

# CARANUA APPEALS

Annual Report 2015  
of the  
Appeals Officer  
Appointed under the  
Residential Institutions Statutory Fund  
Act 2012

## **Report to the Minister for Education and Skills**

I hereby submit my second Annual Report to the Minister of Education and Skills in accordance with section 21(5) of the Residential Institutions Statutory Fund Act 2012. This is the second Annual Report submitted in relation to the Appeals Office since it was established in February 2014.



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Patrick Whelan  
Appeals Officer  
July 2016

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## Chapter 1: Caranua Appeals

### *Introduction*

I was appointed by the Minister for Education and Skills as Appeals Officer to review decisions of Caranua in relation to applications for assistance from the Residential Institutions Statutory Fund. I am independent of Caranua in the performance of my functions. This, my second Annual Report, covers the period from 1 February 2015 to 31 January 2016.

I believe that independence and informality have characterised my approach to the appeals function. I have striven to produce comprehensive and clear decisions which are objective and fair to Caranua and appellant alike and which are fully in accordance with fair procedure. I also seek to ensure that, where appropriate, my decisions highlight good administrative practice so that Caranua can apply the learning from individual appeals to the administration of the applications process, generally.

I am assisted in my work by designated officials from the Department of Education and Skills. Up to September 2015 the Appeals Administration Unit was managed by Ms Della Sammon with assistance from Ms Sinéad Wyer, and since that date by Mr Steven Darcy. They have worked tirelessly on my behalf to administer the appeals process informally, efficiently, sensitively and to the highest standards of customer service. I am very grateful to all three of them and I thank them for their support throughout the year.

### *Caranua and the Residential Institutions Statutory Fund*

The Residential Institutions Statutory Fund Act 2012 (the Act) established the Residential Institutions Statutory Fund Board, or Caranua, as it is more commonly known. Caranua's function is to provide support to people who, as children, experienced abuse in institutions in Ireland. The institutions were run by religious congregations and funded and regulated by the State. These religious congregations are responsible for the provision of funds to Caranua and they have pledged €110 million, of which €96 million had been received by mid 2016. The Act also provides for the creation of a Statutory Fund from which these funds are managed by Caranua. The scope of the Fund is limited to those survivors of institutional abuse who have received financial compensation through settlements, courts or the Residential Institutions Redress Board. There are an estimated 15,000 such individuals of whom almost 60% are thought to live in Ireland with the remainder living in the United Kingdom and in other parts of the world.

The role of Caranua is to manage a scheme of support for eligible survivors that addresses their current needs and improves their wellbeing. It can do this by paying for specified approved services to be provided to a survivor that are not readily available through public bodies. The service areas are confined to health, education and housing supports. Survivors who are dissatisfied with Caranua's decision on their application for assistance may refer their case to the independent Appeals Officer

Caranua was formally established in 2013 and is one of a series of State initiatives designed to acknowledge and compensate for the harm caused to people who experienced institutional abuse as children. These include:

> A State apology and the establishment of the Commission to Inquire into Child Abuse in 1999. The report of the Commission, known as the Ryan Report was published in 2009.

> A scheme of financial compensation managed by the Residential Institutions Redress Board was established in 2002 and has made awards to over 15,000 individuals. It is now closed to new applications.

> A scheme of grants for survivors and their family members to avail of formal and informal education and development opportunities was established in 2006 and administered by the Education Finance Board (EFB) until 2011. The EFB was dissolved and its remaining functions were transferred to Caranua in 2013.

> A programme of assistance for women who were incarcerated in Magdalene laundries was announced in 2014, and included provision for payment of compensation, social welfare pensions and enhanced medical cards for those living in Ireland, and equivalent provision for those outside of Ireland.

> An investigation into the operation of Mother and Baby Homes was announced in 2014 to inquire into the operation of these institutions where thousands of women pregnant outside of marriage were sent to have their babies between 1922 and 1987.

### ***Appeals Officer Role and Functions***

Section 21 of the Act provides for the appointment of an Appeals Officer to review decisions of Caranua in relation to applications for assistance from the Fund.

The main functions of the Appeals Officer are as follows:

To make a decision in writing determining each appeal which may be a determination to

- confirm the decision made by Caranua which was the subject of the appeal,
- revoke the decision made by Caranua and replace it with such other decision as the Appeals Officer considers appropriate or
- refer the matter back to Caranua for reconsideration in accordance with such directions as the Appeals Officer considers appropriate.

In considering an appeal the Appeals Officer is not confined to the grounds on which the original decision was based but may decide the matter the subject of the appeal as if it were being decided for the first time.

Caranua is obliged to furnish the Appeals Officer with its observations on the appeal together with any information or document that is relevant to the appeal. The Appeals Officer may at any time require the appellant, Caranua or any other person concerned to furnish him or her with further particulars regarding the appeal.

Where the Appeals Officer is of the opinion that an appeal may properly be determined without an oral hearing, he or she may determine the appeal without such a hearing.

Decisions of the Appeals Officer may be appealed to the High Court but only on a point of law.

The Appeals Officer is required to submit an annual report to the Minister in relation to the performance of his or her functions under the Act. The Minister shall cause copies of the report to be laid before each House of the Oireachtas.

In accordance with sections 4(1) and 22(4) of the Act, the Minister made regulations prescribing procedures for the hearing and determination of appeals, the making of submissions to the Appeals Officer and requests for further information by the Appeals

Officer (The Residential Institutions Statutory Fund (Appeals) Regulations 2014. (S.I. No. 21 of 2014)).

A copy of a simple guide for appellants on how to make an appeal is attached at Appendix 1. One of the notable features of the appeals process is the opportunity given to both Caranua and the appellant to comment on each other's submissions to the Appeals Officer. For instance, having received the decision of Caranua on his or her application, the appellant then submits his or her appeal to the Appeals Office. The appeal is then sent to Caranua inviting its observations on the points made in the appeal. The Appeals Office then forwards the Caranua observations to the appellant who is then invited to submit his or her comments to the Appeals Office. Any comments submitted by the appellant are then forwarded to Caranua for information or further comment to the Appeals Office, as appropriate. When the submissions of all parties have been received, the file is sent to the Appeals Officer for determination.

While the Appeals Office always stipulates time limits for replies (normally two weeks) and while these are usually adhered to by both sides, nevertheless, it can take several weeks before all the necessary submissions have been assembled. In a small number of cases, I may also find it necessary to engage in further correspondence or consultation with Caranua and/or the appellant in relation to the appeal.

Some appellants can become frustrated with the duration of the appeals process while others find it quite stressful to be asked to comment a second time on what was for them an upsetting decision in the first place. I note that in setting out to design its services Caranua consulted with survivor groups about their needs. They requested a scheme that would be easy to use, quick and not bureaucratic and that would offer respect, dignity, clear information and "no begging". While I can understand appellants' impatience, the Appeals Regulations are designed to ensure fairness and thoroughness at all stages of the appeals process. I am obliged by the Regulations to engage each party in all stages of the consultation process and I have no discretion to curtail it in any particular case.

### ***Contacting the Appeals Office***

There is no charge for making an appeal. Further information about how to make an appeal is in the information leaflet at Appendix 1.

The Appeals Office can be contacted by email at [caranuaappeals@education.gov.ie](mailto:caranuaappeals@education.gov.ie) or by post at:

The Caranua Appeals Officer  
Appeals Administration Unit  
c/o Department of Education and Skills  
Cornamaddy  
Athlone  
Co Westmeath  
N37 X659

## Chapter 2: The Year's Work

### **Overview**

As already stated this Report covers the period from 1 February 2015 to 31 January 2016 (hereinafter referred to as "the year").

The year saw a 110% increase in the number of appeals received; 99 as compared with 47 in 2014. On one level this is hardly surprising; public awareness of Caranua increased steadily over the period and this is reflected in the fact that it approved almost 13,000 applications throughout the year as compared with almost 6,500 in the previous year. As can be seen, the number of appeals received is but a tiny proportion of the overall number of applications approved by Caranua.

While roughly 60% of appellants were unsuccessful, most of the remaining 40% received varying degrees of further assistance with their application ranging up to cancellation of the Caranua decision, as a result of lodging an appeal.

Apart from providing applicants with an independent review of Caranua's decision on their case, appeals are also a useful insight into the applications process as administered by Caranua. Most appeals related to home improvements and in addition to dissatisfaction with the actual decision of Caranua on their applications for support, many of these appellants raised issues about the manner in which their applications had been processed by Caranua.

- Some felt that the Caranua Guidelines booklet and application form raised their expectations about what they could apply for and that this was not matched by their personal experience with the treatment of their individual applications.
- Others complained of frustratingly long delays in getting a written decision from Caranua refusing their application which they needed to have in order to launch their appeal.
- Others still, referred to lengthy procedures which required them to get several quotations for the home improvement work in question along with professional evidence of their medical condition and living circumstances only to be told several months later that their application did not fit with the scheme criteria. They questioned why if their applications did not meet the criteria that this was not pointed out earlier in the process.

These and other issues arising from my examination of appeals are discussed in more detail later in this Report.

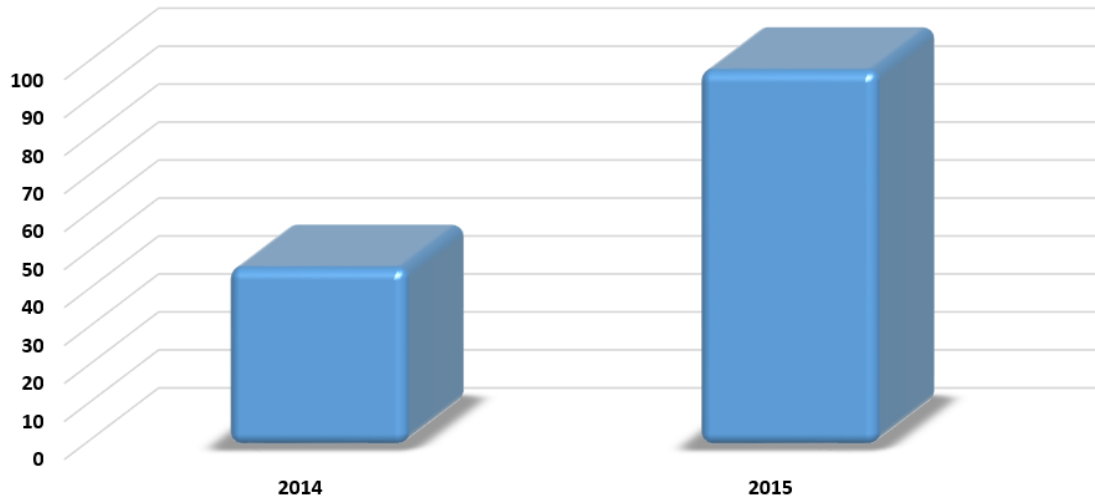
I met the CEO of Caranua, Ms Mary Higgins a number of times throughout the year to discuss issues relating to individual appeals and matters of common interest in relation to the administration of the appeals function, generally. She demonstrated a willingness to engage positively with these issues and she has been very welcoming of suggestions on best practice. I am very grateful to her and her staff for their cooperation and support throughout the year.

### **Number of Appeals received**

A total of 99 appeals were received throughout the year and nine were carried forward from 2014 giving a total of 108 appeals for consideration as compared with 47 appeals in the

previous start-up year. A total of 66 cases were completed and 42 were carried forward to 2016.

### APPEALS RECEIVED YEAR-ON-YEAR



### *Outcome of completed Appeals*

Of the 66 cases completed, three (4.5%) were upheld (that is, the original decision on the application was revoked by the Appeals Officer), three (4.5%) were referred back to Caranua for reconsideration in accordance with specific directions from the Appeals Officer, 40 (61%) were not upheld (that is, the original decision was affirmed by the Appeals Officer), a further 14 (21%) were not upheld but referred back to Caranua for further specific action and six (9%) were either discontinued or withdrawn.

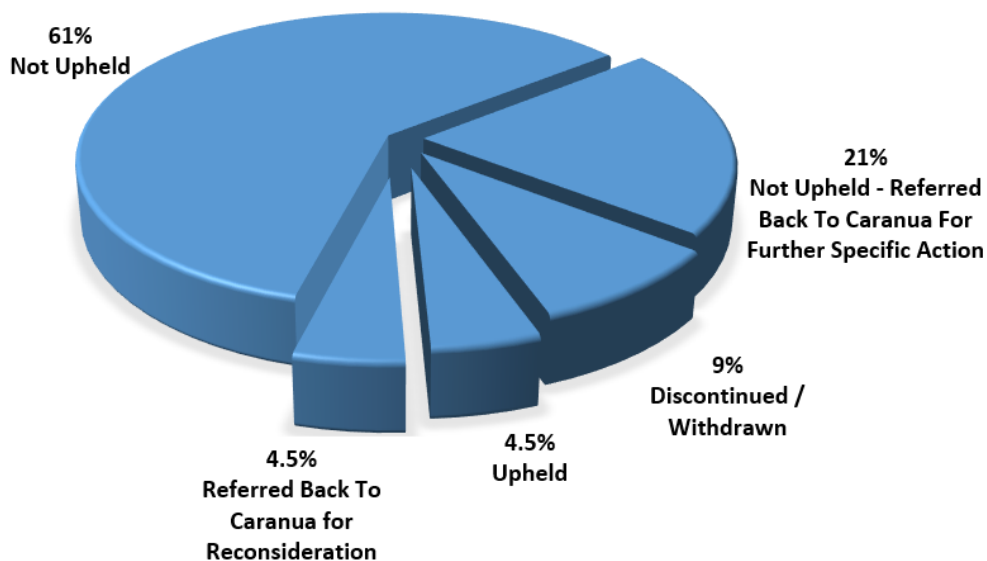
The three cases that were referred back to Caranua for reconsideration in accordance with specific directions from the Appeals Officer are cases where I was not prepared to affirm the decision of Caranua on the application but, rather, asked it to reconsider the application in the light of particular points or evidence which I considered appropriate.

The 14 cases that were not upheld but referred back to Caranua for further specific action are cases where I was happy to affirm the decision of Caranua, but where, in addition, I requested it to make further contact with the appellant, for example, with a view to inviting the appellant to apply for a different service for which he or she might be eligible or to offer to advocate on his or her behalf with the relevant local authority.

Five cases were discontinued as a result of Caranua offering to reconsider its decision following receipt of the appellant's letter of appeal.



## OUTCOME OF COMPLETED APPEALS



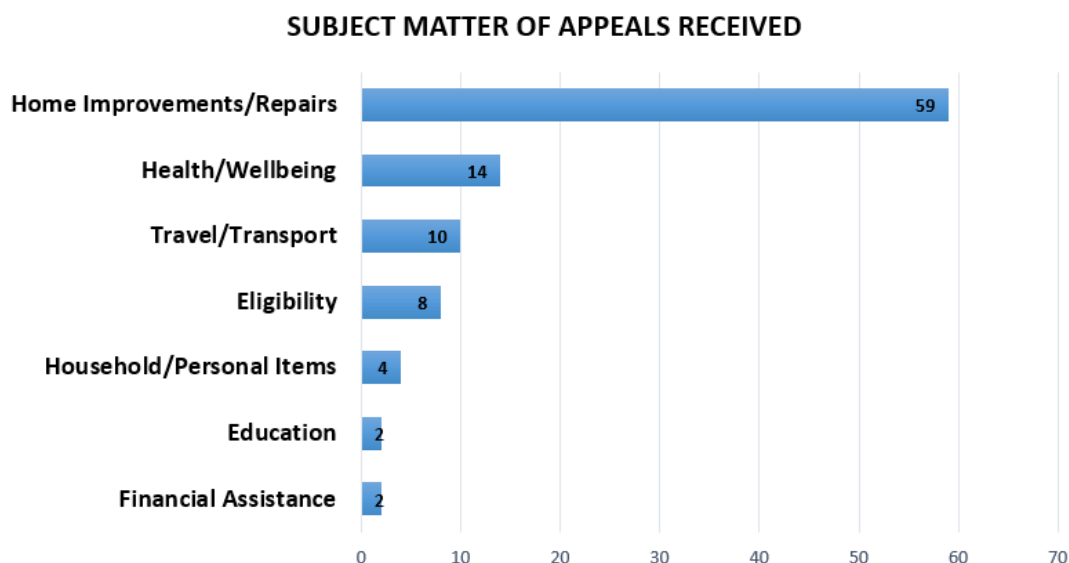
### *Subject Matter of Appeals*

Of the 99 appeals received, 59 related to home improvements or repairs, 14 related to personal/health matters, 10 appeals related to travel expenses or transport (for example, funding for a car), 8 related to eligibility of the applicant for assistance, 4 related to household/personal items, 2 related to education and 2 related to financial assistance (for example, mortgage or bank loan arrears). A small number of appeals related to applications for more than one service. For statistical purposes such cases are counted as one appeal.

It is no surprise that home improvements and repairs head the list of appeal subject matters. By the end of 2015 Caranua had spent €23.2 million on funding in respect of the housing category of services or almost 73% of total expenditure from the Fund.

Eight of the cases received related to eligibility of the applicant for assistance, that is, applications that were refused because Caranua decided that the applicant had not been resident in a scheduled institution and had not received an award from the Redress Board or through a settlement or the courts. This compares with 16 appeals which were received in the previous year which itself was a very significant number, accounting for almost one third of all appeals received in that year. The decrease in the number of such appeals probably results from greater public awareness of Caranua's role in managing the Fund and its increased experience in managing applicants' expectations. As I mentioned in my Annual Report 2014, decisions relating to the eligibility of applicants are usually based on fact rather than on the exercise of discretion (that is, there is almost always verifiable evidence that an applicant has or has not been resident in a scheduled institution and has or has not received an award). Neither Caranua nor I as Appeals Officer have any discretion under the Act to deem persons eligible for assistance who do not meet these conditions. That said, the circumstances of such individuals can be equally as harrowing as those of applicants who are eligible and, again, as I mentioned in my Annual Report 2014, it can seem particularly harsh and unfair to deny, without exception, all persons who have not received awards the opportunity to benefit from the Fund. Some of them had stated in the course of their appeals that fellow survivors who benefited from the Redress Board can now go on to

secure further assistance by applying to Caranua whereas they are denied assistance, not just once but twice, because of their particular circumstances.



## *Appeals upheld or referred back for Reconsideration*

### Appeals Upheld

As already mentioned, three appeals were upheld. The details are as follows:

- **Bedding Materials**

On foot of a recommendation from her Consultant Orthopaedic Surgeon, a woman applied for and was granted funding for a bed and mattress. Following delivery of the new bed and mattress she then applied for bedding materials (sheets, duvet, blankets, pillow cases etc,) which Caranua refused on the grounds that these materials are not allowable under the scheme criteria.

In her letter of appeal the woman explained that the mattress was a specialist product for which normal bedding would not suffice and because of her severe back condition, making the bed was extremely difficult whereas more suitable bedding would make it easier to change the bedclothes and manage her condition. As she could not afford to purchase the appropriate bedding materials she had been unable to use the bed and she also confirmed that bedding was not available to her from a public service provider or social services agency in her locality.

I found that Caranua should have taken a more holistic view of her application. It had approved a bed and mattress on foot of a recommendation from a Consultant Orthopaedic Surgeon in order to improve the woman's health and wellbeing and given her physical difficulties with her existing bedding, I considered that it should have had approved new bedding on the same basis. I found that the woman's application was justified and I revoked Caranua's decision to refuse funding for bedding materials. I left it to Caranua to assess the monetary amount that should be approved for the bedding materials.

- **Attic Insulation**

Caranua refused a woman's application for funding for attic insulation on the grounds that it cannot pay for work that has been completed before applying to it for support. The woman had already received approval for funding for external insulation to her house but, due to an oversight on the part of the insulation company, the quotation which accompanied the application referred only to external insulation and not to attic insulation. The woman herself also overlooked the matter as she had undergone major surgery some months previously and returned to work around the time the contractors were working on her home. She paid the contractors to return and insulate the attic.

Correspondence showed that the woman had informed Caranua about the "overlooked" quotation at least one month before the attic insulation work was carried out. On receipt of this quotation her Caranua advisor replied stating that she was "over the limit" whereas, as she pointed out in her response to Caranua, the Guidelines make no reference to a financial limit in respect of such work or previous work in respect of which she already had received funding. Caranua replied stating that her request for attic insulation was refused because she had already received funding for insulation to her home as part of a wider package of support. But it was only in its formal decision letter which issued two weeks after completion of the attic insulation works that Caranua first stated that she would not receive support because it cannot pay for work that had been completed before making an application.

I found that the woman had been incorrectly advised by Caranua before she had arranged to have the attic insulation works carried out and that the works had not, in fact, been carried out before she had contacted Caranua for funding. I also had to bear in mind that Caranua had already approved and funded external insulation and in doing so, presumably accepted the merits of her application and the need for insulation to her house. I found the Caranua decision somewhat harsh when viewed in the context of the totality of the woman's home insulation needs and her clear intention to attend to these simultaneously as part of the one project. I found that Caranua did not deal properly with the application for attic insulation and that it was unreasonable of Caranua not to approve it. I revoked the Caranua decision.

- **Driveway Works**

A woman applied for reimbursement of the cost of repaving works to the driveway at the front of her house but Caranua refused payment on the grounds that it cannot pay for works that have been carried out before application was made to it. It said the woman had first approached Caranua in May 2015 seeking reimbursement for the cost of the driveway works and that there was no note on its file to indicate that the matter had been previously raised with or approved by Caranua.

In her letter of appeal the woman explained that she suffered from osteoporosis and had broken her arm and leg in recent years and was concerned about falling on her driveway when iced over in the winter months. She disputed Caranua's version of events stating that her Caranua advisor told her in December 2014 to proceed with the works and to send in the receipts when the job was completed. She forwarded the receipt in February 2015 and early in March 2015, she sent an email to her advisor asking him to confirm that he had received the receipt. She included a copy of this email with her letter of appeal. Caranua offered no comment on the woman's evidence beyond stating that she had not provided any new information in support of her appeal.

Based on further evidence from the woman, I was satisfied that her email of March 2015 was the final piece of correspondence in a sequence of events which was not inconsistent

with her contention that she had been told to proceed with the works when she first approached Caranua about her driveway in December 2014. I also had regard to the fact that Caranua had submitted no documentary evidence to refute the woman's version of events. I found that on the balance of probabilities the woman had been given approval for the works. I found that Caranua was not justified in refusing the woman's application and I revoked its decision to refuse to reimburse the cost of the driveway works.

## Appeals referred back for Reconsideration

Three cases were referred back to Caranua for reconsideration. As already explained, these are cases where I was not prepared to affirm the decision of Caranua on the application but, rather, asked it to reconsider the application in the light of particular points or evidence which I considered appropriate.

- **Leather Sofa and Armchairs**

A woman suffering from chronic asthma applied for funding for a leather sofa and armchairs but Caranua refused her application on the grounds that it cannot pay for furniture. The woman's GP had identified her existing cloth covered suite as a contributory source to her continuing allergic reactions but Caranua argued that vacuuming and use of plastic covers are effective in removing dust mites that can aggravate asthma and for this reason it continued to refuse her application.

In the course of the appeal, it emerged that the woman already had received funding from Caranua including specific support in recognition of her asthmatic condition. However, I concluded that I did not have adequate medical evidence before me to enable me to affirm or revoke the Caranua decision not to approve funding for the leather suite. Specifically, it was not clear to me that replacement of the woman's existing suite with a leather suite was the only viable solution to her allergic reactions.

I referred the case back to Caranua and asked it to commission a more detailed assessment of the woman's medical condition and home environment and in the light of that assessment to evaluate whether replacement of the existing suite was warranted.

- **Travel Expenses for Family Tracing**

A man was refused travel expenses in connection with a family tracing quest on the grounds that Caranua cannot pay for long distance travel. The man had already undertaken extensive research at his own expense and was seeking funding for a final trip during which he hoped to conclusively establish his identity by means of DNA testing in the country he was proposing to visit. Unfortunately, I cannot be more specific about the precise details of the case lest it might lead to the identification of the applicant. Caranua also argued that the DNA testing could be safely and securely administered in Ireland whereas the man strongly contested this assertion with supporting reasons.

I considered that it was unreasonable of Caranua to refuse his application solely on the grounds that funding for long distance travel did not come within the list of approved services as in doing so it did not have due regard to the purpose of the man's proposed trip. I considered that the application came under the health and wellbeing section of the Caranua Guidelines and specifically, family searching, tracing and genealogy. However, while I acknowledged that it would be desirable to have the DNA testing administered in the

country of his visit, it was not clear to me whether there was some way of mitigating the risks associated with having the tests administered in Ireland.

I referred the case back to Caranua for reconsideration. I asked Caranua to have full regard to the man's arguments as to why the DNA testing should be administered in the country of his visit and, in the event that it concluded that the testing could not be safely and securely administered in Ireland, to discuss and agree an appropriate level of funding for travel to the country concerned.

- **Laser Eye Surgery**

Caranua refused a man's application for laser eye surgery on the grounds that it is considered to be cosmetic and that such procedures are specifically excluded from the Guidelines. The man argued that he had reached the maximum magnification of his glasses and had been informed that if his sight deteriorated further, glasses would not be an option in the future. He contended that if laser eye surgery was recommended to save his sight and improve the quality of his life, it should not be classed as cosmetic. Caranua said it did not take issue with the reason for the surgery but, nevertheless, considered the procedure to be cosmetic.

I did not consider that the man had presented a compelling case as to why he needed laser eye surgery at that particular moment in time, but neither was it clear to me that Caranua had properly assessed the medical reasons supporting his application and his prognosis for the future. While I accepted that in many instances laser eye surgery may be cosmetic, I found it unreasonable of Caranua to rely on this argument, as it appeared to do, in all cases and without due regard to individual medical circumstances. Essentially, I did not consider that I had sufficient evidence to uphold the appeal as presented but neither did I reject it.

I referred the man's case back to Caranua for reconsideration. I asked it to commission a more detailed assessment of his medical condition and in the light of that assessment to evaluate whether laser eye surgery was necessary on health grounds in his particular case.

### ***Time taken to deal with Appeals***

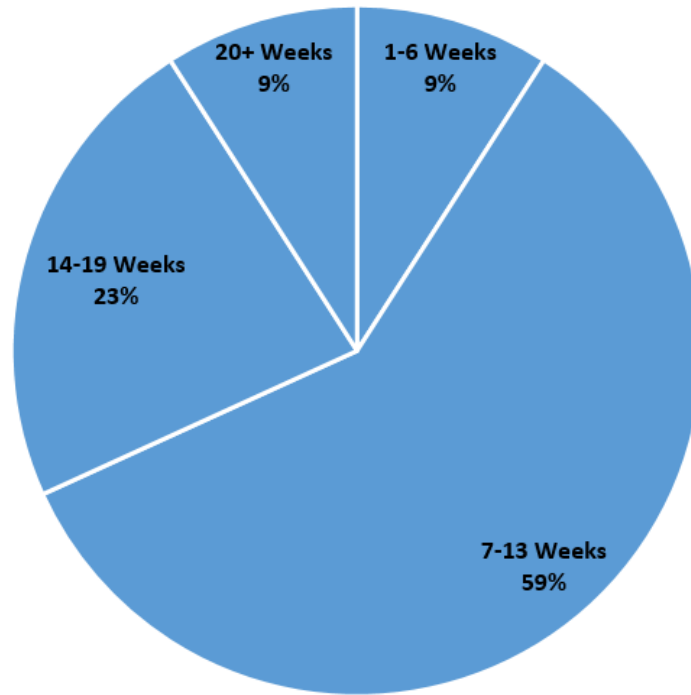
The appeals process consists of two stages. The first stage is to gather the submissions and observations of the appellant and Caranua. The Appeals Regulations state that the appeal shall be referred to Caranua for its comments, the appellant shall then be invited to make observations on the Caranua response to the appeal and the appellant's observations must then be forward to Caranua for information or further comment, as appropriate.

The second stage is to analyse the evidence and arguments put forward by both sides and produce a written determination. In some cases it was necessary for me to ask Caranua and/or the appellant to address specific supplementary questions about the appeal and this would have extended the time taken to complete such appeals.

Looking at the total time taken to process appeals, six (9%) were completed in six weeks or less, a further 39 (59%) were completed in 7-13 weeks, a further 15 (23%) were completed in 14-19 weeks and a further six (9%) were completed in 20 weeks or more.

In summary, 68% of appeals were completed in three months or less and all appeals were completed in less than 5 months.

## PERCENTAGE OF CASES COMPLETED (WEEKS)



### *Oral Hearings*

The Appeals Regulations state that where the Appeals Officer is of the opinion that an appeal may properly be determined without an oral hearing, he or she may determine the appeal without such a hearing. I considered that all cases which came before me could be properly determined without an oral hearing notwithstanding that a small number of appellants had requested such a hearing.

### *Appeals to the High Court*

None of the cases completed during the year was appealed to the High Court.

## Chapter 3: Issues Arising from Appeals

### ***The Caranua Guidelines and Applicants' Expectations***

As already mentioned, most appeals received related to home improvement works and in addition to dissatisfaction with the actual decision of Caranua on their applications for support, many of these appellants raised issues about the manner in which their applications had been processed by Caranua. Some felt that the Caranua Guidelines booklet and application form raised their expectations about what they could apply for and that this was not matched by their personal experience with the treatment of their individual applications. They felt they were encouraged by the Guidelines booklet to apply for home improvements services only to find that there were very strict and specific conditions attaching to the approval of such applications. For example, some were disappointed that their application for a bathroom or bedroom extension was refused because it was not supported by an occupational therapist's recommendation following an assessment of their medical and living conditions. Equally, applications for garden clearing and minor repairs were refused where there was no evidence of their being elderly or having mobility issues whereas it was not immediately apparent from the Guidelines that such conditions applied. Applications for house rewiring and replacement internal doors (as opposed to external doors) were also refused although they were not specifically mentioned in the Guidelines as being excluded from funding.

This resulted in many appellants devoting a lot of time and energy to arguments about their view of what was covered based on their reading of the Guidelines. While, as a general rule, I was prepared to agree with the Caranua position on the exclusion of such goods and services from funding, I did point out that greater clarity in the Guidelines might have led to a better understanding among such applicants of the reasons why their applications had been refused and avoided the incidence of what were, in many cases, pointless and fruitless appeals. Fortunately, a revision of the scheme Guidelines and application form which came into effect in June 2016 gives a clearer picture of the conditions attaching to applications for support.

### ***Delay by Caranua in issuing Decision Letters***

I referred to this issue in last year's Annual Report and, regrettably, I find it necessary to raise it again as it has been a continuing cause of difficulty for some unsuccessful applicants. I regard the Caranua decision letter as a crucial element in the appeals process and, clearly, Caranua should issue it promptly. I advise all unsuccessful applicants that I am not prepared to accept an appeal until such time as they can furnish the Caranua decision letter.

A number of applicants approached the Appeals Office seeking to initiate an appeal without their having received a formal decision letter from Caranua refusing their application. Typically, Caranua would have advised such applicants verbally or by email that their application had been unsuccessful but would not have issued a formal decision letter giving notice of and the reasons for the refusal. I had to advise such applicants to pursue the matter with Caranua and in some cases it was a matter of weeks before the unsuccessful applicants were notified in writing of the decision to refuse their application. Indeed, one appellant said that it took Caranua several months to respond to his request for a formal decision letter and that he was unaware of the importance of the decision letter until he happened to see it referenced in my Annual Report 2014. An advocate wrote to me to advise that despite several requests over as many months, Caranua had failed to issue a decision

letter in respect of a number of cases in which she has been representing the applicants. She said that some applicants were advised by phone that their application had been refused, whereas others had heard nothing at all. I forwarded the details of the cases she instanced to Caranua, for its attention.

For its part, Caranua says that there has not been undue delay although the evidence from individual appellants would appear to suggest otherwise. Caranua says it is focused on assessing applications and, where appropriate, exploring alternative or compromise solutions with the applicant in those cases where the original application does not meet the criteria of the scheme. Thus, Caranua says that having agreed and funded a compromise solution, some applicants subsequently decide to press ahead and lodge an appeal in respect of their original application and that it is only at that later stage that they request, and have need for, a decision letter. While I accept that this may happen in some cases I am not convinced that it covers all would-be appellants. Given the importance of the decision letter in lodging an appeal, it should be issued promptly once a decision has been made to refuse an application.

### ***Caranua's Policy of prioritising Applications***

In late 2015 Caranua began writing to applicants who had previously received support to advise them that it considered their latest application "to be completed". It went on to say that "for the foreseeable future we will be prioritising applications who (sic) have yet to benefit from the Fund and will not be in a position to consider applications from anyone whose application has been completed".

This letter was also sent to at least some appellants and caused considerable confusion as many of them assumed that the effect of the letter was to bring to an end any further consideration of their appeal. When I pointed this out to Caranua, it confirmed that the letter was not intended for applicants with live appeals and undertook to make this clear when writing to such appellants about this matter in the future.

More importantly, however, this policy of prioritising applications raised very serious issues for the affected applicants about their right to lodge an appeal in respect of Caranua's decision not to consider their application. An advocate wrote to me enclosing copies of letters she had sent to Caranua on behalf of applicants she represented who were affected by this policy. Among the points she made was that postponing consideration of applications was a breach of the Residential Institutions Statutory Fund Act 2012, that there was a clear statutory duty on Caranua to process applications and that in devising its prioritisation policy it was acting beyond the scope of its powers. Furthermore, she noted that the decision not to process further applications was not accompanied by information on how to lodge an appeal with the result that the applicants were left with no further remedy. For its part, Caranua has stated that its prioritisation policy accords with the provisions of the Act.

While I note Caranua's position on the matter, at the time of writing, I had not dealt with an appeal touching on this policy and for this reason I do not propose to comment in detail on it at this point. However, without prejudice to Caranua's position, some basic general principles are worth stating. While I can understand Caranua's desire to ensure that the Fund is distributed as widely as possible among eligible applicants, it is obliged to do this in a manner which is consistent with its statutory remit as provided for in the Residential Institutions Statutory Fund Act 2012. The essence of Caranua's statutory remit is to assess individual applications for approved services by reference to the provisions of the Act and published criteria and in the case of unsuccessful applicants, to inform them of the reasons why their application was unsuccessful and how they can go about lodging an appeal.



## ***Caranua's Procedures for assessing Applications***

A number of unsuccessful applicants for home improvement works, complained of lengthy procedures which required them to get up to three quotations for the work in question which was sometimes followed by a request for cheaper quotations, along with professional evidence of their medical condition and living circumstances and, where appropriate, the permission of their local authority to carry out the work, only to be told several months later that their applications did not fit with the scheme criteria. Although many of these appeals were unsuccessful, such appellants were genuinely distraught that their expectations of assistance had been raised only to be dashed several months later and after much effort on their part to comply with Caranua's instructions. Apart from their disappointment with the refusal of their applications, many were critical of the applications procedures and questioned why, if their applications did not meet the criteria, this was not pointed out earlier in the process. Of particular concern to some appellants was the going and froing with contractors for amended quotations which risked infringing their privacy and revealing their past background. This was even more upsetting in those instances where, in addition, their applications had been unsuccessful.

For its part, Caranua said it needed up to three quotations for financial control reasons and that it assessed applications in a manner which provided the best opportunity for them to be successful. However, it noted these concerns when raised in individual appeals and undertook to review its processes with view to making them less onerous for applicants.

Some appellants also referred to difficulties in contacting and engaging with their Caranua advisor. I am aware that Caranua's staffing resources are now being increased which should lead to a reduction in such complaints.

## ***The future Management of the Fund***

With the management of the Fund now in its third year, I am conscious that a key concern of Caranua is to ensure that it is distributed widely among all 15,000 eligible survivors. Caranua faces significant challenges in attempting to reach those who have not applied for support and it is launching initiatives aimed at making its services known to them.

While there has been no prohibition on survivors making successive applications, it is apparent from the appeals that I have received that some applicants have benefited very significantly across a broad range of services whereas others are unaware of or not disposed to apply for support. I hasten to add that, despite this imbalance, my assessment of appeals is based solely on the facts and evidence pertaining to each appeal and the legislation and criteria governing the operation of the scheme. However, a revision of the scheme Guidelines and application form which came into effect in June 2016 is aimed at spreading the Fund more widely while also giving a clearer picture of the conditions attaching to applications for support. New appeals coming before me will be considered by reference to these revised criteria.

## Chapter 4: Matters raised in last year's Annual Report

### ***Appeals referred back for further Action***

In last year's Annual Report, I highlighted four appeals which I had not upheld but referred back to Caranua or the appellant for further action.

In the first case, I had asked Caranua to contact the appellant to explore whether any options might be open to him in relation to a possible part-contribution towards the costs of publishing a book. I am pleased to report that Caranua was able to provide some assistance to him in recognition of his particular circumstances.

In the second case, I had asked Caranua to reconsider the appellant's original application and/or alternative services which might address her needs in whole or in part. The application was for a car and an overseas visit to the institution in which she had resided and to her birthplace. Caranua subsequently provided funding to the woman for specific alternative services under the health and wellbeing section of the Guidelines. Caranua also offered to consider other avenues of support but despite a reminder, the woman chose not to make further contact with Caranua.

In the third case, Caranua had refused funding for bank loan arrears on the grounds that it is not allowable under the scheme but offered to look at what options might be available to the appellant in terms of rescheduling the loan and/or getting assistance to pay it off from another source. At my behest, Caranua contacted the appellant and advised her on a range of options and offered her further assistance if needed. She has since been in regular contact with Caranua.

In the final case, Caranua had refused an application for funding for a new kitchen, but in the course of the appeal, in recognition of the woman's circumstances and living conditions, Caranua said it would be prepared to consider a more limited application from her and to arrange and pay for an occupational therapy assessment of her home and to consider supporting her needs on the basis of this assessment. I had advised the woman to contact Caranua with a view to making a fresh application. Following subsequent discussions with her Caranua advisor, more pressing needs that fitted with the Guidelines were identified for her and subsequently funded, including an accessible bathroom, kitchen repairs and insulation.

### ***Expanding the Range of Services covered by the Fund***

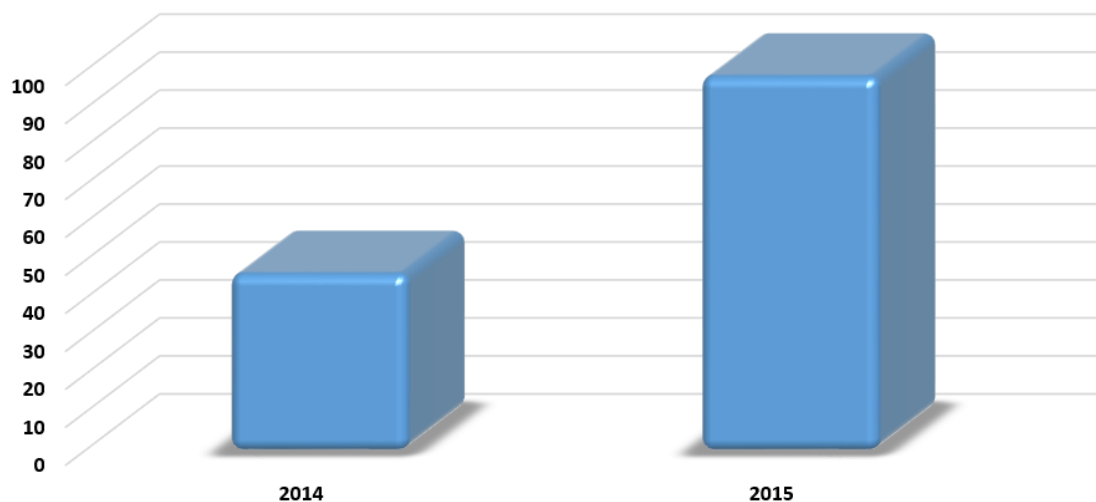
In last year's Annual Report, I highlighted three appeals relating to specific services which were excluded from the scope of the Fund, namely, funeral expenses, visits to institutions and relatives' burial place and writing and book publishing. While I did not uphold these appeals I called on the Minister and/or Caranua, as appropriate, to consider including these services within the Fund. I am pleased to report that as part of a wider revision of the scheme Guidelines which came into effect in June 2016, Caranua has included funeral expenses and visits to institutions and/or relatives subject to certain conditions and financial limits. Caranua has also undertaken to organise events for survivors to recount their experiences and will consider supporting writing, video and publication subject to certain conditions and financial limits.

## Chapter 5: Appeals Statistics

### *Number of Appeals received*

A total of 99 appeals were received throughout the year and nine were carried forward from 2014 giving a total of 108 appeals for consideration as compared with 47 appeals in the previous start-up year. A total of 66 cases were completed and 42 were carried forward to 2016.

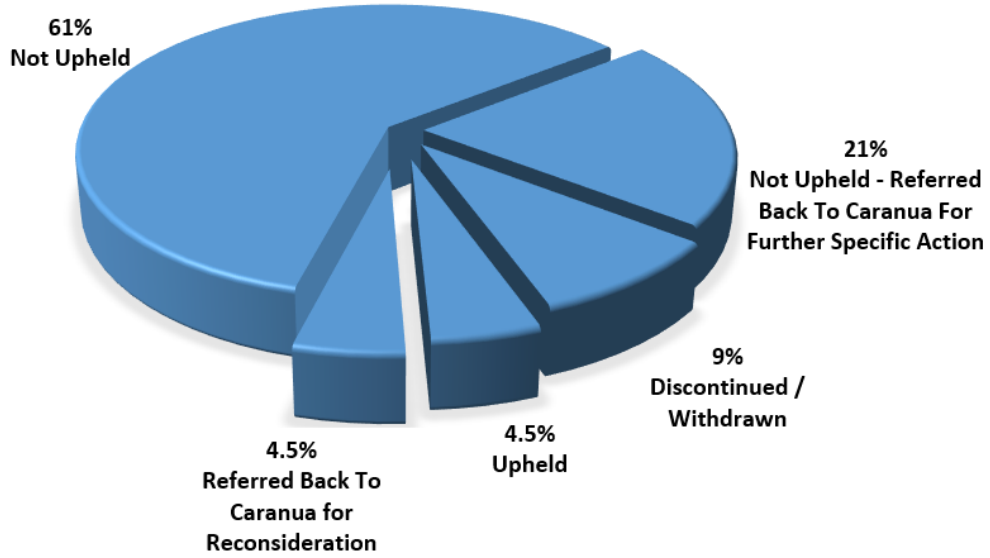
**APPEALS RECEIVED YEAR-ON-YEAR**



### *Outcome of completed Appeals*

Of the 66 cases completed, three (4.5%) were upheld (that is, the original decision on the application was revoked by the Appeals Officer), three (4.5%) were referred back to Caranua for reconsideration in accordance with specific directions from the Appeals Officer, 40 (61%) were not upheld (that is, the original decision was affirmed by the Appeals Officer), a further 14 (21%) were not upheld but referred back to Caranua for further specific action and six (9%) were either discontinued or withdrawn.

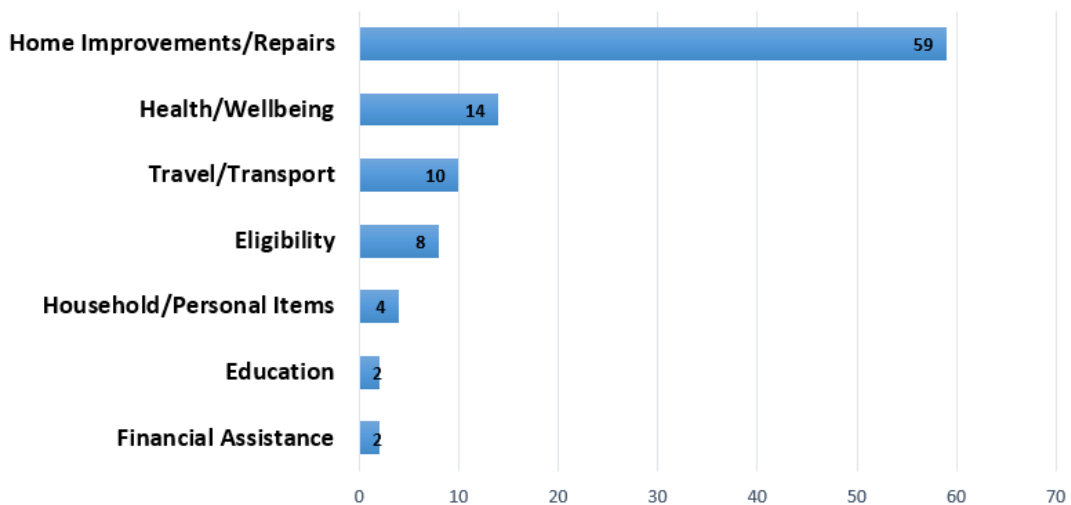
## OUTCOME OF COMPLETED APPEALS



### *Subject Matter of Appeals*

Of the 99 appeals received, 59 related to home improvements or repairs, 14 related to personal/health matters, 10 appeals related to travel expenses or transport (for example, funding for a car), 8 related to eligibility of the applicant for assistance, 4 related to household/personal items, 2 related to education and 2 related to financial assistance (for example, mortgage or bank loan arrears). A small number of appeals related to applications for more than one service. For statistical purposes such cases are counted as one appeal.

## SUBJECT MATTER OF APPEALS RECEIVED

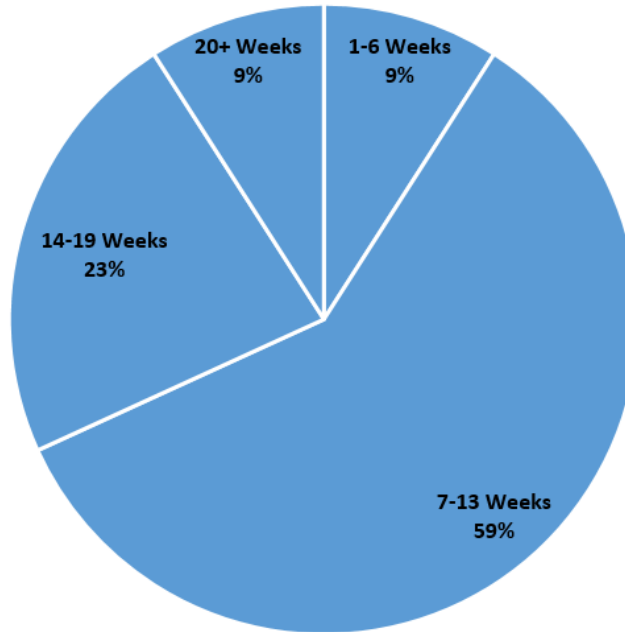


### ***Time taken to deal with Appeals***

Looking at the total time taken to process appeals, six (9%) were completed in six weeks or less, a further 39 (59%) were completed in 7-13 weeks, a further 15 (23%) were completed in 14-19 weeks and a further six (9%) were completed in 20 weeks or more.

In summary, 68% of appeals were completed in three months or less and all appeals were completed in less than 5 months.

#### **PERCENTAGE OF CASES COMPLETED (WEEKS)**



## Appendix 1

### Caranua Appeals

#### **What decisions of the Caranua can be appealed?**

Decisions made by a Caranua Decision Maker can be appealed to the independent Caranua Appeals Officer appointed by the Minister for Education and Skills. These decisions include

- a decision on an application made by an eligible former residents for assistance and
- a decision that a person is not a former resident eligible to apply under the scheme

#### **How do I appeal?**

If you are unhappy with a Decision Maker's decision you should appeal within 30 days of the Decision Maker giving notice of a decision being made. In certain circumstances the Appeals Officer can agree to this period being extended by a further 30 days if the Appeals Officer is satisfied that the person making the appeal has given reasonable cause for doing so.

You must make your appeal in writing and include all of the following documents:

- A copy of the decision of the Caranua Decision Maker that is being appealed;
- A full statement setting out your name, address and the grounds on which the appeal is being made. This statement should set out your case fully, explaining why you believe the decision is wrong;
- Any other relevant documents; and
- A list of all documents being submitted.

These documents should be sent by post to:

The Caranua Appeals Officer,  
c/o Department of Education and Skills,  
Cornamaddy,  
Athlone,  
Co. Westmeath

or by email to [caranuaappeals@education.gov.ie](mailto:caranuaappeals@education.gov.ie)

If you want the Appeals Officer to communicate with you by email you should provide the email address you want to be used. If not, the Appeals Officer will write to you at the address you give.

#### **What happens next?**

When your appeal is received, you will be sent an acknowledgment. A copy of the appeal

will be sent to Caranua for the Deciding Officer to make observations on the points made in the appeal. When these observations are received a copy will be sent to you, the appellant. You will be invited to reply to these observations and if you do a copy of your reply will be sent to Caranua.

### **Can the Appeals Officer look for more information?**

The Appeals Officer can look for further information from you the appellant, or from Caranua or any other person who the Appeals Officer believes is concerned with the matter.

### **How will the Appeals Officer decide on appeals?**

Having received the appeal and the observations from the parties, the Appeals Officer can decide on an appeal without a hearing, where the Appeals Officer believes that it can be decided without a hearing. If not, the Appeals Officer may decide to hold an oral hearing and will invite you, the appellant, to attend.

### **Who will attend a hearing?**

The Appeals Officer will decide the time and place for the hearing and will give reasonable notice to you, the appellant, and to Caranua and any other person that the Appeals Officer believes to be concerned. You can be accompanied at a hearing by a family member. The Appeals Officer can also agree to allow you be accompanied by another person. The Caranua Decision Maker can also attend or with the Appeals Officer's agreement, be represented by another person. Any other person who the Appeal's Officer believes to be concerned can also attend the hearing or with the Appeals Officer's agreement, be represented by another person.

### **Can I be represented at a hearing?**

The Appeals Officer can allow you to be represented by a family member or any other person. However, the Appeals Officer cannot award any costs to you for your representation at an appeal hearing.

The Appeals Officer will decide the procedures to be followed at a hearing and will make every effort to keep the appeal hearing as informal as possible.

### **Can the public attend the hearing?**

No, all appeals will be held in private.

### **Is there a charge for making an appeal?**

No, you do not have to pay anything to make an appeal. The Appeals Officer cannot award you any costs for your expenses in attending an appeal hearing.

### **How will I get the Appeals Officer's decision?**

You will get the Appeals Officer's decision in writing within 14 days of the decision being made. If your appeal is not successful the Appeals Officer will explain why.

## **What decisions can the Appeals Officer make?**

The Appeals Officer can:

- Confirm the Decision Maker's decision;
- Revoke that decision and replace it with a decision he/she considers appropriate; or
- Refer the matter back to the Decision Maker for reconsideration in accordance with such directions as he/she considers appropriate.

## **Is the Appeals Officer's decision final?**

The Appeals Officer's decision is normally final and conclusive. It can be appealed to the High Court by the appellant or by Caranua but only on a point of law. Any such appeal to the High Court must be made no later than 28 days after receipt of the Appeals Officer's decision.