with the proceeds of the sale of his home some years previously and with income received from members of his family. It was decided that he was, consequently, not entitled to a pension on the grounds that his means exceeded the relevant statutory limit.

The circumstances of the case were that the home was sold to a son and the proceeds of the sale had been returned to the son to help him in his business. The son and another son were self-employed in a company business. The purchasing son subsequently sold on the house at a profit.

The claimant and his wife went to live with the other son. An extension was put on the son's house, financed from a loan which the claimant had taken out and on which he was making repayments.

The claimant was a cheque signatory for the sons' business. The company accountants advised that the claimant had no financial involvement with the company and that the only reason for his being a cheque signatory was as an emergency precaution necessitated by the prolonged serious illness of one of the sons.

The claimant appealed against the refusal of the pension and in support of the appeal it was stated that members of the family were providing for the claimant and his wife and they had had to borrow money to do so.

At the oral hearing the appellant was accompanied by members of his family and the investigating Social Welfare Inspector was also present.

The appellant stated in evidence that he was guarantor for his sons' business account and due to the size of the overdraft, he was under pressure from the bank. One of the sons was

married with a mortgage, and the other son, who was the only person in a position to raise finance, obtained a mortgage to buy the family home.

The proceeds from the sale of the house were used to clear the business debt and to part-finance the building of an extension to the other son's house as a home for himself and his wife.

A medical condition of the son who had bought the house deteriorated and he could not continue to live on his own. He sold the house, cleared the mortgage and went to live with another family member.

He further stated that the payments from family members were mainly to meet repayments on a loan which had been obtained in his wife's name to complete the extension to the son's house, where he and his wife resided and to help them out with ordinary day-to-day living expenses.

At the request of the Appeals Officer, bank statements were subsequently provided in support of the claimed financial transactions. The covering letter expressed appreciation of the very patient manner in which the Appeals Officer conducted the oral hearing.

On the evidence, the Appeals Officer decided that the appellant had not given away the proceeds of the sale of his home in order to qualify for a pension. He also found that the contributions which he was getting from family members were to meet his loan repayment and to tide himself and his wife over until such time as a pension might be awarded. The appeal accordingly succeeded.

| organisational and operational matters |

## Resources

An Organisation Chart of the Office as at 31 December 2001 is set out at Appendix 2 to this report.

The number of staff serving at that time was 55½, an increase of 4 on the corresponding figure at the end of 2000. Included in this figure was a Project Manager (Assistant Principal) to co-ordinate the consultancy review of the Office and an addition of ½ in the Appeals Officer cadre.

During the year two Appeals Officers - Seamus Nolan and Tony Kavanagh - retired and I would like to take this opportunity to thank them for their contribution to the work of the Office during their time here. I am, of course, appreciative of the contribution of all personnel of the Office and for their continuing unstinting efforts in providing the appeals service.

## Customer Service

The Department's Customer Action Plan embodies principles of quality customer service. This Office fully subscribes to them in the delivery of the social welfare appeals service. Ways of improving the quality of that service are continually considered.

### - *Departmental Review following initial decision*

Following discussions with departmental officials, the Department's new Strategy Statement 2001 - 2004 "People, Policies, Services" published during the year contains a commitment to review any decision in the light of any further information brought to notice. In the course of a reply to a Parliamentary Question in Dáil Eireann in November the Minister referred to the Department's policy to ensure that persons who receive unfavourable decision are provided with the means to have such decision reviewed as quickly as possible.

It is understood that in line with this, customers who are unsuccessful in their claims for social welfare payments will be advised of the undertaking to review the decision if further information is provided. Where such review is not fruitful, there is, of course, where the decision is of a formal nature, a right of appeal to this Office. This initiative is welcomed as it may speedily resolve cases, which might otherwise go on

appeal. Even where resolution is not possible at the review stage, the appellant will have a fuller understanding of the decision and be in a better position to articulate the grounds of appeal to this Office.

### - *Consultancy Review of the Office*

As indicated in the report for the year 2000, a consultancy study of the Office during 2001 was proposed. A request for proposals to provide consultancy service for this study was issued during December 2001 and since then consultants have been selected and the review is well under way. The study will also examine all the processes involved in dealing with claims to the appeals stage, with a view to identifying procedural improvements.

As part of the review, a postal survey of appellants will be conducted by a marketing research firm with a view to assessing the attitudes and views of people who, as appellants, were customers of the Office. The output will be available to the consultants in their analysis of, and recommendations on, the appeals service.

It is envisaged that the report from the study will play a major part in the development of the strategic direction and the service delivery activities of the Office in the coming years.

### - *Information*

The processing of a very large number of appeals generates considerable interaction with all parties involved in the appeals service.

In relation to appellants, it is the objective that at all times such interaction is timely and informative with the objective of making the appeals quasi-judicial process understandable. Leaflets are available outlining the process and the oral hearing procedures. All appellants receive copies as appropriate. Interim letters are issued to keep appellants informed of the progress of their appeals. Where appropriate, oral hearings are arranged to enable appellants to present their cases personally.

Tá deis le fáil chun seirbhís den chaigdeán árd chéanna a chur ar fáil do dhuine ar bith ar mian leo achomharc a dhéanamh trí Ghaeilge, éisteacht béil san áireamh, agus tabharfar gach aon cabhair do dhuine ar bith ar mian leo fónamh a bhaint as an deis sin.

To give a fuller understanding of the functions and operations of the Office to other parties involved in the appeals service, talks are given by the Office Manager to interest groups and

to training courses for departmental officials. During the past year he gave seven presentations to seminars for Deciding Officers. He also visits decentralised offices of the Department to discuss the appeals process with local management and the procedures for their responding to the grounds of appeal, including the submission of the relevant departmental papers in a timely manner.

#### - *Locall*

A Locall service which enables all customers from whatever location to contact the Office by phone at local call rates was introduced during the year and all correspondents are advised of its availability. The new service is being monitored to ensure that it meets the needs of customers.

#### - *Oral hearing venues*

In line with the policy of making the service accessible, oral hearings are held at venues convenient to appellants around the country. In the Dublin area, appeal hearings are held at the Office's headquarters in D'Olier House and this accommodation is such that all customers can conduct their business in privacy and in some degree of comfort. Venues outside Dublin are normally hotel rooms and these are monitored to ensure that an appropriately high standard is available to enable the parties to the appeals to present their cases in privacy. Where an appellant has special needs and may not be in a position to travel to an oral hearing venue, arrangements are made to conduct the hearing at the person's own home.

#### - *Foot and Mouth Disease*

In keeping with nationwide precautions against the outbreak of Foot and Mouth Disease in the early part of 2001, Appeals Officers adopted special measures in dealing with appeals.

The overriding objective was to keep meetings with persons having contact with livestock to an absolute minimum. This had particular application to the holding of oral hearings by Appeals Officers during normal itineraries throughout the country, especially where the question at issue was an application for Farm Assist.

Visits to farms were ruled out completely. Where a later review of the appeal would be possible, favourable summary decisions were made in the interim. In other instances, where early resolution for the appellant of the

appeal issue was not pressing, oral hearings were deferred.

Where, on the other hand, the circumstances of the appellant were clearly very difficult, say, on financial or medical grounds, hearings were held. Here, there was clearly a balance to be achieved between continuing to provide a basic social service and not endangering a major national interest. The scheme of Supplementary Welfare Allowance operated by the Health Boards was, of course, positioned to come to the assistance of and provide a substitute welfare payments service for such time as required for anybody in need.

Account was taken in the assessment of means of Farm Assist appellants who stood most immediately to be adversely affected because of the disease and the preventive measures implemented, especially from the prohibitions on the movement of and trade in livestock.

#### - *Use of Interpreters*

Appeals involving foreign nationals where the use of interpreters is required are becoming an increasing feature of the work of the Office. Whilst the number of such appeals are still relatively few, to gain further experience of this matter, two Appeals Officers attended a communications seminar dealing with the issue of working with an interpreter.

## Internal Customer

Principles of Quality Customer Service recognise that the staff of the organisation are internal customers who must be supported and consulted with regard to service delivery issues.

As described earlier, regular meetings of Appeals Officers are held to discuss all aspects of the work of the Office. Where appropriate, such meetings include presentations from outside experts on certain specialised issues.

A Partnership Committee was established in the Office in 2001, the objectives of which are to develop a new participative approach, inclusive of management, unions and staff, to resolving issues and challenges generally. In the early meetings of the Committee, particular emphasis has been paid to enhancing the quality and efficiency of the appeals service and the quality of the work environment.

During 2001, the Performance Management and Development System was introduced and appropriate training was provided to all staff involved. The system is essentially aimed at providing the opportunity for all to identify their individual contributions and to develop the competencies needed to make that contribution. The appropriate first stage of the system, that of recording work objectives and individual development plans, was completed during the year.

### Correspondence and Parliamentary Questions

Apart from the normal level of correspondence associated with the processing of appeals, the Office receives enquiries and representations on behalf of appellants. The aim is for a prompt reply outlining the current position in regard to an appeal where a final reply is not possible. This is regularly monitored to ensure that a satisfactory service is provided.

During the year, over 3,200 such enquiries were received, a reduction of about 300 on the 2000 figure.

Where a Parliamentary Question is submitted on a case currently the subject of an appeal, the question is dealt with by this Office. During 2001, 322 Questions (372 in 2000) were received relating to:

Unemployment Assistance (means issues)	20
Unemployment payments (statutory conditions)	62
Sickness payments	100
Pensions and other schemes	134
Policy issues	6

Such Questions are usually in the nature of a query as to the present status of an appeal and many are withdrawn by the Deputy concerned following contact with him/her and explanation of the position. 287 Questions were dealt with in this manner. Replies to the remaining 35 were given in Dáil Eireann.

### Freedom of Information

The Social Welfare Appeals Office is a Public Body within the terms of the Freedom of Information Act, 1997.

During the year, 49 formal requests were received under the Act.

This does not, of course, represent the total of the requests received for information. It is an underlying element of the Department's and this Office's decision-making process that a person is entitled to know fully the basis of the case leading to a decision on his/her claim. This would include access to relevant documentation and requests for such information are readily acceded to.

Where, however, the request is of a formal nature under the provisions of the Freedom of Information legislation, it must be dealt with as such. Of the 49 requests received in 2001, 47 were in respect of personal information and 2 related to non-personal information. These were dealt with promptly by the Freedom of Information Officer. Five requests for review to the Internal Reviewer were made in relation to the decisions in these cases. In most cases full release of the documentation was possible and in other cases clarification of the position was provided.

The Act requires every public body to publish a manual on the structure and operations of the body and to revise these not less frequently than every three years. The Social Welfare published revised manuals in 2001 in accordance with the provisions of the Act.

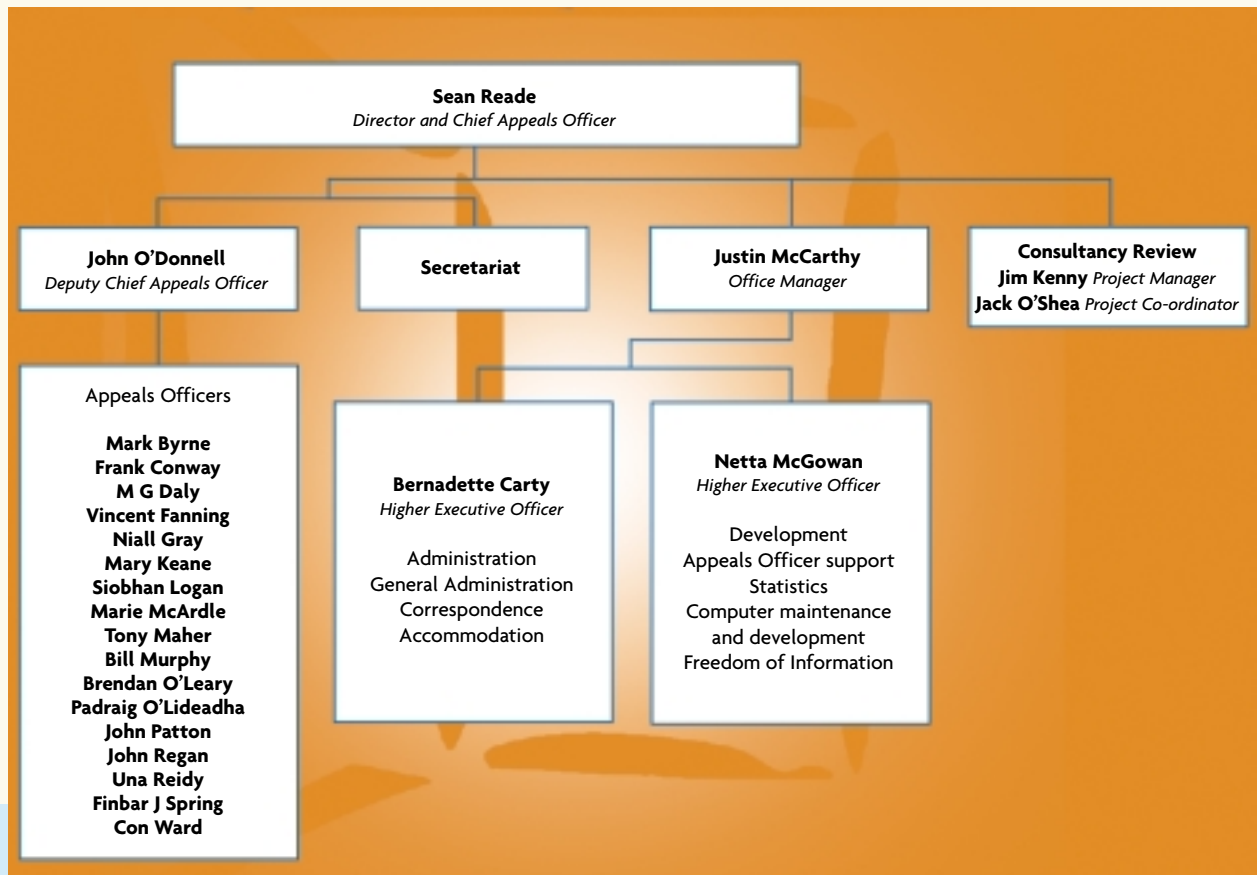
As well as being available in hard copy, this manual is also available on the Office's page on the Department's website.

## Venues where oral hearings were held in 2001

Arklow	Dublin	Mitchlestown
Athlone	Dundalk	Monaghan
Ballina	Dungloe	Mullingar
Ballinasloe	Dunmanway	Navan
Bandon	Edenderry	Nenagh
Bantry	Ennis	Newbridge
Birr	Enniscorthy	Newcastlewest
Boyle	Fermoy	New Ross
Buncrana	Galway	Portlaoise
Carlow	Gorey	Roscommon
Carrickmacross	Gort	Roscrea
Carrick-on-Shannon	Gortahork	Skibbereen
Castlebar	Kells	Sligo
Castleblayney	Kenmare	Swinford
Castlerea	Kilkenny	Thurles
Cavan	Killarney	Tipperary
Charleville	Kilrush	Tralee
Claremorris	Letterkenny	Tramore
Clifden	Limerick	Tuam
Clonakilty	Listowel	Tullamore
Clonmel	Longford	Waterford
Cork	Loughrea	Westport
Donegal	Macroom	Wexford
Drogheda	Mallow	Wicklow

# | appendix 2 |

Social Welfare Appeals Office Organisation Chart at 31 December 2001







SOCIAL WELFARE  
A P P E A L S  
O F F I C E

Oifig Achomhairc Leasa Shóisialaigh

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