Adjudicator points to improvements in HMRC complaints handling

General Features

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The Adjudicator's 23rd annual report for 2015-16 was published on 12 July. It covers a period in which the Adjudicator, Helen Megarry, has observed that all three departments for which she is responsible – HMRC, the Valuation Office Agency and the Insolvency Service – have improved their complaints handling, 'demonstrating their willingness to learn from complaints'.

In 2015-16, the Adjudicator completed 914 investigations into complaints about HMRC and substantially or partly upheld 666 (72%) of those in favour of the complainant. By contrast, in 2014-15, 1,543 investigations were substantially or partly upheld as against 1,808 completed, showing a rate of 85% upheld. An improvement certainly, but with nearly three-quarters of complaints resolved partly or wholly in favour of the complainant, there is still some way to go.

About 75% of complaints against HMRC involve tax credits, although complaints handling within Benefits and Credits has also improved. Comparatively few complaints are about the two other departments, the Valuation Office Agency and the Insolvency Service.

The Adjudicator can recommend payment of redress where the action or inaction of a department has caused complications for the claimant. The size of such redress payments she recommended should be made by HMRC has declined over the two years from £2,996,769 in 2014-15 to £956,461 in 2015-16. The totals represent compensation for worry, distress and poor complaints handling, direct costs incurred by the complainant, and liability for tax and overpaid tax credits given up by HMRC.

The Adjudicator's Office

The annual report spans a period of transition in the role of Adjudicator. Judy Clements, who held the post for seven years, left in April 2016 to be Independent Adjudicator and Chief Executive of the Office of the Independent Adjudicator for Higher Education. Her Head of Office, Margaret Allcock, took retirement. They were succeeded by the new Adjudicator, Helen Megarry, previously Deputy Housing Ombudsman for the Housing Ombudsman Service, and Jane Brothwood.

The Adjudicator is, in her own words, a 'fair and unbiased referee' who receives complaints about HMRC, the Valuation Office Agency and the Insolvency Service. In its inaugural year she was also asked to deal with complaints about Pension Wise, but there were none and now the guidance service is incorporated into the panoply of DWP complaint handling, with the independent review of complaints going to the DWP's independent case examiner.

Before the Adjudicator will consider a complaint, the internal complaints procedures within the department in question must first be exhausted. In the case of complaints about HMRC, this involves a two-tier process whereby a complainant dissatisfied with the original decision may ask for a second review. Only if they remain dissatisfied after that does recourse lie to the Adjudicator.

Matters that fall within the Adjudicator's remit include mistakes, unreasonable delays, poor and misleading advice, inappropriate staff behaviour, and the use of discretion (for example in cases involving the application of extra-statutory concession A19). She cannot deal with matters that are properly the subject of an appeal to a tribunal or court.

Not all complaints proceed to a formal investigation. Some 10% are resolved by mediation, described as follows in the annual report:

> *'Mediation is the process where both parties reach an agreement on how a case may be settled. Our investigator reviews the complaint and, if there is scope to propose a mediated settlement, they will work with the customer and the relevant department to achieve this on behalf of the Adjudicator.'*

The opportunity for a quicker outcome offered by mediation is seen as more positive for the complainant than the long wait that often accompanies a full investigation of a complex matter.

Case histories

The annual report contains ten examples typical of cases handled by the Adjudicator, most upheld in favour of the complainant but also one or two that are not. The types of complaint illustrated vary from failure to follow official guidance to recurring computer errors, incorrect and misleading advice, and the use of discretion. They are a useful indicator of how the Adjudicator approaches the resolution of a complaint and encourages the department to learn from those she upholds.

The annual report is available on the Adjudicator's Office website, and the accompanying press release.