

2010

ODAO

Annual Report of the
Disability Appeals Officer

ODAO

Office of the Disability Appeals Officer
Oifig an Oifigigh Achomhairc um Míchumas



Office of the Disability Appeals Officer
Oifig an Oifigigh Achomhairc um Míchumas

30th June 2011

Ms Kathleen Lynch TD
Minister for Disability, Equality, Mental Health & Older People
Department of Health
Hawkins House
Dublin 2

Dear Minister Lynch,

In accordance with the provisions of Section 17 of the Disability Act 2005, I hereby submit the report on the activities of my Office for the year ended 31st December 2010.

Yours Sincerely

Teresa Dykes
Disability Appeals Officer

Purpose:

***“To deliver an independent,
accessible, transparent and fair
disability appeals service in a timely
and courteous manner.”***

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Foreword by the Disability Appeals Officer

I am pleased to present the fourth Annual Report of the Disability Appeals Officer to the Minister for Disability Equality, Mental Health and Older People. As the Disability Appeals Officer I am mandated under Part 2 of the Disability Act 2005 to decide, or to mediate Appeals lodged as a result of a finding, or the non implementation of a recommendation made by the independent Complaints Officers of the National Advocacy Unit of the HSE.

My purpose as the Disability Appeals Officer is to determine appeals submitted by an Applicant or by the HSE. An Applicant can be a parent, a guardian, a legal representative or a personal advocate of a child who is under five as of the 1st June 2007. This means children who were born on or after 1st June 2002 are eligible to apply.

Due to the economic challenges experienced in the country at present the roll out of the second phase of Part 2 of the Disability Act 2005 has not proceeded as planned.

The year 2010 brought a different set of challenges with regard to the issues raised by Appeals. The selected case studies as summarised in Chapter 3 of this Annual Report reflect a cross section of the issues raised.

There were 7 Appeals carried forward from 2009 into 2010 for determination and/or mediation. In 2010 there were a further 14 Appeals lodged.

As Disability Appeals Officer I continued to develop my role and function during the year and was ably assisted by the staff of my office, the Office of the Disability Appeals Officer (referred hereafter as “the ODAO”). The purpose of my office is to deliver a redress service grounded in the core principles of natural justice and fair procedures in compliance with the statutory framework of the Disability Act 2005 (“the Act”). This principle remains the key objective for me. With

this objective in mind the ODAO continually evaluates all work practices and procedures so that that the appeal process is delivered in a streamlined and efficient manner.

The year also saw me form a partnership with the Mental Health Commission, when I entered into a Service Level Agreement with this agency in regard to the accounting functions of my office. This partnership enabled the sharing of resources and work practices. This positive alliance was supported by the Disability Unit of the Department of Health & Children and I wish to acknowledge Ms Bairbre Nic Aongusa and staff for their ongoing assistance in this matter.

In November 2010 as part of my continuing professional development I completed a course with the Judicial Studies Board, UK, (“the JSB”) in “Advanced Judicial Skills”. This resulted in the initiation of a reassessment of the style and language used within the Determination and Reasons for Decision Report. This assessment reflected that which the JSB referred to as good writing practices, which promotes the ordinary meaning of the English language and ensures that the readers of the decision are considered. The new approach will be applied to all decisions issued from January 2011. It is important that as the Disability Appeals Officer I continue to have my decision making skills evaluated so that the Minister and the Public are assured I operate in an impartial and professional manner and that my decisions are clear and coherent.

In the last quarter of 2010 I also entered into a Framework Agreement with 3 Legal Advisors through the Public Procurement Process.

I hope this Annual Report will provide the reader with a clear understanding of the operations of the Appeals Service under Part 2 of the Disability Act. If you have any comments on any aspect of the Report please get in touch.

Teresa Dykes
Disability Appeals Officer

30th June 2011



Chapter 1

Introduction

Chapter 1: Introduction

Who is the Disability Appeals Officer?

The Disability Appeals Officer is appointed by the Minister for Health and Children to consider and determine appeals under Part 2 of the Disability Act 2005 (“the Act”). The Disability Appeals Officer is independent in the performance of her functions under the Act. The Disability Appeals Officer and her staff are collectively referred to as the Office of the Disability Appeals Officer (“the ODAO”). The Commencement Order S.I. 234 of 2007 fixed the 1st June 2007 as the date on which the provisions of Part 2 of the Disability Act 2005 (“the Act”) came into operation in relation to persons under 5 years of age. This includes children who were born on or after the 1st June 2002.

The relevant legislative context

Part 2 of the Act confers the following substantive rights upon persons who may have a “disability” as defined in section 2 of the Act:

- (a) an entitlement to an independent assessment of health and educational needs (section 9 of the Act);
- (b) an entitlement to a Service Statement specifying the health and education services which it is proposed will be provided to the Applicant (section 11 of the Act);
- (c) access to a complaints procedure for the determination and enforcement of the statutory entitlements conferred by the Act (sections 14 to 20);
- (d) the right to appeal (sections 18, 19 and 20 of the Act).

The scheme of Part 2 of the Act is to provide an entitlement to a person who believes that he or she may have a disability, or a specified person on his/her behalf, to

apply to the HSE for an Assessment of Need [section 9(1) of the Act]. The HSE is required to commence such an assessment within three months of receipt of an application (section 9(5) of the Act). Where the resulting Assessment Report includes a determination that the Applicant requires the provision of health services or education services or both, a Liaison Officer appointed by the HSE is required to prepare a Service Statement in respect of the Applicant [section 11(2)].

In preparing Service Statements, a Liaison Officer is required to have regard to the specific criteria set out in section 11(7) of the Act, and Service Statements are required to specify the health or education services which will be provided to an Applicant [section 11(2) of the Act and Clause 18(a) of the Disability (Assessment of Needs, Service Statement and Redress) Regulations 2007 – (“the Regulations”). The Liaison Officer is also required to arrange for the delivery of the services specified in the Service Statement at such times and in such manner as he or she may determine [section 11(12)].

An Applicant is given a right to complain to the HSE in respect of the outcome of his or her assessment, the manner in which the assessment was undertaken, regarding the contents of his or her Service Statement or in relation to the subsequent failure of the HSE or an education service provider to provide a service specified in his or her Service Statement (section 14 of the Act). Such a complaint, if not frivolous or vexatious, is required to be addressed by a “Complaints Officer” authorised by the HSE. The Complaints Officer may seek to informally resolve the complaint and must carry out an investigation if informal resolution is unsuccessful or is otherwise inappropriate. Following an investigation, the Complaints Officer must furnish a report to the HSE and to the Applicant concerned setting out his or her findings and recommendations [section 15(6) of the Act].

An Applicant is afforded a right of appeal to the Disability Appeals Officer, appointed by the Minister under the Act, against a finding or recommendation made under section 15(8) in a Complaints Officer's report or in respect of the non-implementation of a recommendation made by the Complaints Officer [section 18(1) of the Act]. The HSE or an education service provider can submit an appeal against a finding of a Complaints Officer that they failed to provide a service, or against a recommendation of a Complaints Officer that they provide a service in full [section 18(2) of the Act] The Disability Appeals Officer is required to provide an opportunity to be heard to both parties to

the Appeal and may conduct an oral hearing where appropriate and is given various coercive powers in relation to requiring the production of documents and records and/or to enter premises occupied by public bodies or the providers of health or education services. With the exception of appeals which are resolved by mediation under section 19 of the Act, the Disability Appeals Officer is required to make a determination in writing in relation to the Appeal affirming, varying or setting aside the findings or recommendations which are the subject of the appeal [section 18(5) of the Act]. There is a right of appeal to the High Court on a point of law in respect of the determination of the Appeals Officer.



Chapter 2

The Appeal Process 2010

Chapter 2: The Appeal Process 2010

The ODAO Appeal Process Pathway (Appendix 1) outlines the process through which appeals progress within the ODAO. This Pathway is constantly reviewed throughout the process. However, it must be added that I as the Disability Appeals Officer continue where relevant to adopt such procedures as considered appropriate in all the circumstances of any individual case.

The specific requirement of the Disability Appeals Officer is outlined below. This (non-exhaustive) list covers both the functions which are expressly stated within Part 2 of the Act and those which are necessary corollaries to be implied from/by the performance of the expressly stated functions.

- To validate the application to appeal
- To seek relevant information
- To make further enquiries
- To examine
- To refer when relevant to mediation
- To investigate
- To conduct oral hearings if required
- To determine Appeals
- To enforce under Circuit Court Rules

Grounds for Appeal

By an applicant (section 18 (1))

- Against a finding or recommendation of a Complaints Officer
- Against the non implementation by HSE or an education service provider of a Complaints Officer's recommendation (section 15 (8))

By HSE or an education service provider (section 18 (2)). (The HSE /Ed. Service provider is referred to as the appellant within the ODAO)

- Against the recommendation of a Complaints Officer relating to the provision of a service specified in the Service Statement (section 15 (8) (f) of the Act)

Analysis of 2010 Appeals

Within the year the total number of appeals reviewed was 21. This comprised of 7 which were carried over from 2009, due to the fact that they would have been lodged within the last two quarters of that year. There were an additional 14 Appeals lodged in 2010.

Of the 14 that were lodged in 2010, 9 were validated after initial examination of the information provided. 5 Appeals were considered invalid after a full examination of all information submitted.

In regard to 3 of the invalid Appeals, the main reason for this was due to the fact that the applicants lodged an Appeal prematurely. Specifically, the applicants had not allowed sufficient time for the recommendations of the Complaints Officer to be complied with by the HSE. (However, this must not be confused with the issue of timelines for the Complaints Officers recommendations which I will address later in this Report.) One Appeal was invalid as the applicant submitted their Appeal outside the time limit allowed under the Disability Act 2005. However, with the consent of the applicant the issues raised were referred to the appropriate HSE LHO Area Manager by the DAO for consideration. The remaining Appeal was valid on the grounds presented, however the Applicant refused consent to the sharing of relevant information in the processing of the Appeal and I could not therefore progress this Appeal further.

Valid Appeals

There were in all a total of 10 Appeals concluded in 2010, 9 were determined and 1 was resolved by mediation. Of the 10, I referred 3 to mediation. Of those referred 1 did not proceed to mediation, and 1 was not resolved by mediation.

It has been a constant issue for me as the Disability Appeals Officer that the time involved to process a valid Appeal is longer than I would wish. However as an Appeals Officer with quasi judicial decision making powers under the Act, adherence to the principles of natural justice, and fair procedures is vital to this process. Otherwise the statutory office holder puts at risk the fundamental constitutional rights afforded to all parties in this jurisdictional environment.

The principle of audi alteram partem (the right to a fair hearing) is particularly pertinent in respect of appeals which come before me. Adherence to this principle necessarily involves a frequently protracted series of correspondence with both parties. The purpose of such engagement is to ensure that all submissions and documentation furnished to me by one party are provided to the other side and the opportunity for further comment on those submissions/ documents is allowed.[As seen in Case Study No. 6 of this Report].

In order to quality assure the work I do I continue to apply the *7 C Principle of making good Decisions* (Judicial Studies Board 2008), to support clear and rational determinations within the appeals process.

1. **Consistency**- both internally and externally
2. **Corroboration**- including corroboration of all documents
3. **Context**- does the appeal the Disability Appeals Officer is considering, fit with available objective evidence and the context for the events involved.

4. **Credibility**- facts are tested against the evidence so that decisions made by the Disability Appeals Officer are credible
5. **Cover up**- that there is no reason that the applicant/appellant/respondent are concealing any relevant information.
6. **Conduct**- relevant to each case.
7. **Critical Examination**- has the evidence been thoroughly tested by the Disability Appeals Officer

However, the issues raised within some of the Appeals processed in 2010 also reflected some of the challenges within the Disability Sector and impacted the time taken to complete my investigation.

Investigating Appeals

The powers and functions of the Disability Appeals Officer in dealing with appeals are set out in section 18 and 19 of the Act. The Disability Appeals Officer has extensive powers to require the provision of information and to request the production of documents and records for the purposes of any appeal under sections 18(6), 18(7) and 18(8). In 2010 I was required for the first time to apply this legislative power in seeking additional information under section 18 (6) of the Act for 2 specific Appeals under investigation. The time required to investigate appeals is therefore governed to a large extent by the complexity of individual Appeals.

Statistical Trends in 2010

The issue of the non/completion of the Assessment of Need process by the HSE within the specified timeframes continues as a theme in 2010. However, in 2010 this issue was confined to specific areas of the HSE i.e. 8 appeals were lodged from the HSE Dublin Mid Leinster Area, and 6 were lodged from the HSE South Area. The pattern

that emerged indicated that certain LHO areas failed to comply with their statutory obligations thus prompting multiple appeals. [as seen in Table 2 of this Report].

The status of Appeals at the end of 2010 reflects those appeals (7) which were carried forward from 2009 and those which were lodged (14) in 2010 as illustrated in Tables 1 and 2 respectively.

Table 1. Status of the Appeals processed in 2010

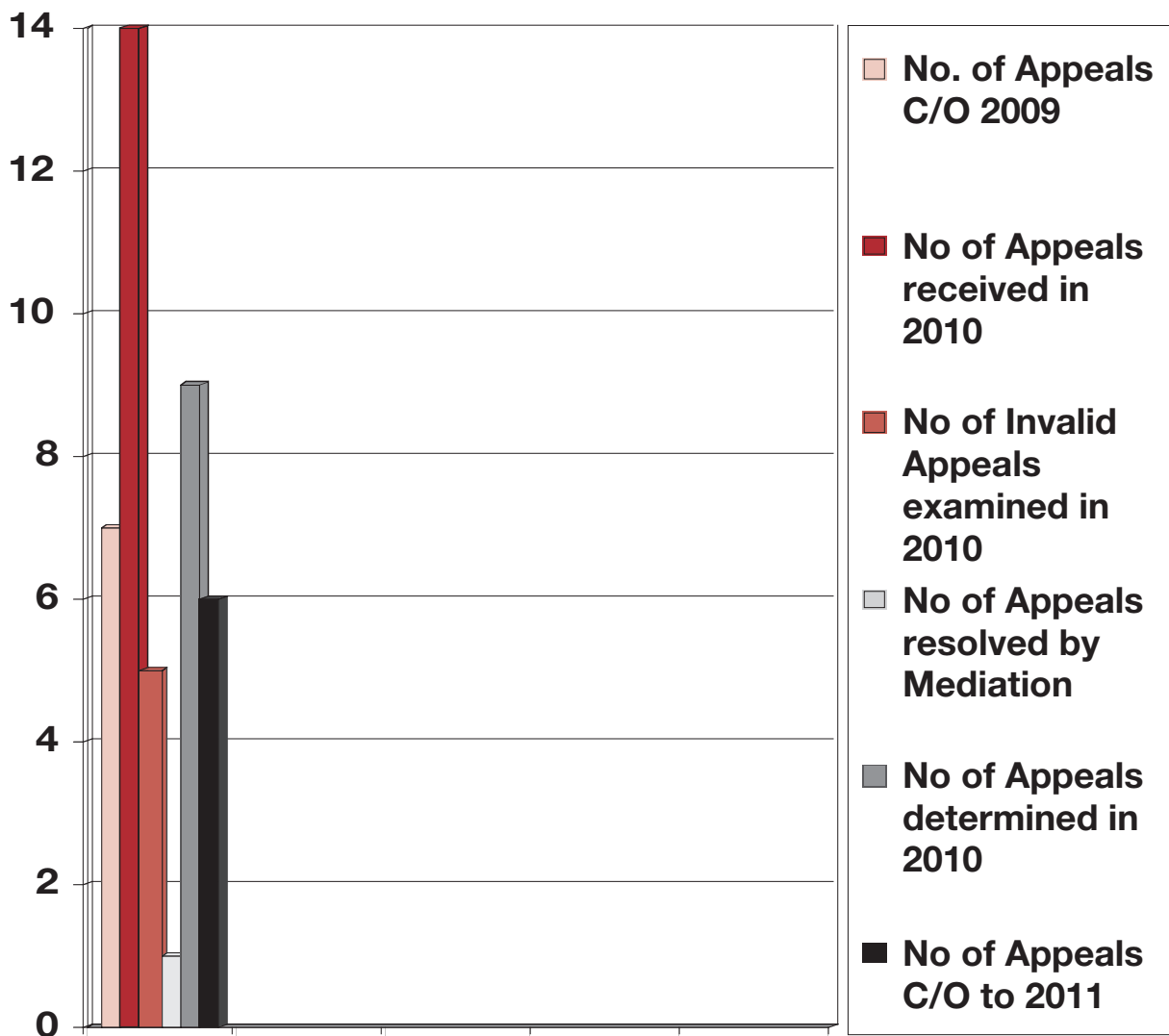


Table 2: Profile of Appeals concluded in 2010

AP	LHO Area	Grounds of Appeal	Determination issued	Outcome
AP0021	Dublin South West	The non implementation of the recommendations of the Complaints Officer		Resolved by Mediation
AP0025	Cork South Lee	The non implementation of the recommendations of the Complaints Officer	08.03.2010	Allowed
AP0027	South Tipperary	A finding by the Complaints Officer that his complaint was not well founded	25.06.2010	Allowed, findings of Complaint Officer set aside and recommendations issued
AP0028	North Cork	A finding by the Complaints Officer that his complaint was not well founded	07.05.2010	Allowed, findings of Complaint Officer set aside and recommendations issued
AP0029	Dublin West	The non implementation of the recommendations of the Complaints Officer	12.08.2010	Allowed and affirmed the recommendations of Complaints Officer
AP0030	Carlow/Kilkenny	The non implementation of the recommendations of the Complaints Officer	18.02.2010	Affirmed the recommendations of Complaints Officer
AP0031	Dublin West	The non implementation of the recommendations of the Complaints Officer	21.07.2010	Allowed and affirmed the recommendations of Complaints Officer
AP0032	Cork South Lee	A finding by the Complaints Officer that his complaint was not well founded	25.11.2010	Allowed, findings of Complaint Officer set aside and recommendations issued

Table 2: Profile of Appeals concluded in 2010 – Continued				
AP	LHO Area	Grounds of Appeal	Determination issued	Outcome
AP0033	Dublin West	The non implementation of the recommendations of the Complaints Officer	07.12.2010	Allowed and affirmed the recommendations of Complaints
AP0034	Kildare/ West Wicklow	Premature Appeal deemed invalid after examination		Invalid Appeal
AP0035	South Dublin	Invalid after examination due to time limit.		Invalid Appeal
AP0036	Dublin West	A finding by the Complaints Officer that his complaint was not well founded	07.12.2010	Not Allowed Findings of the Complaints Officer affirmed.
AP0037	Kildare/ West Wicklow	Premature Appeal deemed invalid after examination		Invalid Appeal
AP0038	Carlow/Kilkenny	Premature Appeal deemed invalid after examination		Invalid Appeal
AP0041	Longford/ Westmeath	Consent not provided		Invalid Appeal

Themes and Issues observed

It is obvious that the failure by the HSE to communicate effectively with applicants has been a recurring theme in almost all Appeals I concluded this year. It would appear that in some LHO Areas there was an indirect acceptance that applications for independent assessment of need under the Act would not be completed within the statutory timeframes as required under the Act. This is reflected in 7 of the Appeals processed in 2010 and is a theme also noted in my 2009 Annual Report.

Within the material submitted to me were circulars issued to the public advising applicants requesting an Independent Assessment of Need for their children that due to the non replacement of certain HSE personnel delays in completing assessments would be inevitable.

However, in my role as Disability Appeals Officer I do not consider that this is an acceptable approach to be adopted by the HSE in light of the mandatory time frames to which it must adhere. I have obligations to ensure I determine all appeals as prescribed under the Act. As sickness and other leave are largely inevitable, I consider that adequate contingency measures ought to be in place by the HSE to ensure that the statutory obligations under the Act are met. It appears that no adequate procedures were in place in some instances.

From the material made available to me for consideration during the course of several investigations I also noted that some applicants' assessment processes were not in compliance with the standards as prescribed under section 10 of the Act, including the importance of completing assessments without "*undue delay*". In many of these appeals there were no exceptional circumstances which justified or provided an adequate explanation for delays. This inevitably caused much stress to the applicants and their families.

Scope of Determinations

While it is a statutory requirement that I determine appeals as provided under section 18 (5) of the Act I am also obliged to consider the issue of unmet needs. It was evident in some appeals that the approach taken by Liaison Officers to confirm the inability of the HSE to provide certain services within the applicable statutory budgetary considerations or to investigate whether needs could be met through additional service providers was inadequate. The time required to ascertain what matters the Liaison Officers considered in preparing the applicants Service Statements also had an impact on the time required to conclude appeals.

Other issues raised by applicants concerned the disclosure of confidential information and my consideration of the application of the Data Protection Acts 1988 and 2003 [as seen in Case Study 3]. In addition, matters in regard to procedural and jurisdictional issues often necessitate the determining of these issues as preliminary matters and invariably impact upon the length of the appeal process.

Issue of independence under the Act

Under section 8(4) and section 15(2) of the Act, both Assessment Officers and Complaints Officers respectively are required to be "*independent in the performance of his or her functions*". These important provisions are intended to ensure that Assessment and Complaints Officers exercise their functions, including their decision making powers, independently of the HSE. However, some appeals investigated by me indicated that in some LHO areas compliance with a request for Assessments of Need for an eligible applicant under the Act and compliance with the recommendations of the Complaints Officer was not a priority for the HSE. In some areas there was an obvious lack of support for the Assessment Officer in meeting his/her obligations under the Act.

Oral Hearing

During the course of an investigation, it may become apparent that an oral hearing is necessary or desirable in order to determine the Appeal. Oral hearings are held in private. They are also held in a location and at a time that is as convenient as possible for the individuals concerned. No Oral Hearings were held in respect of any appeal concluded in 2010.

Determining Appeals

The Disability Appeals Officer will complete the “Determination and Reasons for Decision Report” after a full and comprehensive review of all material submitted by both parties compliant with section 16-20 of the Act. The issues which were vital to the Disability Appeals Officer’s conclusion are identified and the manner in which she considered them explained.

The contents of any Determination and Reasons for Decision Report are addressed as:

1. Summary to assist the reader to quickly understand the issues in the Appeal and the Appeal outcome.
2. Determination & Reasons for Decision section:
 - Background & Appeal issues;
 - Statutory Considerations;
 - Investigation & Findings;
 - The Case of the Applicant;
 - The Case of the Respondent (HSE);
 - Relevant legal principles applied;
 - Findings in respect of the issues raised by the Appeal.

3. Determination.
4. Publication.
5. Appendices/Annex

Mediation

At any time after an appeal has been initiated under section 18 of the Act the Disability Appeals Officer may refer the matter for mediation to a Mediation Officer if she is of the opinion that the appeal could be resolved by mediation.

The Disability Appeals Officer informs the person who initiated the appeal of that opinion and unless the applicant objects the Disability Appeals Officer will refer the matter for mediation to a Mediation Officer.

What is Mediation?

Mediation is a voluntary process that is held confidentially and in a non-public forum, in which an impartial person facilitates a negotiation between people in conflict and helps them find and agree shared solutions that meet their interests and needs. Mediation is about moving forward and resolving conflict. The role of the mediator is to give everyone the best opportunity of achieving a settlement. Mediation does not prejudice any party or his or her legal or other options if it does not result in a settlement and no settlement will take hold unless it is agreed in writing by all parties. Mediation is not therefore a process of adjudication – no solutions or judgements will be imposed on anyone taking part. The mediator remains neutral at all times and delivers no legal or other judgement about who is right and who is wrong.

All persons taking part in a mediation will be assured that the entire process is confidential and without prejudice. Since mediation is a voluntary process designed to achieve a consensus, persons can withdraw from the process at any time if they so

wish. If the parties involved choose to stay and complete the process and if they reach agreement on a solution (a “resolution”) a document called a “Mediation Resolution Document” will be drawn up and signed by relevant parties (who are described in section 19 of the Act). A resolution may be enforced by Circuit Court action if not given effect to.

Mediation provided by the ODAO

The Mediation Officer employed by the Office of the Disability Appeals Officer is accredited as a mediator with the Chartered Institute of Arbitrators and operates the “facilitative” model of mediation. Using this model the Mediation Officer structures a process to assist the parties:

- identify the issues in dispute,
- develop possible solutions to those issues,
- explore how those possible solutions might work in practice, and, where possible
- achieve a resolution that is acceptable to them.

While the mediator is in charge of the process, the parties take responsibility for the outcome.



Chapter 3

Case Studies

Chapter 3: Case Studies

The purpose of this section of the report is to demonstrate, by way of a selection of case studies, a cross-section of the types of appeals (and issues raised in those appeals) which came before me in 2010. The case studies below are highly condensed versions of the full determinations, all of which can be

found at www.odaio.ie/determinations. As such, no reliance should be placed on the content of these case studies and regard should be had to the formal text in each case for the full legal effect of the relevant determination.

Key to abbreviations used in case studies:

The Act	Disability Act 2005
The Regulations	S.I. 263 of 2007 Disability (Assessment of Needs, Service Statements and Redress) Regulations 2007
HIQA Standards	Standards for the Assessment of Need, May 2007 issued by the Health Information and Quality Authority
DPA	Data Protection Acts 1988 and 2003
AO	Assessment Officer
AON	Assessment of Need
AR	Assessment Report
ASD	Autism Spectrum Disorder
CO	Complaints Officer
DAO	Disability Appeals Officer
LO	Liaison Officer
MO	Mediation Officer
NCSE	National Council for Special Education
SS	Service Statement

CASE STUDY No. 1

(Determination AP0025/ 18 March 2010)

Nature of Appeal:

Alleged failure by HSE to complete an AON and to issue a AR/ SS for the applicant's son within time limits set out in the Act and Regulation

Key statutory provisions:

Section 9(5) of the Act (requirement to (i) commence an assessment of a person's health and educational needs within 3 months of the receipt of such an application/request for assessment and (ii) to complete the assessment without undue delay)

Regulations 9 of the Regulations

(requirement to commence the assessment process as soon as possible after the application has been received but not later than 3 months after that date)

Regulation 10 of the Regulations

(requirement to complete the assessment and forward the AR to the LO within 3 months from the date the assessment commenced, save for exceptional circumstances when the assessment shall be completed without undue delay. Where there are exceptional circumstances, the Applicant must be notified, before the expiry of the 3 months, of the reason for the non-completion within the 3 months and the timeframe within which the AON is expected to be completed)

Background:

The applicant, together with her husband made an application on **18 June 2008** for an AON for their son, Y, whose eligibility for an AON was later confirmed to his parents by the relevant AO. It was also confirmed that the assessment process would begin on **26 September 2008** and would be completed no later than 3 months later (ie by **26 December 2008**).

However, the AON was not completed by that date and the applicant made a complaint to the HSE Consumer Affairs department on **5 January 2009** in relation to the failure by the HSE to commence the AON within the time specified in Section 9(5) of the Act or to complete it without undue delay.

In an investigation report of **21 January 2009**, the relevant CO upheld the complaint against the HSE and imposed new time limits for: (a) completion of the psychological and occupational therapy components of the AON (**20 February 2009** and **27 February 2009** respectively); and (b) the preparation and issue of the SS and AR (no later than **27 March 2009**).

The applicant appealed to the DAO on **2 March 2009** against the non-compliance by the HSE with the new time limits imposed by the CO.

The AR was completed and issued on **24 August 2009** and the SS was completed and issued on **2 September 2009**.

Applicant's case:

The applicant's appeal was based on the following grounds:

- (i) That Y's AON was not completed within the timeframe specified in the Act i.e. by 26 December 2008;
- (ii) That the HSE failed to comply with the new timelines recommended by the CO that Y's psychological assessment be completed by 20 February 2009 and his occupation therapy assessment by 27 February 2009; and
- (iii) That further to these delays, Y's AR and SS were not prepared and issued by 27 March 2009.

The applicant also referred in the course of the appeal to the fact that the HSE

had made a number of referrals to various agencies [in an attempt to obtain assessments] who had declined to provide an assessment for Y because he did not “fit” their criteria.

Respondent’s case:

The HSE did not respond directly to the issues raised by the applicant in the appeal. However its position in relation to the appeal was inferred to continue to be that expressed in relation to the applicant’s complaint of 5 January 2009 (which was investigated by the CO) namely that:

- (1) Y did not fit the criteria for certain occupational assessment services; and
- (2) the delay in Y’s psychology assessment related to appointment scheduling.

Findings:

My key findings were as follows:

- (1) As the result of the 8 month delay - from the time originally indicated by the HSE - in the issuing of Y’s AR, **the HSE failed in their statutory duty** to provide Y with an assessment as required under Section 8(5) of the Act;
- (2) As the result of the 6 month delay - from the new time limit imposed by the CO - in the issuing of Y’s AR, **the HSE failed to comply with the recommendation of the CO** that an AR be furnished by 27 March 2009;
- (3) Y’s SS was issued within the 1 month timeframe from the receipt of the AR, as required under the Act and under regulation 19 of the Regulations;
- (4) The recommendations made by the CO on 21 January 2009 were reasonable and appropriate in the circumstances;

- (5) **Y was inappropriately denied assessments** on the grounds he did not meet the criteria of the HSE services or HSE funded agencies, in a manner which is unacceptable; and
- (6) No exceptional circumstances for the delay on the part of the HSE in completing Y’s assessments were identified and no satisfactory explanation for the delay in this regard was provided to the applicant.

Determination:

The Appeal was allowed and the recommendations of the CO were affirmed as to the new dates for completion of the AR and the issuing of the SS. The HSE failed to comply with the CO’s recommendations in this respect.

CASE STUDY No. 2

**(Determination AP0027/
25 June 2010)**

Nature of Appeal:

Alleged failure by HSE to provide services specified in the SS and to carry out a review of the SS; and an appeal against the CO’s finding that the original complaint was invalid on grounds of being outside the time limits for making a complaint to the HSE

Key statutory provisions:

Sections 14(2) of the Act & regulation 24 of the Regulations (together set out the time limits for bringing complaints to the HSE under the Act i.e. as soon as is reasonably possible and not later than 3 months after the date on which the cause for complaint has arisen)

Sections 15(4) to 15(8) of the Act (set out the ways in which a complaint to the HSE may be disposed of by a CO i.e. deciding that the complaint is vexatious and frivolous/ deciding that the complaint

is suitable for informal resolution/ carrying out an investigation of the complaint and then preparing a report with findings and recommendations)

Section 11(12) of the Act (imposes statutory duty upon the LO to make arrangements in relation to the delivery of the services specified in the SS)

Regulation 22 of the Regulations

(requires the SS to be reviewed no later than 12 months after it was drawn up or from when the SS was last amended/ reviewed)

Background:

On foot of an application for an AON, the Applicant's son, Y, was assessed and an SS dated **11 January 2008** was issued. (The SS was later amended on or about **21 January 2008**.) The SS stated that Y should be provided with, amongst other services, certain physiotherapy and psychology services.

On **26 February 2008**, the Applicant made a complaint to the HSE on the grounds of failure to provide or fully provide a service specified in the SS.

The CO in a letter dated **6 April 2009**, informed the Applicant that her complaint was invalid as more than 13 months had passed since the date of issue of the SS.

By notice dated 22 April 2009, the Applicant appealed to the DAO against the findings of the CO and the failure of the HSE to implement recommendations made in Y's SS.

The grounds of the Applicant's appeal were later clarified by her in writing to me.

Applicant's case:

The Applicant's appeal was based on the following grounds:

- (1) against the finding of the CO that her complaint to the HSE was invalid [and thereby was not well founded];
- (2) the failure of the HSE's physiotherapist to see Y for the services and at the frequency stipulated in the SS;
- (3) the failure of the HSE to provide psychological consultations as specified in Y's SS; and
- (4) the failure of the HSE to review Y's SS by **January 2009** as stipulated in his SS.

The Applicant also submitted in relation to the CO's finding that her complaint was invalid that it was not possible/ appropriate for her to make a complaint within 3 months of the issue of Y's SS as she did not know at that stage, whether and to what extent Y was receiving the services in the SS. Furthermore she had hoped that the scheduled review of Y's SS would provide the opportunity to address what services were being received. The failure to carry out the review prompted her complaint thus her complaint was not unreasonably delayed.

The Applicant considered that the appeal should address the reasons why Y was not receiving the services specified in his SS.

Respondent's case:

The HSE relied upon the following matters in the appeal:

- (1) the Applicant breached the timelines for bring a complaint under regulation 24 and the CO's decision that the complaint was invalid was correct;
- (2) the appeal should be limited to a consideration of the correctness or otherwise of the CO's decision that the complaint was invalid. As the CO had never considered the merits of the Applicant's complaint (as to the non-

provision of services and the failure to review the SS), it was not appropriate or permissible for the DAO to consider those issues in the appeal.

In relation to the HSE's alleged failure to provide the physiotherapy and psychology services in the SS to Y and to carry out a review of Y's SS, the HSE did not challenge the evidence which supported these allegations.

Explanations for the non-provision of these services were offered by the HSE on the basis of difficulties with the venue/ facilities specified in the SS for the provision of the physiotherapy services and staffing issues connected with the provision of the psychology services.

It was also submitted that the SS had not been reviewed because of the preparation of new national guidelines relating to the review of ARs.

Matters for determination:

The following **procedural matters** fell for determination in this appeal:

- (1) whether the CO was justified in finding that the complaint was invalid;
- (2) whether the complaint was made outside the prescribed time limits and was thereby not well founded; and
- (3) whether the DAO has jurisdiction to consider the merits of the Applicant's complaint (as to the non-provision of services and the failure to review the SS)

The following **substantive matters** also fell for determination in this appeal:

- (4) whether (if the appeal was validly brought) the HSE had in fact failed to provide the services in the SS and to review the SS.

Findings:

My key procedural findings were as follows:

- (1) It was not open to the CO under the Act to decline to investigate a complaint nor to consider the validity of a complaint once accepted by the HSE;
- (2) The cause for complaint did not arise when the SS was issued but only arose when the Applicant became aware of the non-provision of the services in the SS/ failure to review the SS. On the facts of the appeal, the Applicant was within the 3 month time limit allowed for bringing a complaint. The complaint was thereby well founded;
- (3) Having regard to the general scheme and purpose of the Act, the DAO's powers extend beyond adjudicating on the correctness of the CO's decision and in appropriate cases, the DAO is entitled to and should undertake a de novo consideration of the subject matters of the complaint. In the circumstances, as the CO failed to investigate the issues raised in the complaint it was appropriate for the DAO to investigate and determine such issues.

My key **substantive findings** were as follows:

- (4) (a) Y was not provided with the physiotherapy and the psychology services specified in the SS. In light of the difficulties encountered by the HSE in the provision of these services alternative arrangements should have been made to ensure the provision of the stated services to Y.
- (b) Y's SS was not reviewed in accordance with the requirements expressed in it and was only reviewed some 17 months after the required time for review. This was a serious

breach of the HSE's statutory obligations. The HSE's explanation for the delay that new national guidelines were in the process of being prepared for ARs was not justification for denying children their statutory entitlements under the Act.

Determination:

The appeal was allowed and the CO's finding that the complaint was invalid and thereby not well founded was set aside. The Applicant's complaint was found to be well founded.

It was found that the HSE failed to provide the physiotherapy and psychology service specified in the SS and failed to provide a review by the required time specified in the SS.

A recommendation was made that Y be provided with the physiotherapy and psychology services in accordance with the terms of his SS.

CASE STUDY No. 3

(Determination AP0028/ 7 May 2010)

Nature of Appeal:

Alleged failure by the HSE to complete an AON and to issue an AR/ SS for the Applicant's son within the time limits set out in the Act and Regulations.

[In the course of the appeal, an issue ancillary to the appeal was raised by the Applicant by way of an objection to the disclosure by the HSE of certain materials to the DAO.]

Key statutory provisions:

Section 9(5) of the Act (requirement to (i) commence an assessment of a person's health and educational needs within 3 months of the receipt of such an application/

request for assessment and (ii) to complete the assessment without undue delay)

Section 11(8) of the Act (requirement that a SS be prepared and furnished to an applicant without undue delay)

Regulations 9 of the Regulations

(requirement to commence the assessment process as soon as possible after the application has been received but not later than 3 months after that date)

Regulation 10 of the Regulations

(requirement to complete the assessment and forward the AR to the LO within 3 months from the date the assessment commenced, save for exceptional circumstances when the assessment shall be completed without undue delay. Where there are exceptional circumstances, the Applicant must be notified, before the expiry of the 3 months, of the reason for the non-completion within the 3 months and the timeframe within which the AON is expected to be completed)

Regulation 19 of the Regulations

(requirement to complete the SS within 1 month of the LO's receipt of the AR)

Regulation 20 of the Regulations

(requirement that both the AR and SS be sent together to the Applicant and HSE within 1 month of the LO's receipt of the AR)

Background:

The Applicant made an application on **10 September 2008** for an AON for her son, Y, whose eligibility for an AON was later confirmed to the Applicant by the relevant AO. It was also confirmed that the assessment process would begin no later than **10 December 2008**.

On **24 October 2008**, the AO referred Y for assessments in the areas of physiotherapy, occupational therapy, speech & language therapy and psychology and requested

that reports be completed no later than **14 January 2009** to ensure that the AR was completed by the 3 month deadline.

On **14 January 2009**, the Applicant made a complaint to the HSE in relation to its failure to commence the AON within the time specified in Section 9(5) of the Act or to complete it without undue delay. On **13 February 2009**, the CO found that as the application was received on **10 September 2008** the AON should commence no later than **10 December 2008** and be completed no later than **10 March 2009**. The CO held that there were no grounds for the complaint and refused to uphold it.

By notice dated **12 May 2009** the Applicant appealed to the DAO against the findings of the CO.

The AON was subsequently completed on **17 June 2009** and the AR was issued together with the SS to the Applicant on **15 July 2009**.

Applicant's case:

The Applicant's appeal was based on the following grounds:

- (1) the failure of the HSE to offer appointments for Y to be assessed and to complete the AON within the statutory time frame.

It was the Applicant's position that although the AO had requested the reports in four specialisms by **14 January 2009**, by that date Y had only be seen by one specialist and no appointments had been made with the others. Therefore the AON had not been completed without undue delay and it was clear that the AR would not be completed within the 3 month timeframe from the commencement of the AON, which expired on **24 January 2009**.

Additionally, the Applicant also raised an issue during the appeal that confidential personal information relating to her contained in two medical reports had been released to the DAO without her consent.

Respondent's Case:

The HSE did not respond directly to the issues raised in the appeal but documents which it furnished indicated it relied upon the following matters:

- (1) The CO's findings were correct;
- (2) The application for an AON was received on **10 September 2009**, therefore it was not required to commence the AON until **10 December 2008** or to complete the process until **10 March 2009**;
- (3) As the Applicant's complaint was lodged over 7 weeks before the AR was required to be completed, there were no grounds for complaint because the statutory timeframes for completion of the AR had not been breached.

In relation to disclosure of the Applicant's personal information, the HSE indicated that the Applicant had signed a consent form for the sharing of information for the purposes of the AON.

Findings:

My key findings were as follows:

- (1) Y's AON had been commenced by at the latest **24 October 2008** and therefore the mandatory 3 month timeframe for completing the AR expired no later than **24 January 2009**. Thus the CO erred in finding that the process was not due for completion until **10 March 2009**;
- (2) As the primary obligation is to commence the assessment process as soon as possible after the application has been

received, it is not appropriate to artificially fix the commencement date for the AON 3 months after the receipt of the application;

- (3) The Applicant was aware when she made her complaint on **14 January 2009** that the 4 assessment reports which had been requested by the AO by **14 January 2009** had not been received and therefore had reasonable grounds to believe that the AR would not be issued within the 3 month timeframe i.e. by **24 January 2009**;
- (4) While the outer limit of the 3 month mandatory timeframe had not expired when the Applicant made her complaint, she had arguable grounds to complain there had been undue delay in completing the AON by then;
- (5) As the legislative scheme encourages the expeditious bringing of complaints, there ought not to be an interpretation that a complaint has been premature unless there are clearly no grounds for the complaint;
- (6) There was undue delay in the completion of Y's AON by **14 January 2009**;
- (7) The CO ought also to have found when making her decision on **13 February 2009** that as the AON had still not been completed by then that there had been a failure to complete the AON within the 3 month time limit.
- (8) The disclosure of the reports to which the Applicant had objected was relevant to the appeal. Furthermore, the written consents provided by the Applicant to the HSE and to the DAO authorised the use of the reports in question.
- (9) In this case, the personal information whose disclosure was complained of did not constitute sensitive personal data

for the purposes of the DPA. However, where, in the future, reports obtained by an AO for the purposes of an AON contain sensitive personal data, it would be advisable for such reports (i) to be furnished to the data subject and (ii) explicit consent (for the purposes of the DPA) be obtained for the use of those reports in the AON.

Determination:

The appeal was allowed and the CO's finding that the complaint was not well founded was set aside.

It was found that the HSE failed to complete an AON for Y without undue delay and within the mandatory 3 month time period. The Applicant's complaint was found to be well founded.

As the AR and SS had been issued by the time of this determination, no recommendations were made.

CASE STUDY No. 4

(Determination AP0031/ 21 July 2010)

Nature of Appeal:

Alleged failure by the HSE to comply with recommendations (as to the timing of completion of the AON and issuing of the AR and SS for the Applicant's son) imposed by the CO

Key Statutory Provisions:

Section 8(5) of the Act (requirement to provide an AON without regard to the cost of, or capacity to provide, any service identified in the AON as appropriate to meet the needs of the person concerned)

Section 9(5) of the Act (requirement to (i) commence an assessment of a person's health and educational needs within 3

months of the receipt of such an application/request for assessment and (ii) to complete the assessment without undue delay)

Section 11(8) of the Act (requirement that a SS be prepared and furnished to an applicant without undue delay)

Regulations 9 of the Regulations (requirement to commence the assessment process as soon as possible after the application has been received but not later than 3 months after that date)

Regulation 10 of the Regulations (requirement to complete the assessment and forward the AR to the LO within 3 months from the date the assessment commenced, save for exceptional circumstances when the assessment shall be completed without undue delay. Where there are exceptional circumstances, the Applicant must be notified, before the expiry of the 3 months, of the reason for the non-completion within the 3 months and the timeframe within which the AON is expected to be completed)

Regulation 19 of the Regulations (requirement to complete the SS within 1 month of the LO's receipt of the AR)

Regulation 20 of the Regulations (requirement that both the AR and SS be sent together to the Applicant and HSE within 1 month of the LO's receipt of the AR)

Key Standards:

Criteria 1.4 of the HIQA Standards (requirement that the person is involved throughout the AON and supported to actively participate in the AON)

Background:

The Applicant made an application on **5 July 2008** for an AON for her son, Y, whose eligibility for an AON was later confirmed to the Applicant by the relevant AO. It was

also confirmed that the assessment process would begin no later than **14 October 2008**.

The applicant made a complaint to the HSE Consumer Affairs department on **20 March 2009** in relation to the failure by the HSE to commence the AON within the time specified in Section 9(5) of the Act or to complete it without undue delay. The AON process had not been completed by that stage, nor had the AR/ SS been issued to the Applicant.

In an investigation report dated **8 July 2009**, the relevant CO found that the HSE had failed to carry out Y's assessment of need within the relevant timeframes and accordingly he upheld the complaint against the HSE. He also imposed new time limits for: (a) completion of the AR and forwarding of it to the LO (**20 July 2009**) and (b) the issuing of the SS (**20 August 2009**).

The AR was completed and issued on **18 September 2009** and the SS was issued on **14 October 2009**.

By notice of appeal dated **2 September 2009**, the Applicant appealed to the DAO against the non-compliance by the HSE with the new time limits imposed by the CO.

Applicant's case:

The applicant's appeal was based on the following grounds:

- (1) failure of the HSE to comply with the CO's recommendation that Y's AON be completed by **20 July 2009**; and
- (2) failure of the HSE to comply with the CO's recommendation that Y's AR and SS be prepared and issued by **20 August 2009**.

The Applicant also raised the fact that the AON had not originally been completed within the timeframe specified in the legislation and that the AR for Y

was ultimately not completed until **18 September 2009**, which was over 9 months outside the period allowed by the legislation.

Respondent's case:

The HSE acknowledged that there was a delay in issuing Y's AR and that the timelines recommended by the CO had not been adhered to but identified a number of factors (relating to lack of available resources within the relevant local health office) which contributed to the delay in providing Y's completed AR and subsequent SS.

Findings:

My key findings were as follows:

- (1) All relevant assessment reports which contributed to Y's final AR were issued by **9 July 2009** but it was still **18 September 2009**, some 10 weeks later, before the completed AR was issued to the LO. The delay within the relevant local health office was attributable to a number of factors including the high number of applications for an AON, no clerical support and the absence of both an occupational therapist and psychologist;
- (2) The Applicant was not notified (as required by Regulation 10) (i) that the AON would not be completed within the mandatory 3 months and (ii) of the timeframe within which the AON was then expected to be completed;
- (3) The HSE failed in its statutory obligations to provide Y with an AON as required under Section 8(5) of the Act;
- (4) The HSE failed to comply with the recommendation of the CO that an AR in respect of Y be provided by **20 July 2009**;
- (5) The HSE breached its obligation to complete Y's assessment without undue delay and within the 3 month period

required by the legislation - there were no exceptional circumstances justifying that delay;

- (6) The level of communication between the AO and the Applicant was inadequate and did not satisfy Criteria 1.4 of the HQA Standards; and
- (7) The SS was however issued within the one month mandatory timeframe following receipt of the AR.

Determination:

The appeal was allowed and the findings and recommendations of the CO (imposing new timeframes for the completion of the AR and the issuing of the SS) were upheld.

It was found that the HSE failed to comply with the recommendations of the CO as regards the timeframe for completion of the AR.

CASE STUDY No. 5

(Determination AP0036/ 9 December 2010)

Nature of Appeal:

Alleged failure of the HSE to correctly complete a SS which provided for the delivery of those services identified in the AR as required by the Applicant's son.

Key Statutory Provisions:

Section 11(3) of the Act (requires that a LO may request such persons as they consider appropriate (including the NCSE) to assist in the preparation of a service statement

Section 11(4)(a) of the Act (provides for a LO to make referrals to the NCSE if it could assist in the preparation of a SS/ the identification of an appropriate education

service provider/ the provision of an education service specified in the SS)

Section 11(7) of the Act (sets out the matters which the LO must take into account in preparing the SS)

Section 11(8) of the Act (requirement that a SS be prepared and furnished to an applicant without undue delay)

Section 11(12) of the Act (imposes statutory duty upon the LO to make arrangements in relation to the delivery of the services specified in the SS)

Regulation 19 of the Regulations (requirement to complete the SS within 1 month of the LO's receipt of the AR)

Background:

The Applicant made an application on **24 February 2009** for an AON for his son, Y, whose eligibility was later confirmed by the relevant AO. It was also confirmed that the assessment process would begin no later than **25 May 2009**.

Y's final AR was completed and issued on **16 December 2009** and identified 13 particular interventions/ services required by Y, 7 of which were deemed to be urgently required. On **12 January 2010**, the LO wrote to Y's parents requesting their agreement to postpone the issuing of the SS. Y's SS was issued on **17 February 2010**.

The Applicant made a complaint to the HSE Consumer Affairs department on **22 February 2010** in relation to the content of Y's SS. In his report dated **20 April 2010**, the CO dismissed the Applicant's complaint. The CO noted that while the Applicant was unhappy that the SS only provided for information based services (i.e. information which Y's parents could access), at the time of preparation of the SS, no clinic had yet

been agreed upon to provide therapy for Y. The CO found that as referrals had been made to various clinics in order to obtain agreement as to where Y might be placed, the contents of the SS were correct at the date of issue.

By notice of appeal dated **28 April 2010** the Applicant appealed to the DAO against the findings of the CO that the Applicant's complaint was not well founded.

An amended SS was submitted to the DAO on **5 August 2010** which included occupational therapy that Y had been receiving since **20 May 2010**. It also identified 4 further services to which Y had been referred.

[Following the lodgement of the appeal, it was referred to mediation with the agreement of the parties on **28 June 2010**. The DAO was notified on **31 August 2010** by the MO that the appeal had not been resolved by mediation. The appeal therefore came before the DAO for investigation].

Applicant's case:

The applicant's appeal was based on the following grounds:

- (1) the contents of Y's SS failed to deliver any of the services (actual services) to Y as described in the AR.

It was the Applicant's case that his son should receive the services identified in the AR (specifically the speech & language and occupational therapy services referred to). He submitted that the SS should be re-examined in light of Y's needs detailed in the AR and that the SS should refer to actual services rather than information services.

Respondent's case:

The HSE relied upon the following matters in the appeal:

- (1) the HSE had endeavoured to provide Y with the services recommended in the AR by referring him to a specialist services provider (Beechpark Services) identified in the AR. However Beechpark had declined Y's referral on the grounds that he was not suitable for their services because [they found] his primary disability was not ASD;
- (2) the HSE outlined its endeavours through the LO (including referrals) to access appropriate services for Y but pointed to various factors (including a difference in professional opinion as to Y's needs and services to meet those needs) which affected the outcome of those endeavours;
- (3) the HSE acknowledged that gaps in the services for children with ASD and mainstream disabilities in the relevant HSE region (Dublin West) had been identified.

Findings:

My key findings were as follows:

- (1) The LO acted appropriately on receipt of the AR by making an immediate referral of Y to the specialist service provider named in the AR (Beechpark Services) and in doing so complied with the obligation upon her under Section 11(12) of the Act;
- (2) While Beechpark Services had strict criteria in place regarding admissions and the provision of ASD services (and ultimately refused Y's referral), given the views of the AO and the assessing psychologist that Beechpark was the appropriate service, the LO made an appropriate referral in Y's best interests. Following this refusal, the AO had to source alternative services for Y;
- (3) The social work intervention sought by the LO for Y's family and the social work

services provided to Y were in line with the recommendations in the AR;

- (4) the audiology review recommended for Y in the AR was also provided;
- (5) the LO did not issue Y's SS in accordance with Regulation 19 of the Regulations. Under the legislation, it is not open to the LO to request agreement from an applicant to postpone or defer the issuing of a SS. Y's SS should have been issued on/ before **16 January 2010**;
- (6) While the AR also recommended Jonix Pre-School as an appropriate specialist services provider, because it does not come under the remit of national health or education services, there was no onus on the LO to make a formal referral of Y directly to Jonix Pre-School. It was appropriate that the LO forwarded the relevant information on this pre-school facility to Y's family;
- (7) The findings of the AR were reflective of Y's educational and health related needs. However the fact that Beechpark Services, a HSE funded specialist service refused the referral of Y was very confusing for Y's family; and
- (8) Y's next assessment must reconsider the AR findings given the confusion regarding the clinical difference of opinion (between Beechpark Services and the assessing psychologist) which impacted on the provision of services to Y.

Determination:

The appeal was not allowed on the substantive grounds. The finding of the CO (that the contents of the issued SS were correct) was affirmed.

The CO's findings were varied to the effect that a recommendation be made

that Y was entitled to be issued with the SS no later than 16 January 2010.

A recommendation was also made that Y's AR review should consider his needs in light of the findings of the AR and the subsequent difficulties encountered in identifying appropriate service providers.

CASE STUDY No. 6

***(Determination AP0032/
25 November 2010)***

While the following case study is substantially longer than the other case studies included in this section, this synopsis is reflective of the text of the full determination and the range of jurisdictional, procedural and substantive issues which required to be determined in the course of this appeal. These jurisdictional, procedural and substantive issues are in turn indicative of the broad cross section of matters encountered on an ongoing basis in the performance of my statutory functions.

Nature of Appeal:

Alleged failure by the HSE to comply with recommendations of a CO with regard to completion of an AON for the Applicant's son; alleged failure by HSE to provide services specified in the SS and to carry out a review of the SS; contents of the SS being incorrect/incomplete.

Key Statutory Provisions:

Section 9(5) of the Act (requirement to (i) commence an assessment of a person's health and educational needs within 3 months of the receipt of such an application/request for assessment and (ii) to complete the assessment without undue delay)

Section 9(8) of the Act (allows a person who has previously made an application for an AON to make a further application if:

- (a) there has been a material change of circumstances;
- (b) further information has become available regarding the personal circumstances of the applicant or the services available to meet their needs;
- (c) a material mistake of fact is identified in the AON).

Section 10 of the Act (requires the AON to be carried out in conformity with the relevant prescribed standards – the HIQA Standards)

Section 14(1) of the Act (sets out the following grounds on which complaints may be made to the HSE:

- (a) determination by the AO that the person did not have a disability;
- (b) the AON was not commenced within the time required under Section 9(5) or was not completed without undue delay;
- (c) the AON was not conducted in conformity with the relevant prescribed standards – the HIQA Standards;
- (d) the contents of the SS;
- (e) the failure by the HSE/ education service provider to provide/ fully provide a service specified in the SS.

Section 15(10) of the Act (allows a CO to correct any mistake in a recommendation made by them)

Section 18(3) of the Act (requires that an appeal to the DAO be brought within 6 weeks of the relevant finding/ recommendation having been communicated to the applicant)

Regulation 22 of the Regulations (requires the SS to be reviewed no later than

12 months after it was drawn up or from when the SS was last amended/reviewed)

Background:

The Applicant made an application on **30 October 2007** for an AON for her son, Y, whose eligibility for an AON was later confirmed to the Applicant by the relevant AO. It was also confirmed that the assessment process would begin no later than **31 January 2008**.

The Applicant made a complaint to the HSE on **16 September 2008** in relation to the failure by the HSE to commence the AON within the time specified in Section 9(5) of the Act or to complete it without undue delay. The AON process had not been completed by that stage, nor had the AR/ SS been issued to the Applicant.

In an investigation report dated **17 December 2008**, the relevant CO (the "CO1") upheld the Applicant's complaint finding that the HSE had not successfully arranged for an independent AON for Y within the relevant timeframes and that a number of Y's necessary assessments still remained outstanding. He also imposed new time limits for: (a) the completion by **6 February 2009** of the outstanding components (including orthoptic, orthotic and audiology) of Y's AON (b) the completion of the AR by **13 February 2009** and (c) the preparation and issuing of Y's SS, in conjunction with the AR, no later than **15 March 2009**.

The AR was issued on **18 February 2009** and found that Y had Cerebral Palsy and moderate hearing loss. The SS was issued on **12 March 2009**. However the audiology assessment report (which the CO had recommended be completed by **6 February 2009**) had not been completed by this date. (The audiology assessment was ultimately completed on **25 June 2009** and an amended SS was issued on /about **21 July 2010**).

On **22 April 2009**, the Applicant made a second complaint to the HSE on 4 grounds:

- (1) the failure by the HSE to commence the AON within the time specified in Section 9(5) of the Act or to complete it without undue delay;
- (2) the AON was not conducted in a manner conforming to the relevant standards referred to in Section 10 of the Act;
- (3) the contents of the SS;
- (4) the HSE/ education service provider had failed to provide / fully provide a service specified in the SS.

In an undated investigation report which was issued on/about **23 September 2009**, a second CO ("CO2") did not uphold any part of the Applicant's complaint. In relation to the complaint above at (1), the CO2 found that as the SS took effect from **12 March 2009** in compliance with the timeframe imposed by the CO1, that this aspect of the complaint could not be upheld.

By notice of appeal dated **20 October 2009**, the Applicant appealed to the DAO against the decision of the CO2 that her complaint was not well founded.

On **16 November 2009**, the CO2 wrote to the Applicant attempting to amend his grounds for finding that the complaint regarding the AON could not be upheld. The CO2's amended ground was that if the CO1's recommendations were not adhered to in full, then the appropriate course of action was an appeal to the DAO because the CO2 was unable to reinvestigate the matter or make recommendations.

[Following the lodgement of the appeal, in the absence of any objections, the appeal was **referred to mediation on 24 February 2010**. The DAO was notified on **30 March 2010** by the MO that following a

pre-mediation meeting on **26 March 2010**, it had been concluded that mediation was not an appropriate process to resolve the appeal. The appeal therefore came before the DAO for investigation].

Applicant's case:

The Applicant's appeal was based on the following grounds:

- (1) the failure of the HSE to adequately complete Y's AON (by failing to carry out an audiology assessment either before the time limit imposed by the CO1 or before the issue of the SS) as required by the recommendations of the CO1;
- (2) that the contents of the SS were incorrect or incomplete (as it failed to address Y's hearing needs, to identify which services Y would receive and when he would receive them. It also appeared to make the provision of services conditional in a number of instances); and
- (3) that the HSE had failed to provide/ fully provide services to Y in accordance with the terms of his SS (relating to speech and language therapy, psychological support and the provision of orthotics). The HSE had also failed to review Y's SS by **12 March 2010** as required by Regulation 22).

Respondent's Case:

Documents furnished by the HSE, indicated that its position was as follows:

- (1) any failure to implement the recommendations of the CO1 could only be the subject of an appeal to the DAO and the CO2 could not deal with such an allegation as a complaint;
- (2) Y's SS was issued prior to the date recommended by the CO1. Although no audiology assessment had been completed at this time, the Applicant had agreed to the AR being issued without

it. The audiology report subsequently became available on **29 June 2009**;

- (3) As Y had been receiving services from the particular disability services provider (Enable Ireland) for a number of years in accordance with its available resources, it was appropriate for the provision of future services to be determined upon the basis of Y's clinical needs at the time of review and in light of the resources available. Enable Ireland were unable to provide services over their allocated budget;
- (4) If difficulties arise in the provision of services, the legislation does not allow the CO to make recommendations to alter that fact; and
- (5) While it was admitted there had been a failure to review Y's SS until **21 July 2010**, it was submitted that SS reviews take place on foot of a review AR and no review AR had been received from the AO at that time.

Matters for determination:

The following **procedural matters** fell for determination in this appeal:

- (1) Whether an oral hearing should be held in circumstances where the Applicant had requested it but had not identified any disputed or material issues of fact which could not be fairly determined without an oral hearing;
- (2) Whether it is open to a CO to subsequently amend or alter his/ her original findings contained in an investigation report;
- (3) Whether the CO2 was correct in his amended finding of **16 November 2009** that the appropriate course of action in respect of the alleged non-implementation of the CO1's recommendations was an appeal to the DAO and that he was not able to reinvestigate this matter.

The following **substantive matters** also fell for determination in this appeal:

- (4) Whether the initial grounds relied upon by the CO2 for dismissing the Applicant's complaint with regard to the AON process could be upheld;
- (5) Whether the HSE failed to provide an AON in conformity with the HIQA Standards;
- (6) Whether the contents of the SS were incorrect or incomplete; and
- (7) Whether the HSE failed to provide / fully provide the services specified in the SS.

Findings:

My key **procedural findings** were as follows:

(1) Oral Hearing

An oral hearing may be required in order to fairly determine any disputed or material issues of fact. In this case I found that there were no material issues, including questions of credibility or contested factual matters, which could only be determined by an oral hearing and neither party had identified any such issues. Given the requirement under Section 18(11) of the Act to conduct appeals as informally as is consistent with the performance of the DAO's functions, the appeal was determined without convening an oral hearing;

(2) Amendment by CO of investigation report

Under Section 15(10) of the Act, the power of a CO to amend his/her report is limited to the correction of a mistake. In this case, the CO2 did not seek to correct a mistake but to alter the grounds upon which he made a finding. I found that this amendment was not authorised by Section 15(10) of the Act;

(3) Complaint to HSE/ appeal to DAO

There is no reason in principle why the same conduct of the HSE cannot ground both a complaint to the HSE and an appeal to the DAO.

The time limit for the Applicant to bring an appeal under Section 18(3) for the non-implementation of the CO1's recommendations (regarding completion of the AON) had expired before the grounds for bringing such an appeal accrued.

Furthermore the Applicant had grounds to bring a complaint to the HSE under Section 14(1) of the Act on grounds related to breaches of various HIQA Standards [see below at point (5)] regardless of whether the same facts supported a non-implementation appeal to the DAO under Section 18(1).

As regards "reinvestigation" by a CO, the consideration by a CO of complaints regarding acts/ omissions occurring after the making of recommendations by an earlier CO will not necessarily involve reinvestigating the subject matter of the previous complaint or making further recommendations

My key **substantive findings** were as follows:

- (4) The CO2's finding that no failure had occurred in relation to the completion of Y's AON (because the SS had been prepared in accordance with the CO1's recommendation) misinterpreted the Applicant's complaint. The CO2 failed to recognise that the complaint concerned the AON (and specifically the failure to complete the audiology component) and not the preparation of the SS. Therefore the initial grounds relied upon by the CO2 to dismiss this aspect of the Applicant cannot be supported.

(5) Conformity with HIQA Standards

The HIQA Standards emphasise that the AON should identify and prioritise the needs of the applicant and that the resulting AR will be a comprehensive, evidence based, up to date and accurate record of the person's needs. The HSE's failures in following respects breached the HIQA Standards:

- (a) Failure to complete the audiology component of Y's AON;
- (b) Failure to subsequently review the AR to incorporate the findings of the audiology assessment once completed; and
- (c) Failure to identify the level/ extent of Y's needs for services and therapies with any precision.

(6) Contents of SS

In relation to the absence of any reference to Y's hearing needs in the SS, the LO could not be expected to specify the provision of audiology services for Y when his hearing loss had not been dealt with as part of the AR. However provision should have been made to revise Y's AR and SS once the outstanding audiology report became available. No attempt was made to incorporate its findings into the SS or AR. This is a serious continuing deficiency in Y's SS.

The SS was incorrect and inadequate in failing to specify clearly the health services and time frames for the provision of certain services to Y. Making the delivering of services conditional upon the future views of the service provider/ availability of future resources, delegates the right to service providers to unilaterally decide which services a child will receive. This is contrary to the scheme of the legislation which requires that an alteration to the provision of services must be done through formal

amendment of the SS against which an appeal/ complaint may be brought. A SS must be in terms sufficiently specific so that failure to provide intended services can be enforced through the legislation's redress mechanisms.

The SS was also inaccurate and incorrect in that it wrongly implied that Y's needs in the areas of speech & language therapy, physiotherapy and occupational therapy were being fully met by the service provisions in the SS. The SS failed to identify Y's unmet needs. Furthermore no attempts were made to identify any alternative service providers to Enable Ireland who may have had resources to meet Y's unmet needs. Similarly inadequate inquiries were made as to whether the provision of such additional services to Y would result in expenditure in excess of the sum allocated under the relevant Service Plan.

(7) Alleged failure to provide services specified in SS

The HSE failed to provide certain psychology review services specified in the SS to Y from March 2009 onwards.

Additionally, Y's SS was not reviewed as required by **12 March 2010**. The amended SS which was prepared during the course of this appeal and issued on/about **21 July 2010** exhibited the same deficiencies as the initial SS, making the review inadequate.

Furthermore, contrary to the requirement in Section 11(11) of the Act, no attempt was made to involve the Applicant in the review of Y's SS.

Other Relevant Matters:

Two further issues were also raised by the facts of the case:

- (1) The Applicant's view that as (according to a recent brain scan) Y was no longer

considered to have Cerebral Palsy he should undergo re-assessment; and

- (2) References made during the course of the appeal to the Applicant's permission having been given to the issue of the AR without Y's audiology assessment having been completed.

While these matters do not form part of the findings of this appeal, my comments on them are as follows:

- (1) Under Section 9(8) of the Act, an applicant for an AON may make a further application in certain circumstances. In the present appeal, the Applicant pointed to a recent brain scan which she considered no longer supported the view that Y had Cerebral Palsy. This was raised by the Applicant with the CO2 as a ground for a re-assessment. The CO2 failed to inform the Applicant that it was open to her to make an application for a re-assessment under Section 9(8) of the Act when he should have done so;
- (2) It was understandable that the Applicant, having been denied Y's AR for over 8 months and where there appeared to be no prospect of an audiology report being carried out, agreed to permit the issue of the AR without further awaiting his audiology report. This permission did not cure the HSE's statutory breaches and does not affect the findings regarding the HSE's failure to ensure the AON was carried out in conformity with the HIQA Standards.

Determination:

The appeal was allowed and the finding of the CO2 that the complaint is not upheld and thereby not well founded was set aside. The Applicant's complaint was found to be well founded.

It was found that:

- **The HSE failed to provide an AON in conformity with the HIQA Standards, as required by Section 10, due to the failure to carry out an audiology assessment;**
- **Y's SS was inaccurate and incorrect due to the indication that (a) his needs were being fully met by the services specified in Speech & Language Therapy, Occupational Therapy and Physiotherapy and (b) failing to identify dates/ frequency for receiving specified services;**
- **The HSE failed to provide certain psychology review services specified in the SS to Y from March 2009 onwards; and**
- **The HSE failed to provide a review of Y's SS within the required timeframe.**

The following recommendations were made:

- **An audiology assessment be carried out and incorporated into a revised AR (which is also to include a review of Y's AR of 18 February 2009), the revised AR to be completed by no later than 21 January 2011;**
- **An amended SS on the basis of the revised AR (as referred to above) to be issued by no later than 31 January 2011. The revised SS must clearly identify the services, periods of time for, and frequency of, the provision of such services to Y; and**
- **The date of review of the amended SS (as referred to above) must be specified in the amended SS and it must be no later than 12 months after the date on which the amended SS is issued.**



Chapter 4

Review of the Operation of the Disability Act 2005

Chapter 4: Review of the Operation of the Disability Act 2005

In June 2010 the Department of Community, Equality and Gaeltacht Affairs conducted a review of the Act as required under section 6 of the Act. This Review was completed and published in July 2010.

As the Disability Appeals Officer I submitted a perspective of my views in respect of the practical operational issues I observed in determining appeals. These views are summarised within the body of this Chapter.

Assessments of Need

My experience of the workings of the Act in practice has indicated that the final Assessment Reports generally follow a standard proforma approach to the description of a child's needs with little detailed analysis furnished of what the needs of a child actually are. Regardless of the wide variety of disabilities which children present with, many Assessment Reports appear simply to identify a child's needs as requiring referral to a particular services or services such as speech and language therapy, occupational therapy and/or referral to a particular school or institution. Assessment Reports therefore appear to be largely indistinguishable apart from the identities of the clinicians who have undertaken the assessments. It can be argued that this was not what was envisaged by the Act and that a "true" assessment of a child's needs requires that the specific details of each need must be analysed and reported upon in the accompanying Assessment Report so that an appropriate and adequate degree of specificity and individuality is provided within the assessment process.

This interpretation of the intended detail and content of Assessment Reports under the Act is supported by the qualities of Assessment Officers mandated as necessary by clause 13 of the Regulations. These essential qualities do not appear to be

reflected in many of the Assessment Reports reviewed by my Office as such reports are typically produced in a standardised format with little or no critical analysis.

Further, there are recurring problems within Assessment Reports which could be addressed. Assessment Reports are intended to be a comprehensive statement of a child's needs. However, significant numbers of Assessment Reports made available to us during Appeals under the Act indicate that recommendations for multidisciplinary and other assessments are made as "*services required*" in Assessment Reports. This would not appear to be an appropriate approach in our view. Further the timeframe within which specific services ought to be provided to a child is often not set out in the Assessment Report. A time scale of "*as soon as possible*" is commonly adopted which can be viewed as inadequate. Further, where the recommendation is for a referral to another body or practitioner rather than for the provision of a service, the use of the timeframe of "*immediate*" appears meaningless as this does not provide a date from which services should actually be provided to the child. To address these concerns, section 8(7) of the Act may be amended to include specific and more detailed requirements for the contents of Assessment Reports.

Matters to be considered under section 11 (7) (d) and (e)

My experience has been that inconsistent approaches are adopted by Liaison Officers in relation to the meaning of practicability in section 1(7)(d) of the Act and to the requirement that expenditure shall not exceed the amount allocated to implement an approved Service Plan under section 11(7)(e) of the Act. The ordinary meaning of the word "*practicability*" is "*capable of being done or accomplished*" or "*feasible*". Accordingly, for the purpose of section 11(7)(d) of the Act, a Liaison Officer is required to consider whether a particular

service is capable of being provided by the HSE (or an education service provider) or whether it is feasible for the HSE to provide the relevant service.

Separate from the question of the “*practicability*” of providing a particular service, a Liaison Officer is also required to consider the costs of providing the relevant service in the manner directed by section 11(7)(e) of the Act. Under this provision, a Liaison Officer is required “*to ensure that the provision of the service would not result in any expenditure in excess of the amount allocated to implement the approved service plan.*” If a relevant service would or even may result in expenditure in excess of allocated budgets, a Liaison Officer is obliged not to make provision for the relevant service. In my experience Liaison Officers do not appear to distinguish between the requirement of practicability in section 11(7)(d) and the expenditure issues required to be applied by section 11(7)(e) of the Act.

Further and despite the mandatory terms of section 11(7)(e), it has not been my experience that either Liaison Officers or Complaints Officers usually obtain the approved service plans for the LHOs concerned when dealing with claims that the provision of particular services can not be provided because of inadequate resources. To address this apparent deficiency in the performance of this obligation under the Act, it may be considered appropriate in those cases where a Service Statement does not make provision for a service to meet an applicant’s assessed needs because of excessive expenditure/resource issues, to impose a statutory duty upon Liaison Officers to furnish reasons to applicants for their decisions in this regard by reference to the approved service plan for the relevant financial year. As explained further, it is considered that any such reasons should be provided as part of the terms of the relevant Service Statements.

Service Statements

Similar concerns to those noted in relation to the Assessment of Need also arise from the formulaic approach generally adopted to the issue of Service Statements under section 11 of the Act. The only specific requirements for the content of Service Statements is contained in section 11(2) of the Act and these requirements have appeared to be inadequate in practice. Service Statements should identify each of the individual needs which are referred to in the Assessment Report, how each individual needs are able to be addressed by the provision of a service, who is to provide that service, the date from which and the period over which that service will be provided.

Where services are not able to be provided to Applicants with respect to any identified need, it is considered that this should be explained within the terms of the Service Statement itself so that an applicant has a means of seeking redress or of challenging that decision through section 14 of the Act. The inclusion of these “*unmet needs*” in the Statements will also ensure that the review of Service Statements necessarily will encompass these unmet needs and whether there are now available means to provide the outstanding services. It is presently argued by the HSE that the terms of section 11(2) only require Service Statements to contain those services which are to be provided and therefore that there is no obligation or requirement for the HSE to explain its failure to provide services in respect of particular needs. The HSE also argue that as these “*unmet needs*” do not form part of the contents of the Service Statements, the decision not to provide such services is not amenable to the complaints and redress procedure under section 14(1)(d) of the Act. As part of my consideration of Appeals brought under the Act, I have not accepted these arguments as being in accordance with the intention of the legislature. Whilst in practice the HSE does through its Liaison Officers provide a covering letter identifying

those services which will not be provided, such letters typically simply state that “*it is not presently possible to provide these services*”. Such explanations appear to be neither adequate nor sufficient.

Grounds of Complaint

It is considered that the five grounds for complaint provided for in section 14(1) may reasonably be extended to include the following additional three grounds:

- (f) the adequacy of the assessment undertaken under section 9 of the Act;
- (g) the failure of the Service Statement to provide a service or services in respect of an applicant’s assessed needs;
- (h) the failure of the Liaison Officer to amend or vary a Service Statement following a review of the Service Statement under section 11(11) of the Act.

It is our experience that a number of Applicants have effectively sought to raise one of these grounds and jurisdictional arguments have needed to be considered regarding whether there is presently a proper basis to consider such complaints under section 14(1) of the Act. Whilst it can be argued that these grounds are encompassed within the existing section 14 (1)(b) and (d) respectively, it remains arguable and has been argued that this is not the case. As these ought to be proper grounds for complaint, it is recommended that s14 (1) of the Act is amended to make this clear.

It is also considered that the time within which a complaint is able to be made under section 14(2) is not defined adequately or reasonably. Under clause 24(2) of the Regulations, a complaint must be made as soon as reasonably possible and not later than three months after the date on which the cause of the complaint has arisen. No reference is made in these provisions to the knowledge

of the Applicant. It follows that an Applicant may lose the right to make a complaint under section 14 of the Act before he or she had any knowledge of the facts which provide the grounds for his/her complaint. This is not considered to be acceptable as clearly the time within which a complaint may be made should not commence until such time as the Applicant or person referred to under section 9(2) of the Act is aware of the cause of the complaint. To address this anomaly, it is recommended that the terms of clause 24 of the Regulations should be amended to the following effect:

“A complaint shall be made as soon as is reasonably practicable or within three months of the date upon which the applicant becomes aware of the cause of the complaint, whichever is the later”.

The Complaints Officer’s Function

If the recommendation to expand the grounds of complaint under section 14 as outlined above is accepted, the findings or recommendations which a Complaints Officer is entitled to make under section 15(8) of the Act will also need to be amended to provide for following three additional recommendations:

- If the report contains a finding that the assessment of the applicant’s needs was inadequate, a recommendation that the person be subject to a further assessment under section 9 within the period specified in the recommendation;
- If the report contains a finding that the Service Statement failed to make provision for a service which ought to have been included in the Service Statement, a recommendation that the Statement be amended, varied or added to by the Liaison Officer to provide for the service or services concerned within the period specified in the recommendation;

- If the report contains a finding that the Liaison Officer failed to adequately amend or vary a Service Statement, a recommendation that the Statement be amended, varied or added to by the Liaison Officer within the period specified in the recommendation.

Appeals to the Disability Appeals Officer

The timeframe within which an Appeal may be brought under section 18(3) has caused significant anomalies which could not have been intended. For example, the requirement that a person has 6 weeks to bring an Appeal from the date on which the finding or recommendation to which the Appeal relates was communicated to the person can mean that the Appeal period has expired before the event occurs which is the subject of the Appeal. For example, if recommendations made under s15(3)(b), (c), (d), (e) or (f)

provide for a period of more than six weeks within which the recommendation may be implemented, the Appeal period under section 18(3) for any non-implementation would have expired before the failure to comply with the recommendation has occurred. Whilst an Applicant could rely upon the provisions of section 18(4) to seek an extension of the Appeal period for a further period of 12 weeks in such circumstances, it is not considered that an Applicant should be required to rely upon the discretion of the Appeals Officer to grant an extension when the grounds of Appeal did not arise until after the principal Appeal period had expired. Further and in any event, the timeframe within which recommendations are to be implemented may exceed 18 weeks and such Appeals will not be capable of being remedied by reliance upon section 18(4).



Chapter 5

Consultation with Stakeholders

Chapter 5: Consultation with Stakeholders

Information Sharing Days

My office continued to conduct public meetings. From September 2010 we conducted several regional Information Sharing Evenings, which were attended by a cross section of Service Users and Service providers.

Invitations were disseminated via the Service User representative bodies nationally, via the HSE LHO and local radio stations and local news papers.

Table 3 : Demographic Overview of the ODAO Information Sharing Evenings

Date	Location
28th Sept	Clare
5th Oct	Waterford
12th Oct	Dundalk
19th October	Cork
9th November	Athlone

Due to adverse weather conditions a meeting planned for Dublin had to be deferred until 2011

Presentation to the Psychological Society of Ireland.

On the 16th June I made a presentation to the PSI outlining the role and function of the DAO and providing an overview of the work of the office to date.

Advocacy Groups

I met with members of the Advocacy Services Ireland in the Autumn of 2010, with the purpose of evaluating the application forms and information leaflets of the ODAO. This work is ongoing.



Chapter 6

Corporate Governance

Chapter 6: Corporate Governance:

Corporate Governance directs that agencies/offices have clear systems and procedures in place which underpin the work processes involved in the running of these offices, reflecting a transparent and accountable work practice.

The ODAO conducts its business to the highest possible standards. This obliges my office to ensure appropriate policies are in place to respond to the environmental landscape within which I operate when providing a redress service under the Act. To date we have developed the following policies and procedures:

- a. *The ODAO Code of Practice Manual 2010 (2nd Edition)* for Staff processing appeals under the Act
- b. *Determination and Reasons for Decision Report Framework Document*
- c. *The ODAO 5 Year Strategic Statement*

- d. *Reporting of child safeguarding concerns arising during the appeal process: Policy*
- e. The ODAO Health & Safety Protocols
- f. The ODAO Risk Management Strategy
- g. ODAO Accounting and Purchasing Procedures 2010

In addition my office complies with the relevant national policies and procedures as follows:

1. Compliance with the Financial Regulations of the parent Department (DoH&C)
2. Code of Practice for the Governance of State Bodies (2001) updated in 2009
3. Framework for Corporate & Financial Governance (April 2006)
4. Public Financial Procedures (December 2008)



Chapter 7

Operational and Organisational Matters

Chapter 7 Operational and Organisational Matters

Financial Report:

There are four main costs incurred within the ODAO which are described under the following headings:

- Pay and related costs
- Office running costs

- Independent Advice (Legal & Mediation)
- Training (External & In-service)

Table 4 below represents all expenses incurred within the ODAO in 2010. The figures are based on invoices paid; expenses incurred; and include assigned staff salaries, which are paid by the Department of Health & Children (DoH&C). The allocated budget for 2010 was €01,000.

Table 4

	Amount €
Pay and related costs	268,000
Office running costs	68,500
Independent Advice (Legal & Mediation)	128,000
Training (External & In-service)	11,467
Total	475,967

A full financial statement will be issued for 2010 on completion of the C&AG Audit which occurred at time of preparation of this Report. This Financial Statement will be published at the end of 2011 in compliance with Schedule (paragraph 6 and 7) to the Act.

Human Resources Report:

From January to August 2010 there were four (4) personnel attached to the ODAO:

- 1 x Disability Appeals Officer
- 1 x Mediation Officer
- 1 x Higher Executive Officer (HEO)
- 1 x Executive Officer (EO)

Due to constraints outside this office's control from September 2010 until December 2010 this number was reduced to 3 WTE.

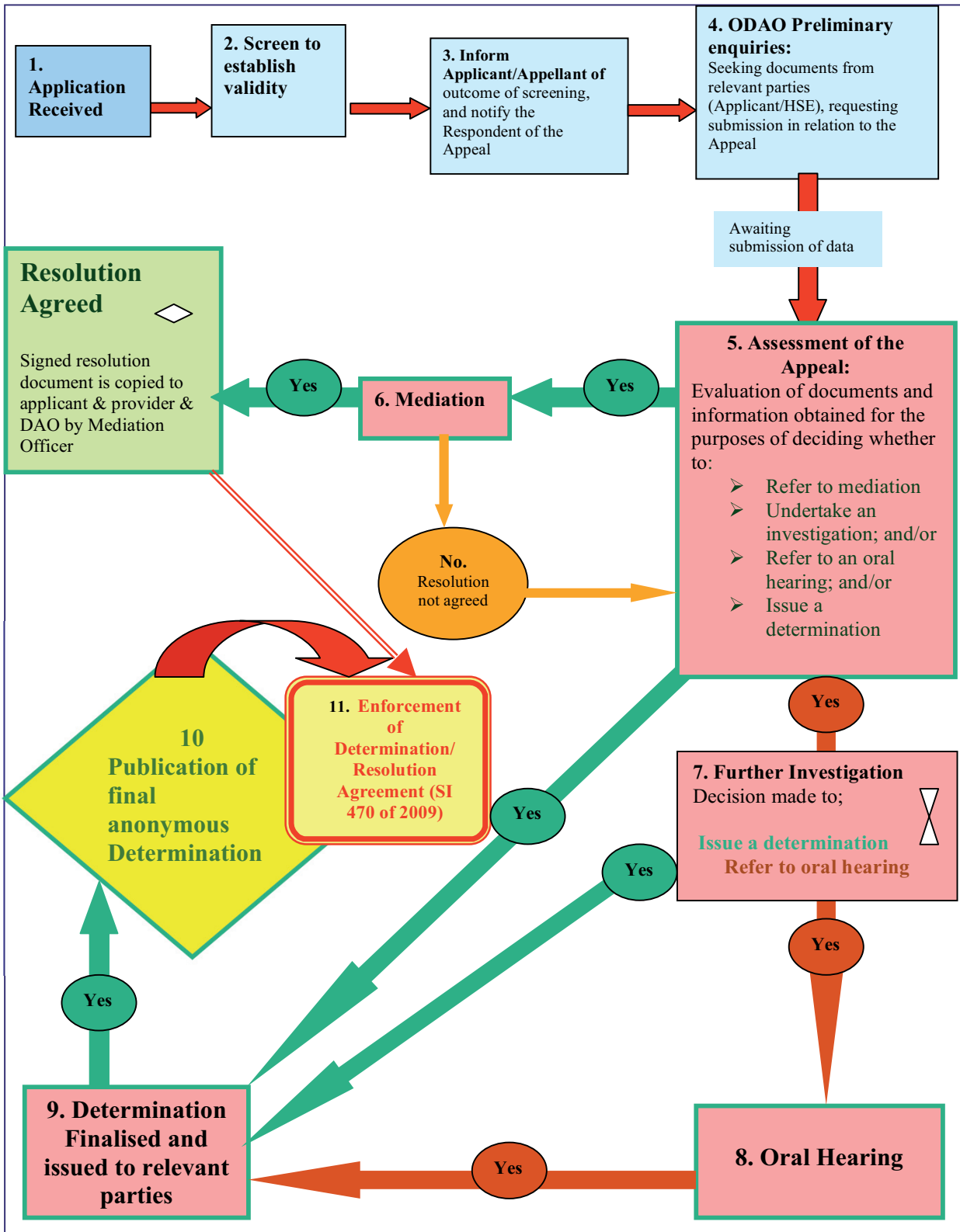
The staff of the ODAO continually avails of opportunities to advance their skills in support of effective outputs. Appendix 2 outlines the type of training involved.



Appendix 1

ODAO Appeals Process Pathway

Appendix 1: ODAO Appeals Process Pathway





Appendix 2

Staff Training Report 2010

Appendix 2: Staff Training Report 2010			
Staff	Month	Supplier	Training
DAO & Mediation Officer	Jan	IPA Mountjoy Square	Legal proceedings and taxation of costs.
Mediation Officer	February to May (one day per month)	Chartered Institute of Arbitrators	Advanced Mediation Training for Accredited Mediators
HEO & EO	March	Sage Ireland	Training for Sage Software
All Staff of ODAO	April	Mason Hayes +Curran Solicitors	Circuit Court Rules
All Staff of ODAO	April	Oiliuna	Advanced Word
DAO & Mediation Officer	April	Public Affairs Ireland	Recent developments in Public Law
HEO	April	Public Affairs Ireland	Health & safety in the Public Sector
All Staff of ODAO	June	Mason Hayes +Curran Solicitors	Discovery of Documents
DAO	September 2010 - May 2011	IPA/Harvard University	Leadership Challenge
DAO	November	JSB UK	Advanced Judicial Skills



Notes

