

CARANUA APPEALS

Annual Report 2014
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 first 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 first Annual Report submitted in relation to the Appeals Office since it was established in February 2014.



Patrick Whelan
Appeals Officer
April 2015

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Chapter 1: Caranua Appeals

Introduction

I was appointed by the then Minister for Education and Skills, Mr Ruairí Quinn, TD, 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. I was appointed for an initial period of one year commencing on 21 February 2014. I was re-appointed for a further period of one year by the current Minister, Ms Jan O’Sullivan, TD. This, my first Annual Report, covers the period from 21 February 2014 to 31 January 2015.

On my initial appointment, the Minister emphasised the independence of the Appeals Officer function and asked me to adopt procedures that were as informal and as user-friendly as possible. I believe that independence and informality have characterised my approach to the appeals function over the past year. 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 principles of good administration 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 two officials from the Department of Education and Skills, Ms Della Sammon and Ms Sinéad Wyer, who manage the Appeals Administration Unit. They have worked tirelessly on my behalf to administer the appeals process informally, efficiently and to the highest standards of customer service. I am very grateful to them both 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. The Act also provides for the creation of a Statutory Fund to be financed by religious congregations and managed by Caranua. The Fund, to which €110 million has been pledged, is designed to meet the needs of individuals who as children experienced abuse in institutions in Ireland. 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.

The role of Caranua is to devise and manage a scheme of support for them that will address their current needs and improve their wellbeing. It can do this by paying for specified approved services to be provided to a survivor or by paying grants to individual survivors to avail of services themselves. 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 on 25 March 2013 by then Minister for Education and Skills, Mr Ruairí Quinn, TD. Caranua is one of a series of State initiatives designed to acknowledge and compensate for the harm caused to survivors of institutional abuse. 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 on 29 March 2013.

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 can be summarised as follows:

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

- confirm the decision which was the subject of the appeal,
- revoke the decision and replace it with such other decision as the Appeals Officer considers appropriate or
- refer the matter back to the decision maker 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)). The Regulations are attached at Appendix 1.

A copy of a simple guide for appellants on how to make an appeal is attached at Appendix 2. 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 the Appeals Regulations are designed to ensure fairness and thoroughness at all stages of the appeals process, nevertheless, 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.

This is not the only area where this lack of discretion can sometimes be problematic. Applicants who were not resident in a scheduled institution and who had not received an award from the Redress Board or through a settlement or the courts are not eligible to receive support from the Fund. Neither Caranua nor I as Appeals Officer have any discretion under the Act to deem such persons eligible for assistance. 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). And so it is with the appeals relating to eligibility where it is usually evident from the time of receipt of the applicant’s appeal whether he or she has a sustainable case. Nevertheless, the Appeals Regulations oblige me to engage the applicant and Caranua in all stages of the consultation process because again, I have no discretion to curtail it.

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 2.

The Appeals Office can be contacted by email at caranuaappeals@education.ie or by post at:

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

Chapter 2: The Year's Work

Getting started

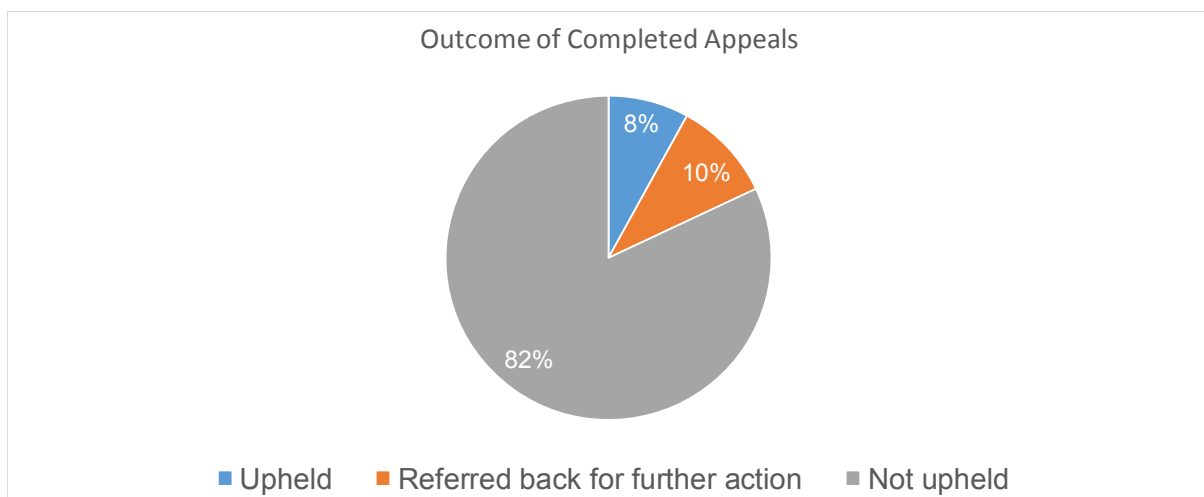
As already stated this Report covers the period from the date of my appointment, 21 February 2014 to 31 January 2015 (hereinafter referred to as "the year").

Caranua was established on 25 March 2013 and began to invite applications from survivors from 6 January 2014. Initial activities of the Appeals Office focused on building relations with stakeholders including the Department of Education and Skills and Caranua. Meetings were held separately with the Department and with the Chairperson and CEO of Caranua to agree procedures for dealing with appeals and other issues relevant to the appeals function. Arrangements were agreed and implemented for the secure transmission of data between Caranua, the Appeals Administration Unit and the Appeals Officer. I met the CEO of Caranua a number of times throughout the year to discuss issues of common interest in relation to the administration of the appeals function.

Our first appeal was received on 11 March 2014 and a steady stream followed thereafter. Although Caranua was a new organisation which was still in a start-up phase, nevertheless, from the outset it engaged positively and efficiently with the appeals function. The Chief Executive Officer, Ms Mary Higgins, demonstrated a willingness to review decisions in the light of new evidence submitted by appellants or, indeed, by the Appeals Officer. She has been very welcoming of suggestions on best practice. I am very grateful to her and her team for their cooperation and support throughout the year.

Number of Appeals received

A total of 47 appeals were received throughout the year of which 38 were completed and nine were carried forward to 2015. Of the 38 cases completed, three (8%) were upheld (i.e, the original decision on the application was revoked by the Appeals Officer or withdrawn by Caranua in the course of the appeal), four (10%) were referred back for further action and 31 (82%) were not upheld (i.e, the original decision was affirmed by the Appeals Officer).

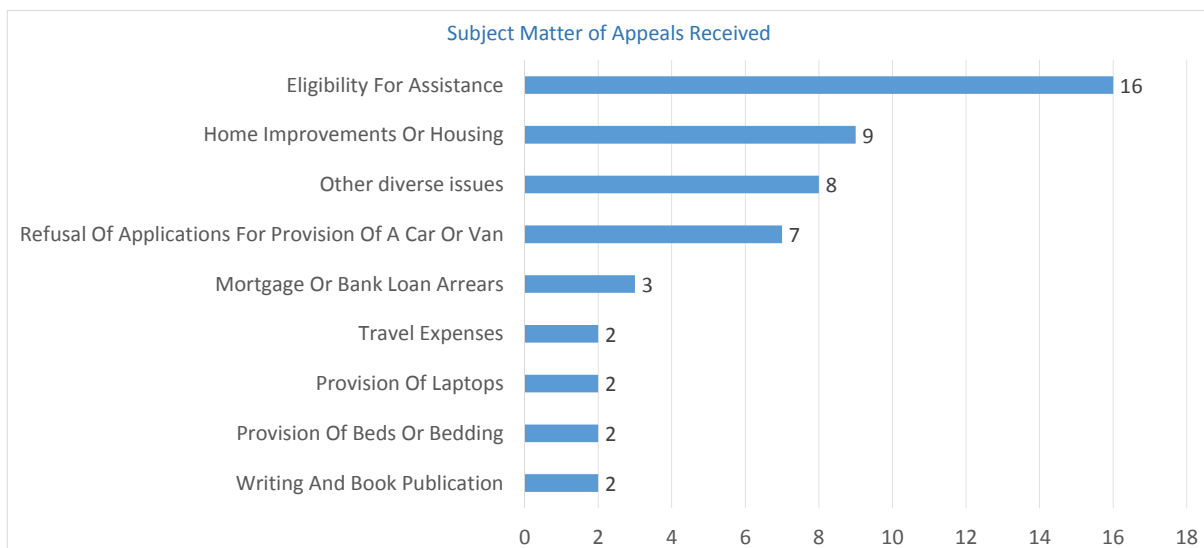


Sixteen of the completed cases related to decisions on eligibility for assistance, that is, applications that were refused because Caranua decided that the applicant had not been resident in a scheduled institution and had not received an award from the Redress Board or through a settlement or the courts. As already mentioned, 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). Thus, it is not surprising that all 16 of the appeals relating to eligibility were not upheld. It should also be noted that the number of appeals relating to eligibility was much lower in the second half of the year than in the first half. I expect this trend to continue as public awareness about Caranua’s role increases and as it becomes more experienced in managing applicants’ expectations.

Subject Matter of Appeals

Of the 47 appeals received, 16 related to eligibility for assistance, 9 appeals related to home improvements or housing, 7 related to refusal of applications for provision of a car or van, 3 related to mortgage or bank loan arrears, 2 related to writing and book publication, 2 related to provision of beds or bedding, 2 related to provision of laptops and 2 related to travel expenses. The remaining cases related to issues as diverse as dental implants, funeral expenses, legal fees, home heating oil tank fill, a diploma course, a fridge and kettle, sight-seeing bus tours in California, and an overseas trip to visit the institution and relatives’ burial place. A small number of appeals related to applications for more than one service. For statistical purposes such cases are counted as one appeal.

Almost all of the services referred to in the “remaining cases” above are not currently funded by Caranua (unusual circumstances applied in the case of the diploma course). It seems to me that the diverse range of applications reflects the wide disparity of understanding and expectations of applicants in relation to the purpose of the Fund.



Appeals upheld or referred back for further Action

Appeals Upheld

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

- **Home Improvements**

This case related to a decision of Caranua to refuse funding of an application for a very specific type of home improvement for a family in which the father (who was a survivor) and one of his young children had severe medical conditions. I cannot be more specific about the nature of the application lest it might lead to the identification of the applicant. Caranua had refused the application on the grounds that the service in question was not covered by the scheme criteria. It also argued that the main beneficiary of the service would be the man's young child and that it can only pay for a service which benefits the survivor and not family members. Having reviewed all of the evidence from both parties, I was not satisfied with the reasons put forward by Caranua for rejecting the application and I asked it to address a number of queries in relation to the assessment of the case. Following further consideration of the man's medical reports and the impact of his child's condition on his health, Caranua reviewed its decision. I upheld the appeal and Caranua processed the application.

- **Orthopaedic Bed and Mattress**

The second case arose from a refusal to provide funding for an orthopaedic bed and a laptop to a man with a number of medical conditions. Caranua had agreed to provide funding for an orthopaedic mattress but not a bed or a laptop. Having reviewed all the evidence, I asked the man to elaborate on the link between his medical conditions and the services for which he had applied. He supplied additional medical evidence which I passed on to Caranua. In the light of the new evidence it agreed to fund his application for both the bed and the laptop. I upheld the appeal.

- **New Kitchen**

In the third case a man had sought funding for roof repairs and a new kitchen. Caranua approved funding for the roof repairs but not the kitchen on the grounds that it was not covered by the scheme criteria. In his letter of appeal the man pointed out that the leaks in the roof were responsible for the damage to the kitchen presses and on this basis Caranua should have approved their replacement. He also attached a copy of a letter which he had previously sent to Caranua with a reduced estimate which took account of the fact that the existing wiring, plumbing and wall tiles would suffice. In its response to his letter of appeal, Caranua stated that having reviewed the information submitted with his appeal which clearly set out the link between the leaks in the roof and the condition of the kitchen, it had decided to withdraw its decision to refuse his application and to provide funding for a new kitchen. I upheld the appeal.

Appeals referred back for further Action

Four appeals were not upheld but referred back to Caranua or the appellant for further action. The details are as follows:

- **Case No. 1**

I 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.

- **Case No. 2**

I referred an appeal back to Caranua and I asked it 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.

- **Case No. 3**

In its response to the appeal in question, Caranua 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. I asked Caranua to contact the appellant with a view to exploring the suggestion with her in greater detail.

- **Case No. 4**

The appellant had applied for a new kitchen as she was anxious to have kitchen storage that could be easily reached in her older years and allow her to remain in her own home in safety and comfort. The existing kitchen was in a bad state of repair and she said most of the kitchen units were reachable only by standing on a chair. In the course of the appeal she asked if she could apply for kitchen cupboards only in view of Caranua’s refusal to fund the cost of white goods which had formed part of her original application. In its response to the appeal Caranua said it would be prepared to consider such an 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 advised the appellant to contact Caranua with a view to making a fresh application.

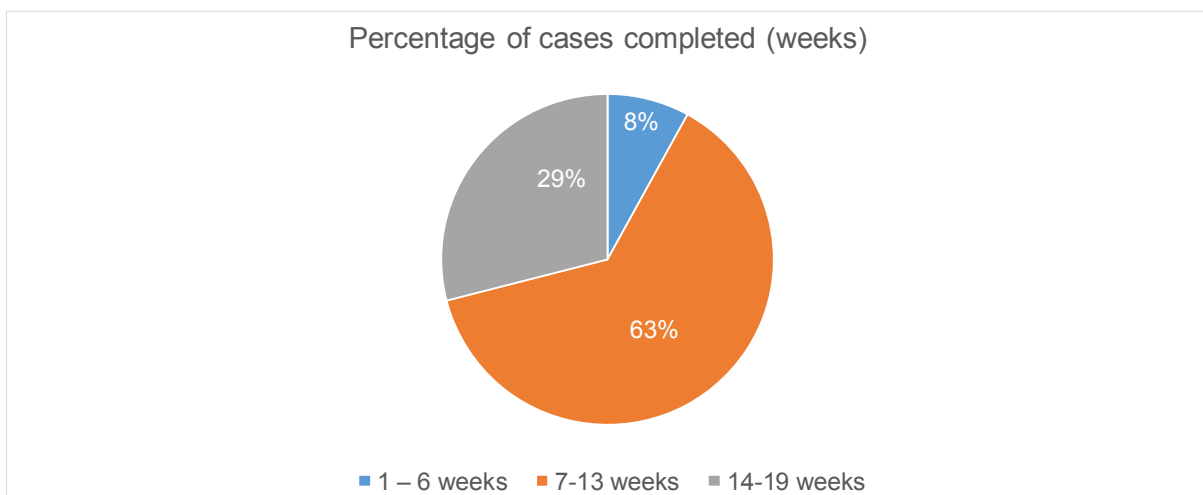
Time taken to deal with Appeals

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.

Looking at the total time taken to process appeals, three (8%) were completed in six weeks or less, a further 24 (63%) were completed in 7-13 weeks and a further 11 (29%) were completed in 14-19 weeks.

In summary, 71% of appeals were completed in three months or less and all appeals were completed in less than 4½ months.



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

Reasons for Decisions

Throughout the year some of Caranua's decision letters to applicants did not refer to the reasons why the application had been unsuccessful. In such cases the Caranua Applications Advisor would have given the reasons orally or otherwise to the applicant whilst in the course of considering his or her application but the decision letter would simply have stated, without supporting reasons, that the application had been refused. I found it necessary in some of my appeal determinations to remind Caranua that under section 20(8) of the Residential Institutions Statutory Fund Act 2012, it is obliged to give reasons for decisions in its decision letters. Caranua informed me it would put measures in place to address this issue.

Advising unsuccessful Applicants about the Appeals Process

In a small number of cases I had to take issue with Caranua about comments made by some of its staff to unsuccessful applicants about the appeal process. In one case an applicant was told he would be "wasting his time" making an appeal. Another unsuccessful applicant was told that while he had the option of appealing, his case would be submitted to the Appeals Officer who would then confirm the original Caranua decision. Yet another was told that all appeals for the service for which he had applied had failed. I pointed out to Caranua that while I had no difficulty with Caranua advising an unsuccessful applicant about the operation of the appeals process, it was important in so doing to take care not to seek to influence the unsuccessful applicant in relation to the making of an appeal or to convey assumptions to the unsuccessful applicant about the likely outcome of any such appeal. Caranua apologised for this practice and undertook to put corrective measures in place.

Delay by Caranua in issuing Decision Letters

Some unsuccessful applicants approached the Appeals Office seeking to initiate an appeal without their having received a formal decision letter from Caranua refusing the application. Caranua would have verbally advised such applicants that their application had been unsuccessful and that a decision letter would issue in due course. In some cases it was a matter of weeks before the unsuccessful applicants were notified in writing. I had to advise such applicants to pursue the matter with Caranua. 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.

Confidentiality of the Applications Process

A small number of appellants took issue with Caranua's disclosure to me of information, which, in the appellants' view was unconnected with the substance of their appeal. For example, where an application for one particular service had been refused and one or more other services had been approved in respect of the same applicant, some appellants objected to information about the approved services being mentioned in Caranua's response to the appeal. These appellants took the view that in doing so Caranua was attempting to prejudice the determination of the appeal and/or breaching the confidentiality of the applications process.

In fairness to Caranua it has always been extremely careful to confine its responses to the specific decision which is the subject of the appeal. However, sometimes the approval of other services does have a bearing on the decision to refuse a particular service and where this is the case, I consider that Caranua ought to apprise me, accordingly. I always ask Caranua to furnish me with any information or document that is relevant to the appeal and this practice is consistent with my powers under the Act and the Appeals Regulations. I do feel it is essential to have before me all the appropriate evidence necessary to arrive at an objective, fair and informed determination. However, if I find it necessary to ask Caranua for a copy of the appellant's application file, I first seek the appellant's permission. That said, Caranua and I have a shared interest in allaying appellants' concerns in relation to confidentiality and we have agreed to give this matter further consideration.

Finally, I should add that section 23 of the Act prohibits the unauthorised disclosure of information except in certain specified circumstances. It defines "confidential information" as information that refers to a former resident or that could reasonably lead to the identification of a former resident. Among the exceptions to this prohibition are disclosures made to or authorised by the Board or disclosures which are in compliance with the Act. Clearly, communications between Caranua and the Appeals Office accord with the provisions of the Act in this regard.

Criteria for eligibility for Assistance

To be eligible for assistance from the Fund a survivor must have been resident in a scheduled institution and have received an award from the Redress Board, through a settlement or the courts (see sections 3 and 20 of the Act). As already mentioned 16 of the completed appeals related to decisions about eligibility for assistance. Some of these appeals came from persons who had been resident in a scheduled institution and who despite having suffered abuse, for various reasons, had neither applied to the Redress Board nor taken court action. One appellant said she was not ready to talk about her past and for that reason did not have the courage at the time to approach the Redress Board. Another said he was unaware of its existence. Others still had received some assistance or support from the Mary Aikenhead Fund or the Education Finance Board and had not applied to the Redress Board. Another had engaged legal representation and had embarked on a lengthy High Court action which was dismissed on procedural grounds. When the survivor subsequently approached the Redress Board the survivor was told it was closed to applications.

Neither Caranua nor I as Appeals Officer have any discretion under the Act to deem such persons eligible for assistance. However, it seems 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 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.

Expanding the Range of Services covered by the Fund

I highlight three appeals in relation to specific services which are currently excluded from the scope of the Fund. While I did not uphold these appeals I consider that the Minister and/or Caranua, as appropriate, should seriously consider including these services within the Fund. Indeed, Caranua's responses in two of these cases indicated that the Minister and/or Caranua are currently considering proposals to include the services in question.

- **Funeral Expenses**

As already stated this service is currently excluded from the Fund. I received an appeal from an elderly man who was refused assistance with the purchase of a graveyard plot and other plans he wished to put in place for his passing. He made the point that many people had applied to Caranua for substantial repairs to their properties costing up to €30,000 in some cases and that the benefit of these repairs would go to the family members of survivors or to landlords, local authorities and tenants who succeed survivor tenants. He said that this did not seem fair and that as a survivor he would like the opportunity to benefit from Caranua. I also note that when Caranua consulted survivor groups about the design of its services, funeral expenses were among the services they sought to have included. In its response to the appeal, Caranua said it had refused the man's application but it went on to say that it had recently requested the Minister to consider including funeral costs. I asked Caranua to contact the appellant when the outcome of the approach to the Minister was known.

- **Writing and Book Publishing**

I received two appeals relating to financial assistance with writing and book publishing. One appellant was in the course of writing his third book and the other had just completed his fifth book. Both appellants strongly emphasised the educational and personal development aspects of their writing, however, writing and book publishing are currently outside the scope of the Fund. In its response to the second appeal Caranua informed me that it is currently reviewing the range of services that it will support, including writing and book publication. I asked Caranua to put the application "on hold" and to process it if and when it decides to include writing and book publishing in the scheme. Having regard to the range of services which Caranua currently offers in the area of education, learning and development, I consider that there are compelling reasons for expanding these services to include writing and book publishing.

- **Visits to Institution and Relatives' Burial Place**

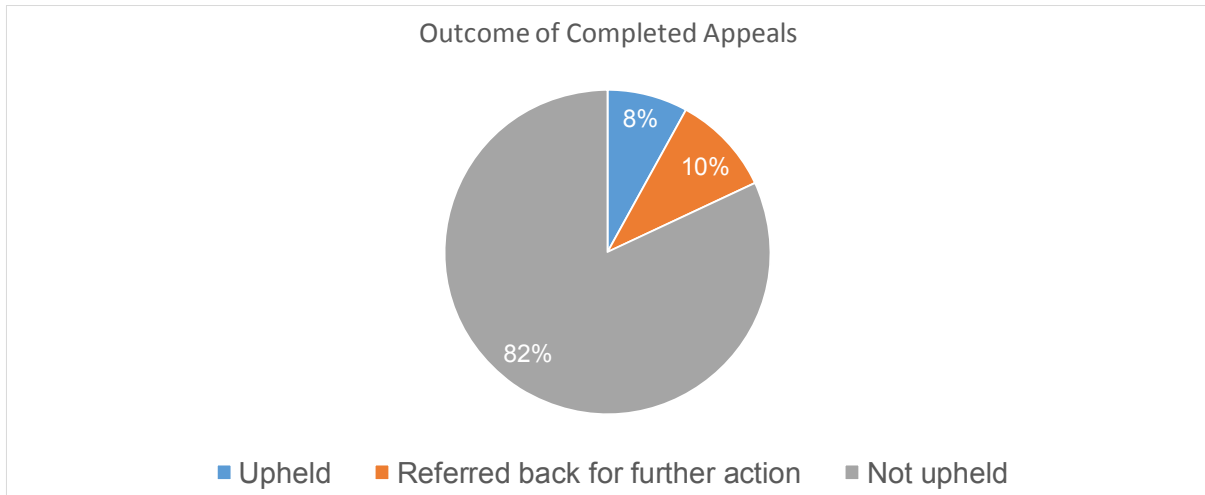
I received an appeal from a woman living abroad who described herself as elderly, female, alone, small and poor. She had been refused assistance for a trip to her birthplace, which she described as a pilgrimage to visit "the scene of the crime" in order to regain control as an adult and self-respect, to visit the institution in which she was resident and her mother's and grandparents' graves and "to find closure". She also commented that the criteria for distribution of the Fund are excessively biased in favour of education needs rather than individual needs and that the proposed visit would be more beneficial to her than counselling or "looking up ancestors". I consider that this service should be included. Again, I note that when Caranua consulted survivor groups about the design of its services, visits to relatives' and family graves were among the services they sought to have included.

Chapter 5: Appeals Statistics

Number of Appeals received

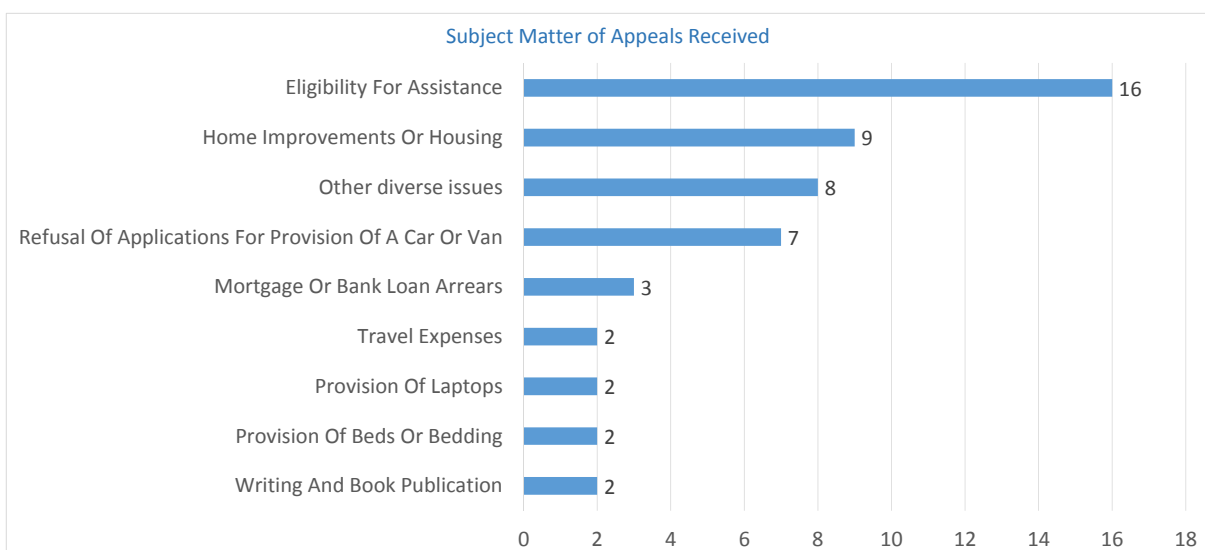
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Subject Matter of Appeals

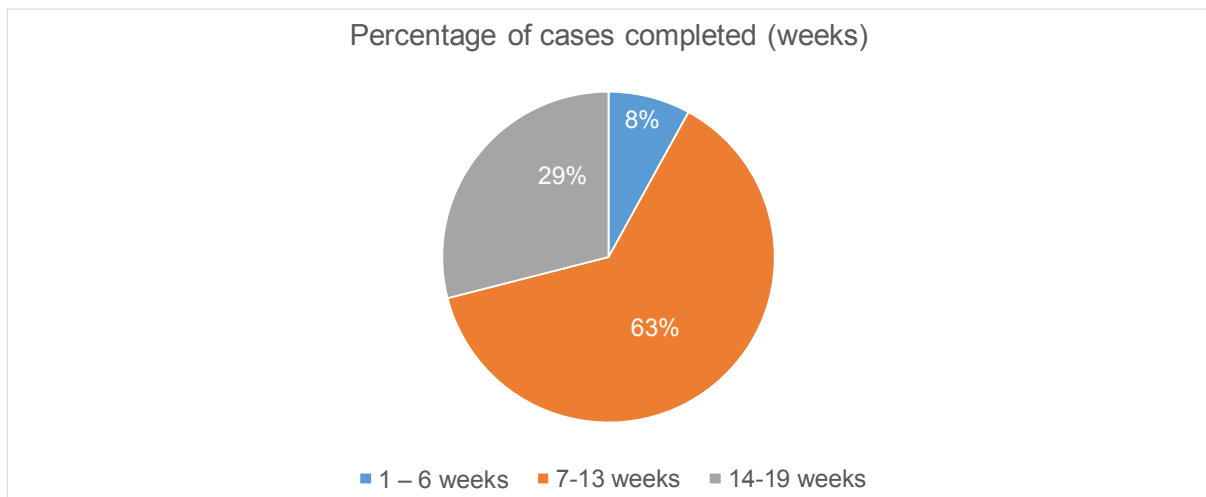
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Time taken to deal with Appeals

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Appendix 1

S.I. No. 21 of 2014

RESIDENTIAL INSTITUTIONS STATUTORY FUND (APPEALS) REGULATIONS 2014

I, RUAIRÍ QUINN, Minister for Education and Skills, in exercise of the powers conferred on me by sections 4(1) and 22(4) of the Residential Institutions Statutory Fund Act 2012 (No. 35 of 2012), hereby make the following regulations:

Citation

1. These Regulations may be cited as the Residential Institutions Statutory Fund (Appeals) Regulations 2014.

Commencement

2. These Regulations come into operation on 29th January, 2014.

Definitions

3. In these Regulations—

“Act” means the Residential Institutions Statutory Fund Act 2012;

“appeal” means an appeal under section 22 of the Act;

“appeals officer” means a person appointed by the Minister under section 21 of the Act;

“appellant” means a person referred to in section 22(1) of the Act who may appeal a decision of a decision maker.

Notice of appeal

4. A notice of appeal shall be in given writing and accompanied by—

(a) a copy of the decision furnished under section 20(8) of the Act in relation to the matter the subject of the appeal,

(b) a statement of the facts and contentions upon which the appellant intends to rely,

(c) such other documents as the appellant wishes to submit, and

(d) a list of all documents referred to in paragraphs (a) to (c).

Consultation with Board

5. (1) The appeals officer, as soon as may be after receiving all documents referred to in Regulation 4, shall forward those documents to the chief executive.

(2) The chief executive, within the period specified by the appeals officer or such other period as agreed by the appeals officer, shall furnish to the appeals officer the observations in writing of the decision maker relating to the grounds of appeal, which may include any information, document or item in the power or control of the decision maker that the decision maker considers is relevant.

(3) A copy of observations referred to in paragraph (2) shall be furnished to the appellant by the appeals officer as soon as practicable after they are furnished to him or her.

(4) The appellant, within the period specified by the appeals officer or such other period as agreed by the appeals officer, may reply in writing to those observations and a copy of any such reply shall be furnished by the appeals officer to the chief executive as soon as practicable after they are furnished to him or her.

Person concerned

6. Where the appeals officer has been given notice of an appeal he or she shall notify any other person he or she considers to be concerned in the matter the subject of the appeal.

Further information to be furnished and amendments

7. The appeals officer may—

(a) at any time require the appellant, the chief executive, or any other person appearing to the appeals officer to be concerned, to furnish to him or her, in writing, further particulars regarding the appeal,

(b) allow the amendment of any notice of appeal or statement of particulars at any stage of the proceedings,

(c) fix the time for the furnishing of any such statement of particulars as he or she may think fit.

Determination without oral hearing

8. Where the appeals officer is of the opinion that a notice of appeal is of such a nature that it can properly be determined without an oral hearing, he or she may determine the appeal without such hearing.

Oral hearing

9. (1) Where in the opinion of the appeals officer, an oral hearing is required he or she, as soon as may be, shall fix a date and place for the hearing, and give reasonable notice of the said hearing to the appellant and the chief executive and any other person appearing to the appeals officer to be concerned in the matter the subject of the appeal.

(2) An appellant—

(a) may attend an oral hearing relating to his or her appeal and may be accompanied by any member of his or her family, or, with the consent of the appeals officer, by any other person, or

(b) with the consent of the appeals officer, may be represented at the oral hearing by any member of his or her family or by any other person.

(3) A decision maker concerned may attend an oral hearing or, with the consent of the appeals officer, may be represented by another person.

(4) A person appearing to the appeals officer to be concerned in the matter the subject of the oral hearing may attend the hearing or, with the consent of the appeals officer, may be represented by another person.

(5) The procedure at an oral hearing shall be such as the appeals officer may determine.

(6) An appeals officer may examine the appellant, the decision maker concerned, and a person appearing to the appeals officer to be concerned in the matter the subject of the oral hearing.

(7) An appeals officer may postpone or adjourn the hearing as he or she may think fit.

(8) An appeals officer may determine an appeal notwithstanding the failure of—

(a) one or more of the parties to the appeal to attend the oral hearing, or

(b) one or more of the parties to the appeal to comply with these Regulations.

Withdrawal of appeal

10. The appellant may withdraw his or her appeal by giving notice in writing of the withdrawal to the appeals officer.

Notice of determination

11. An appeals officer shall inform the decision maker and the appellant concerned in writing within the period of 14 days from the date of the determination of an appeal.

Giving of notice

12. (1) A notice or other document that is required to be given to a person under these Regulations shall be addressed to the person by name, and may be so given to the person in one of the following ways:

(a) by sending it by ordinary prepaid post to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;

(b) by email or electronic transmission to the person's email address where the person has furnished that email address.

(2) For the purpose of these Regulations, a company within the meaning of

the Companies Acts shall be deemed to be ordinarily resident at its registered office, and any other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

GIVEN under my Official Seal,
28 January 2014.
RUAIRÍ QUINN,
Minister for Education and Skills

Appendix 2

RISF/Caranua Appeals

What decisions of the RISF/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

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.