

Memorandum of Understanding (MoU)

between

the Office of the Ombudsman

and

the Ombudsman for Children's Office



## 1 Background

- 1.1 The Office of the Ombudsman, established under the Ombudsman Act 1980, as amended, (the Act of 1980) and the Ombudsman for Children's Office established under the the Ombudsman for Children Act 2002 as amended (the Act of 2002) (individual referred to as "the Party" and collectively referred to as "the Parties"), wish to establish a framework for cooperation and information sharing between the two Offices in examining and investigating complaints in respect of which either or both Offices may have a jurisdiction and to establish effective procedures for signposting members of the public to each other's services.
- 1.2 The Ombudsman operating under the Act of 1980, investigates complaints against certain public bodies. The Ombudsman for Children, operating under the Act of 2002, investigates complaints against certain public bodies including schools and voluntary hospitals. In broad terms, the primary role of the Parties is to examine individual complaints, provide individual redress where appropriate and use complaint outcomes to improve public administration.
- 1.3 Under the Act of 1980 and the Act of 2002, investigations arise where the action complained of "has or may have adversely affected" a person. In the case of the Ombudsman for Children's Office, the person adversely affected must be a child; in the case of the Office of the Ombudsman, the person adversely affected is a "person" in the wider sense of any natural person or any corporate entity. However, the Act of 2002 amends the Act of 1980 to provide that the Office of the Ombudsman shall not investigate any action which is one to which section 8 of the Act of 2002 applies, that is, an action which has, or may have, adversely affected a child. It is clear that the intention of the Oireachtas is that where an action of a public body has, or may have, adversely affected a child then any

investigation of that action will be a matter for the Ombudsman for Children's Office rather than the Office of the Ombudsman.

- 1.4 There will be instances, however, in which an action of a public body has, or may have, adversely affected both a child and an adult. This MoU provides the basis for enhanced cooperation to address and deal with such instances appropriately. It builds on the engagements and consultations about complaints which have previously taken place between the two Offices on an informal basis. The two Ombudsmen have entered into this MoU in order to further their shared commitment to working together as effectively as possible in the public interest.

## 2. Objectives

This MoU is intended to assist and support both the Office of the Ombudsman and the Ombudsman for Children's Office in performing their individual functions and to promote inter agency consistency between the Parties in examining and investigating complaints in respect of which either or both Parties have a jurisdiction. The objectives of this MoU are:

- a) To promote cooperation in areas of strategic and high level operational interest
- b) To facilitate cooperation on cross-referral of information where one organization believes that it falls within the remit of the other (or both). In the conduct of this activity the Parties will respect, maintain and adhere to all requirements of the relevant legislation.
  - For the Office of the Ombudsman this includes but is not limited to the Ombudsman's statutory function under the Act of 1980.
  - For the Ombudsman for Children's Office this includes but is not limited to the Ombudsman for Children's statutory function under the Act of 2002.

To minimise duplication of effort and assist speedy and efficient examination and investigation of complaints, under the MoU both Offices will:

- Optimise the use of public resources placed at their respective disposal;
- Strengthen practical arrangements for handling complaints which either of the Parties can examine/investigate;
- Keep the wishes and best interests of complainants central to decisions on jurisdiction over complaints; and
- Monitor the effectiveness of cooperative working arrangements.

This MoU represents the understanding reached by the Ombudsman and the Ombudsman for Children in particular:

- That the Parties operate under separate legislation and undertake to communicate as appropriate on all matters of strategic mutual and operational interest;
- That the MoU is intended to cover areas of common interest where cooperation will lead to better services and better outcomes for members of the public using services; and
- That the Parties may in particular circumstances, limit the scope of disclosure of information only if the disclosure is contrary to the public interest or the interest of the participant concerns, is in breach of or is inconsistent with statutory obligations or requirements or other obligations and requirements imposed by law.

### **3. Scope of the MoU**

3.1 This MoU covers joint or linked jurisdictions related to the complaints investigation functions of the Ombudsman and the Ombudsman for Children where a decision will be needed on whether the alleged action taken in the



performance of an administrative function should be examined /investigated under the Act of 1980 or under the Act of 2002.

3.2 The factors that the Office of the Ombudsman and the Ombudsman for Children's Office would expect to take into account in deciding which one of them will investigate the complaint will include:

- which of the Parties is best placed in the circumstances to conduct the most efficient investigation, including whether either of the Parties has particular knowledge or experience that is relevant to the issues raised by the complainant;
- which of the Parties is able to provide the more effective solution, including taking into account the function of the Ombudsman for Children under Section 7 of the Act of 2002 to promote the rights and welfare of children; and
- any views or preferences expressed by the complainant.

3.3 The Office of the Ombudsman and the Ombudsman for Children's Office agree to continue, under this MoU, the current arrangement between the Parties that the Ombudsman may examine and investigate individual complaints relating to the payment of certain allowances and grants made to parents/guardians in respect of children, for example –

- statutory or discretionary payments of child benefit;
- domiciliary care allowance;
- exceptional needs payments under the supplementary welfare allowance scheme,
- payments under the back to school clothing and footwear scheme,
- carer's allowance/benefit,
- adoptive benefit,

- guardian's payment contributory,
- maternity benefit and
- health & safety benefit.

3.4 Notwithstanding the general statutory jurisdiction of the Ombudsman for Children and in the interests of clarity the Office of the Ombudsman and the Ombudsman for Children's Office have previously agreed that among the schemes which are to be examined and investigated by the Ombudsman for Children's Office are those which involve direct payment to children such as the following:

- training allowances (such as those under some VTOS, Solas (formerly FÁS) or other ETB (formerly VEC) schemes);
- child benefit to young (i.e. under 18) mother;
- disability allowance for children;
- maternity benefit to young (i.e. under 18) mother over working age (16) who have sufficient PRSI payments;
- long term illness scheme with respect to children;
- medical cards for children in care; and
- medical cards for children on disability allowance.

#### 4. Scope of the MoU

4.1 The Office of the Ombudsman and the Ombudsman for Children's Office are committed to ensuring that any question about which of the Parties has jurisdiction in a particular case shall be dealt with speedily, cooperatively and with the best interest of the complainant in mind. A decision as to whether the Office of the Ombudsman or the Ombudsman for Children's Office should deal with a particular complaint would normally be taken soon after receipt of a complaint or after receipt of any further information that may be

necessary to provide a clear understanding of the administrative action that is the subject of complaint. The Office of the Ombudsman or the Ombudsman for Children's Office will aim to be in a position to make decisions on jurisdiction within a period of 3 weeks from receipt of the complaint. In all instances, a letter of hand-over together with copies of correspondence requesting / providing consent from the complainant to transfer information / documentation will issue between the parties to mark decisions involving the transfer of complaints documentation for processing purposes.

4.2 Where either the Office of the Ombudsman or the Ombudsman for Children's Office receive a complaint which falls within the jurisdiction of the other Party to investigate or following consultation, determine that it is more appropriate for the other Party to proceed with an examination/ investigation of a complaint which falls within the jurisdiction of either of them to investigate then the referring Party shall issue a standard email/letter response which states that having assessed the complaint it has been deemed more suitable for pursuit by the other Party. It will include the relevant contact details to allow the complainant to resubmit their complaint to the other Party. The email/letter will also invite the person if they wish to provide written consent to the referring Party to share the complaint with the other Party.

4.3 In exceptional cases where each of the Parties finds it necessary to undertake an investigation arising from a particular aspect of one complaint, both Parties are committed to mutual cooperation to the extent that is possible within the Parties governing legislation. Where information or documentation may be shared between the Parties, for the purposes of examining or investigating such cases, the material involved shall be treated as confidential and handled in accordance with section 5 of this MoU. In such instances, it shall be the practice of the Parties to advise the public body or third party concerned of

an intention to share information or documentation in this manner and in the case of a complainant or third party follow the process in relation to written consent set out at clause 4.2 above.

4.4 If, during the lifetime of this MoU, a decision of major significance is made in relation to which of the Parties will take responsibility for a particular class of cases (being a class of cases not already covered explicitly by this MoU) then the decision will be agreed in writing by the Parties and an Appendix will be added to this MoU stating the precise nature of the decision and its implications.

4.5 Senior officials from the Parties shall meet at least once annually to discuss issues of mutual concern.

## 5. Confidentiality

5.1 Each of the Parties will respect the confidentiality and/or secrecy of information exchanged under this MoU and which has been obtained under the statutory powers of the other Party and which relates to any person contemplated within either the Act of 1980 or the Act of 2002. Each of the Parties will comply with any non-disclosure obligations that are binding on the other Party and with due regard to the requirements of secrecy in the conduct of an investigation pursuant to Section 9 of the Act of 1980 and Section 16 of the Act of 2002 . Otherwise such material shall be treated as confidential.

5.2 Before transferring any information or personal data, each Party will satisfy itself that any such transfer is not in breach of its own legislative provisions regarding confidentiality and/or secrecy, or in breach of any other relevant statutory provisions, including the Data Protection Acts 1988 to 2018, Data Sharing and Governance Act, 2019, the General Data Protection Regulation



2016/679 (GDPR) and the Protected Disclosures Act 2014, as amended. Where information can usefully be anonymised before being transferred, each party will take steps to anonymise the information being shared. The parties recognise the importance of protecting service users and thus want to facilitate effective and timely information exchange designed to secure this outcome where appropriate.

a) The Office of the Ombudsman

- I. Nothing in this MoU requires the Office of the Ombudsman to release confidential information to Ombudsman for Children's Office except in accordance with the law.
- II. Unless otherwise required by law, the Office of the Ombudsman will not disclose any information received by the Ombudsman for Children's Office under this MoU, except with the written consent of the Ombudsman for Children's Office. If disclosure is required by law, the Office of the Ombudsman will take all reasonable measures to ensure that the information received from the Ombudsman for Children's Office will be disclosed in a manner that protects the information from any disclosure that is not required or authorised by law.
- III. Unless otherwise required by law, the Office of the Ombudsman will not use the information disclosed to it under this MoU for any other purposes other than the performance of its regulatory activities/statutory functions.

b) The Ombudsman for Children's Office

- I. Nothing in this MoU requires the Ombudsman for Children's Office to release confidential information to the Office of the Ombudsman except in accordance with the law.
- II. Unless otherwise required by law, the Ombudsman for Children's Office will not disclose any information received by the Office of the

Ombudsman under this MoU, except with the written consent of the Office of the Ombudsman. If disclosure is required by law, the Ombudsman for Children's Office will take all reasonable measures to ensure that the information received from the Office of the Ombudsman will be disclosed in a manner that protects the information from any disclosure that is not required or authorised by law.

III. Unless otherwise required by law, the Ombudsman for Children's Office will not use the information disclosed to it under this MoU for any other purposes other than the performance of its regulatory activities/statutory functions.

#### 6. Financial Arrangements

Each party will be solely responsible for the administration and expenditure of its own resources associated with activities conducted under this MoU.

#### 7. Variation

Any provision of this MoU may be amended at any time by mutual consent in writing by the Parties.

#### 8. Status of Memorandum of Understanding

This MoU reflects the intentions of the Parties. It is not intended to create legally binding obligations of any nature, save for the obligations to maintain the confidentiality of information set out in clauses 4 and 5.

#### 9. Effective Date and Review

9.1 This MoU will come into effect upon the date of signature of both Parties and will continue in effect until its termination in accordance with clause 10.

9.2 This MoU may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. The Parties have the option to execute this MoU by means of a simple electronic signature which shall be considered as an original signature and shall have the same validity, enforceability and permissibility as the original signature for the purpose of this MoU.

8.3 This MoU will be subject to a formal review every three years from the date of its signing or otherwise as requested by a party to this MoU. The content of the MoU will be reviewed to ensure that it remains relevant, fit for purpose and up to date.

8.4 This review, which should be conducted by both Parties, will be carried out by the person holding the position of Ombudsman. Following the review, any required variations arising therefrom will be made in accordance with clause 7.

## 9. Contact Persons

9.1 Each Office will nominate a liaison person, of at least Investigator level or equivalent, in their respective Offices to operate and monitor the cooperative arrangements entered into under the MoU.

The contact persons responsible for the operation of this MoU are:

### **Office of the Ombudsman Contacts**

The persons holding the position of **Senior Investigator in the Ombudsman Casework Units**

### **Ombudsman for Children's Office Contacts**

The person holding the position of Director of Investigations.

9.2 Upon signing this MoU, each party will ensure that the identity and contact details

(email and telephone number) of the persons referred to in clause 9.1 will be exchanged with the other party. In the event there is a change in the identity of a contact person referred to above during the term of this MoU, the relevant party will inform the other party of same and will forward the contact details of the replacement contact person.

## 10. Termination

- a) Either party may, at any time, give written notice of termination to the other office.


This MoU (save for clause 5) will terminate six months after the date of receipt of the notice of termination.

- b) The termination of this MoU will not affect the confidentiality undertakings expressed by each office in this MoU or any commitments given under, or as a consequence of, this MoU in respect of any arrangements or action taken during the period before the termination takes effect.

Date: 24/7/2025

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Ger Deering  
Ombudsman

  
Niall Muldoon  
Ombudsman for Children

24/7/2025