

Complaints Adjudicator for Companies House

W H Thomas

Annual Report 2005

1 My eleventh Annual Report covers the period from 1 April 2004 to 31 March 2005. As usual, I will give details of a number of issues which arose during the year.

Table of new cases in 2004/2005 and adjudications issued				
Month and year	New Cases accepted Number of cases	Late filing Complaint	Adjudications issued	
			Complaints upheld	rejected
April 2004	6	all LFP	1	2
May 2004	9	1 service / 8 LFP	0	4
June 2004	10	all LFP	0	2
July 2004	6	all LFP	0	9
August 2004	10	all LFP	2	7
Sept 2004	3	all LFP	1	4
October 2004	2	all LFP	0	2
Nov 2004	10	1 service / 9 LFP	1	7
December 2004	5	1 service / 4 LFP	1	4
January 2005	6	all LFP	3	6
February 2005	5	1 service / 4 LFP	3	6
March 2005	3	all LFP	2	3
Totals	75		14	56

(note: the figures do not tally exactly because unfinished cases are carried forward)

My role

2 As in previous years, most of the complaints which reached me concerned late filing penalties for accounts filed after the statutory deadline. Some complainants find it difficult to understand that I can be an adjudicator yet not necessarily find for them or their clients. My role is to investigate whether Companies House has dealt properly with a company and its accounts, and to see if there are any grounds upon which the Registrar's very limited discretion might have been exercised. If I find that the agency has been at fault or has contributed to the problem, I make appropriate recommendations. Often, I have sympathy with the company and its officers and wish that equity could prevail. However, I cannot override the requirements of Parliament as laid down in the Companies Act. There are, nonetheless, cases where I have noticed that improvements could be made to the way work is done at Companies House. It may not be much of a consolation to the complainant, but changes are made as a result of what have seemed to him to be a waste of time and effort.

Once more, the overwhelming view of those who write to me is that staff at Companies House have been helpful and understanding. Only one person made disparaging remarks and, in my adjudication, I said that he did not help his cause by doing so.

Letterhead

3 I have seen several instances where company letterhead does not comply with the law. Once, directors would have employed a printer who would have pointed out the legal niceties, but I suspect that the problem now arises partly because so many people design their own stationery on a computer, and partly through simple ignorance.

This may seem to be to be a quibble, but section 351 Companies Act 1985 says that all "business letters and order forms" must contain, in addition to the name, the company's registered office, place of registration and number. These are simple matters to add and I am sure that directors would rather comply. It is an offence not to show these details.

Website

4 Modern technology enables so much information to be given quickly by the use of websites. The site for Companies House contains brief details for anyone who wishes to know about a company's filing record. Instant help is available; the familiar guidance notes are set out. There is a list of policy documents, which I hope will be extended to include, for example, clarification of the way Companies House treats statutory information supplied, and the code which is used when prosecution is contemplated.

The great advantage of a website is that it can be updated as soon as some new development takes place. For example, s.244(3) Companies Act 1985 (as inserted in 1989) provided that if a company had overseas interests, it could file a form 244 and obtain an automatic extension of three months for the period in which accounts had to be filed. This information was set out in the guidance notes. With effect from 1 January 2005, however, the provision was repealed, although there are transitional provisions which will last for some years. I would have expected that the guidance notes would have been changed immediately, but it was not until March 2005, at my prompting, that this was done.

In January and February 2005 Companies House rejected 470 forms 244, of which 40 were caught by the change in the law. There is no way of knowing how many people might have been misled by the website into believing that they could obtain this extension, but an opportunity to supply the latest information was lost.

I know that the Registrar shares my view that there should be greater lateral thinking, and a recognition that if one aspect of work or policy is improved, there may well be other areas where the change needs to be noted, implemented or publicised.

Freedom of Information Act 2000

5 This new Act came into force on 1 January 2005. I think it is fair to say that neither the public nor government departments are fully aware of how this law will work. It does not come within my terms of reference. Any complaint that Companies House is not dealing with a particular request, or has not been able to supply what was required should be made to the Information Commissioner.

However, there is one aspect of the Act which does concern me. In one case, where an appeal was made against a late filing penalty, the complainant also included a request under the Act. That request was properly considered and dealt with by the responsible officer at Companies House. The complainant then requested further information under the Freedom of Information Act, and implied that he would not pay the penalty until that was resolved.

I am clear that the Freedom of Information Act has no bearing on the imposition of a late filing penalty. Obviously, in an appropriate case, a company can appeal to Companies House against it, and to me if it remains unhappy. Penalties arise by operation of law and not by some whim of the Registrar, and they must be paid.

Once the appeal process has been completed, the penalty should be paid, and action to recover it will be started in default of payment. No one should delude himself that payment can be deferred or deflected by making a request for information under the Freedom of Information Act.

Directors - age and health

6 This year I had several late filing penalty cases where a director was either elderly or was in ill health and relied on that as a reason for the Registrar to exercise her discretion not to collect the penalty.

Where the person is a sole director, and the ill health

occurred at a critical time, the Registrar will certainly look sympathetically at the case, and may be able to use her discretion.

Advancing years, on the other hand, do not of themselves give rise to discretion. If one is able to run a company, one has to accept all the responsibilities for disclosure and compliance, no matter what one's age may be. In one case, the director in his 80s filed late and deliberately prayed in aid his age. I suggested that if he found it difficult, he should either appoint some younger person to act as a director or consider resigning his directorships. The gentleman concerned did not take kindly to my remarks and said that he was still perfectly capable of being a director.

Such people cannot have it both ways. One is either fit to run a company, whatever one's age or state of health, or one is not.

In addition, if there is more than one director, that person will be expected to ensure that the statutory duties are met. It does not matter that the old or sick director has always dealt with the accounts. The duty to file is a joint and several one and, no matter how unfair or unreasonable it seems to the other director or directors, penalties will always be collected.

The only exception to this firm rule is where two directors are married to each other, and one is taken ill and the other has to look after him.

I have suggested to the Registrar that this information could be added to the website and those guidance booklets which deal with the responsibilities of being a director.

Post Room

7 When late filing penalties arise, a perennial complaint is that the accounts were sent on a given day with other documents. Those documents were processed and put on the register, therefore, the argument runs, the accounts must have arrived at Companies House but been lost.

I have explained what happens in the Post Room on several occasions, and will not repeat myself. However, it is the case that several hundred empty envelopes reach Companies House each year, and that many listed enclosures are not actually enclosed. Until recently, only if a presenter had sent a duplicate list and return envelope would the omission be pointed out by Post Room staff. That accounts were missing would only be known to the presenter when a default notice arrived, possibly months later. An argument would then ensue

about what happened to the accounts. Time and work would be wasted on both sides.

From 1 April 2005, Post Room staff will telephone anyone where it is plain on opening an envelope that documents are missing. It is hoped that this innovation will short-circuit lengthy disputes because presenters will be able to check immediately to see whether accounts, cheques or whatever else is missing are still in their offices. I applaud this development and have every expectation that there will be a considerable saving in work and reduction in disputes.

Recommendations

8 In addition to the matters discussed above, during the year I made a number of other recommendations which are summarised as follows:

(a) An accountant submitted a form 225 with the intention of extending the accounting reference period for a client company. The form was rejected because he had not physically deleted one of the alternative words "shorten" or "extend". The accountant did not respond when the rejected form was returned to him. Despite a reminder pointing out the last date for filing, no accounts were filed, and the company was dissolved by the Registrar. The accountant argued that the form 225 should have been accepted. Companies House took the view that it was a mandatory requirement to delete one or other of the words indicated. In my view, the form supplied was correct in all particulars, provided the statutory information in a way which was quite obvious and ought to have been accepted.

In fact, the accountant was using an old form which has been replaced by one which is a great deal clearer. Nonetheless, I recommended that when earlier versions of the form showing that the new date for the accounting reference date (ARD) is after the previous one are sent to Companies House, but the word "shortened" is not crossed out, they should be accepted in the Document Examination Branch.

To have rejected these forms seemed to me to be unreasonable and contrary to the terms of section 225.

I also recommended that the same principle applies to the new forms should either of the boxes not be ticked but where it is obvious that the ARD is being extended.

The accountant also argued that my finding that the form 225 had been unreasonably rejected ought to lead to Companies House meeting the costs of restoring the company. I did not agree. The final filing date for accounts remained the same whether the ARD had

been changed or not. In correspondence with me, the accountant conceded that he had been taken unawares by the "trap" in section 244 Companies Act 1985 where it is easy to be confused about the last date by which a company's first set of accounts must be filed. The onus was on the company to get its accounts to the Registrar according to the statutory timetable and the rejection of the form 225 had no bearing on either the absence of accounts or the dissolution.

(b) On 8 March 2004, a solicitor sent an application form LLP2 and fee of £95 to Companies House to register a limited liability partnership. The application reached Companies House the next day, 9 March 2004. On 15 March 2004, the solicitor was telephoned and told that the LLP could not be incorporated under the name desired because a company with the chosen name had been incorporated electronically on 12 March 2004.

The solicitor was understandably aggrieved. He believed that it was more than a coincidence, and, although he did not say it in so many terms, implied that there might have been some impropriety.

My investigations showed that it was not possible to set up an LLP electronically, and that there was a delay of up to five working days. As one cannot reserve a name, there is always a chance that a company could be incorporated while an LLP formation was pending.

After exhaustive enquiries throughout Companies House, and with the accountants who set up the limited company, I came to the conclusion that the solicitor had been the victim of one of life's maddening coincidences, and had not been helped by what I regarded as the slow work rate in the LLP Section.

I made several recommendations. First, that all applications for registration are treated fairly. It ought to be possible for all applications to be timed upon arrival so that they are processed in the order in which they reached Companies House.

Secondly, I could not understand why the Limited Liability Partnership Section took five days to process applications while, at the same time, the New Companies Section was able to deal with 400 to 600 applications every working day, and to deal with them within very swiftly.

Thirdly, the LLP Section must record and retain details of all telephone calls relating to applications which are not accepted, or which fail to meet the perfectly reasonable tests. It was not satisfactory that at the critical moment when the solicitor's application was refused because the

very thing he wished to avoid - the "stealing" of his preferred name - had occurred, no one had the wit to make a contemporaneous note.

Fourthly, until the changes I proposed in my first and second recommendations have been implemented, immediate steps must be taken to ensure that all guidance notes are changed to explain that there is a time difference between the incorporation of a company and of an LLP and that an application to register a particular name for an LLP may be defeated by a later application to register a company.

Fifthly, it was clear that the present law is a muddle and needed to be made clearer.

The Registrar accepted some of my proposals, and there has been a considerable improvement in the running of the LLP section, which is to the credit of the staff there. I note that the website and guidance notes now reflect all my suggestions, particularly those about warning that the faster process of incorporation of a limited company can frustrate the setting up of an LLP. This is the sort of information which I believe the public ought to know.

(c) A company was dissolved because it failed to file accounts for three years. After a delay of two years, the director applied to restore the company. In such cases, the Registrar requires all outstanding accounts to be filed as a condition for consenting to the court order for restoration. As, inevitably, these accounts will be overdue, late filing penalties arise. However, the Registrar has hitherto limited the penalty for old accounts to £100, even though they may be several years overdue and strictly subject to a penalty of £1,000.

The Registrar also required accounts to be filed for the period when the company was dissolved on the basis that the deeming provisions in 653(3) Companies Act 1985 mean that when a company is restored, the clock is wound back and the company is treated for all purposes as if it had carried on. All its disclosure requirements should, therefore, be met, however artificial this may appear. Outstanding accounts made up to the company's pre-existing accounting reference date must be delivered. In these cases, a late filing penalty will almost always arise.

I came to the conclusion that the deeming provisions exist to revive the suspended animation and to allow a company to carry on bringing or defending legal action, to serve notices or to revoke action taken by the Crown in *bona vacantia* and to protect the interests of the company and its members. But I did not believe that they authorised the imposition and collection of

penalties for non-delivery of accounts during the period of dissolution. I added that one could argue that the deeming provisions do not extend so far as to enable the Registrar to ask for accounts for the period of suspended animation, because, to put it no higher, they are artificial or illusory.

So I concluded that while the company was off the register, it was not required to deliver accounts. Indeed, had they been prepared and sent to Companies House, they would have been rejected. When a company is off the register, the Registrar treats it as though it did not exist. No accounts reminders are sent, because no accounts are due. No default letters are sent to dissolved companies.

I recommended that the penalties for accounts covering the period while the company was dissolved should be cancelled.

However, I also recommended that the penalties for the accounts which were overdue at the date of dissolution should be imposed at the full, statutory level. It would have been unfair and inequitable to attempt to demand higher penalties from this company, since it had paid the nominal £100 for each year and had benefited from a policy which had existed for over ten years and which was well publicised, but in future there should be no nominal penalty of £100. Such a rule discriminates against companies which struggle on and file late and incur penalties of £1,000. The Registrar's discretion arises by statute, in s.242A(3) Companies Act 1985 (as inserted in 1989) and it has been construed judicially to be extremely narrow. In any event, I do not believe that the Registrar has any power to reduce a penalty unless she has acted in a way that contributed to a company filing late and concluded that the decision to impose the £100 penalty was incorrect.

Finally, I also recommended that Guidance Booklet GBW2 on Dissolution and Restoration be amended to make it clear that full late filing penalties on any outstanding accounts will always arise when a company is restored, and that no penalties will arise in respect of accounts delivered for the period when a company is dissolved. All these recommendations were accepted.

(d) One of two directors of a company signed a form 652a on 25 April 2003 in which he applied under the Companies Act 1985 for the company to be struck off the register. The form reached Companies House on 17 May 2003 and was examined and entered on the register on 20 May 2003. The procedure put in place by the Registrar is partially automated. Once the form 652a has been registered, it is acknowledged. This was done on 21 May 2003. Reference is then made to the Inland

Revenue to see whether it has any objection to the company being dissolved. This was done by post on 21 May 2003. On 27 June 2003, the Inland Revenue gave notice to Companies House that it objected to the dissolution, and the procedure was suspended. Notice 652AM was sent to the company on 30 June 2003 that an (unspecified) objection had been received. The form (DISS6A) was undated.

On 14 August 2003, Companies House received notice that the Inland Revenue no longer objected, and the procedure was re-animated. A further three months' notice GAZ1(A) was given and inserted in the London Gazette on 26 August 2003. Although being addressed to "The directors", the form was not actually sent to the company.

On 2 December 2003 an automated notice 652AF was given that the company would be struck off on 9 December 2003. This was sent to the company. A final notice GAZ2(A) was given and inserted in the London Gazette. This stated that the company was struck off the register on 2 December 2003 and dissolved by notice in the London Gazette on 9 December 2003. This was not sent to the company.

The director told me that the first he knew of the company being closed was in December 2003 when the company's bank told him. He was never informed by Companies House that the company was about to be or was closed. The only form that was sent was the notice of objection which was assumed to be by the Inland Revenue.

The director's complaint was that the failure of Companies House to tell him that the objection had been withdrawn prevented him taking money from the company's account prior to dissolution. After that date, of course, the bank account was frozen.

My conclusion was that the director began the striking off process by sending the form 652a to Companies House; he knew that he wanted to benefit from the company's funds and had to do so before it was dissolved. The Registrar assumes that such applicants know what they are doing and only sends an acknowledgement and any notice of objection and I agreed that there was a duty upon the director to keep an eye on the passage of time so that he knew when to take action to achieve what he wanted.

The objection stopped the clock, and although the director was not told that it had been withdrawn, he must have known that time might still be running, or should have taken steps to find out what the objection was. One phone call to Companies House would have

told the director what was happening.

I did not think it unreasonable to expect withdrawals of objections to be notified. If 800 notices of objection can be sent out could not 100 "no objections" being similarly treated? I recommended that such a procedure be introduced forthwith to tell companies on the dissolution path that any notice of objection had been withdrawn. I am pleased that this suggestion was accepted.

This case revealed another matter which caused me concern. The company's accountant wrote to Companies House on 7 January 2004 to enquire about the dissolution. An acknowledgement was sent on 13 January 2004 which said: "Your comments are being considered and a further response will be sent shortly". The accountant heard nothing and wrote again on 22 March 2004 (the letter arrived on 23 March) and again on 23 April 2004 (that letter arrived 24 April). He still heard nothing and e-mailed the Customer Services section on 17 May 2004 which prompted action. A reply was finally sent on 18 May 2004. This delay revealed more than just inefficiency or lack of courtesy. It showed that there is a lack of management within the Dissolution section and I recommended that the Registrar took action to ensure that such a state of affairs did not recur. I concluded that these matters were serious enough to merit an ex gratia payment of £100.

(e) On 20 April 2004, a lady telephoned Companies House to obtain some information about a company. She was sent copies of incorporation documents, a special resolution to adopt new articles, particulars of a mortgage and the annual returns for 2003 and 2004. The charge of £13 was paid by credit card.

Details in the 2004 annual return did not tally with what the lady believed to be the true situation of the company, so she telephoned again on 24 April 2004 to ask when the company officers had changed. This time, she was sold the "filing history" for £4 - which is the standard fee for the latest 20 items. Again, she paid by credit card.

When the history arrived, the lady was puzzled. The list of "documents filed since 28/11/2001" showed that the original director and secretary resigned on 3 December 2001 and that the appointment of five new directors (one of whom was also secretary) took place on 21 March 2002. However, the adoption of the new articles of association and memorandum was dated 1 March 2002. This information led her to believe that there were no officers in post on 1 March 2002.

The lady telephoned on 23 April 2004 to explain her worries. The person to whom she spoke appeared not to understand the problem and said that the filing record showed that the dates on which the notices of appointments were placed on the register. The person to whom the lady spoke (whose name was not known) said that she would call back, but no one did.

Consequently, the lady wrote on 24 April 2004 setting out her concerns. She had (and sent copies of) information which showed that there were no directors at a time when the company was making public statements about its structure. A meeting on 1 March 2002 had taken place at the address of four people who apparently became directors on 21 March 2002.

A reply was sent by the Companies Administration Department on 29 April 2004. A printout from the central database was enclosed which showed the dates of appointment of the five new directors as 1 March 2002. The lady was told that the Registrar accepts documents without investigation. The company had not filed accounts, which were being pursued, and the business stationery did not comply with the Companies Act.

The lady wrote again on 30 April 2004. She said that the "filing history" showed the directors and secretary were appointed on 21 March 2002 but the printout showed the date of appointment as 1 March 2002. She asked which was correct. A reply on 24 May 2004 said that the images of the forms showed that the correct date of appointment for each was 1 March 2002.

The lady wrote on 25 June 2004 to the Complaints Manager. She said that seven dates in the information supplied to her were inaccurate; that Companies House had failed to deal with this inaccuracy; and it had not refunded the costs she had incurred.

An officer in Customer Services replied on 2 July 2004. Although her letter was polite and ostensibly helpful, it did not deal with the real issue. Further information was sought and on 10 July 2004, the lady sent a copy of the filing history.

Another letter was sent to the lady on 15 July 2004, which explained that the "filing history" simply lists the type of document received and the date on which it was filed - and appeared on the register. The most accurate information would only be available by ordering the list of company appointments or copies of the actual forms 288a.

The lady wrote again on 1 September 2004 saying that there were other discrepancies. Her main grievance was

that the "filing history" was misleading and did not provide the information an enquirer needs unless they ordered further documents.

There is no trace of that letter, nor of the lady's follow up letter of 17 October 2004. So no one applied his mind to the real issue. The lady wrote to me on 14 November 2004. When I asked for the files, virtually no letters were to be found. Only in January 2005 did I run to earth the letter of 24 May 2004 (because it had been stored on the writer's computer).

This case revealed three separate matters. First, that the "filing history" of any company shows the date upon which documents were placed on the register and not the effective date on which the event recorded actually happened. Secondly, that staff dealing with the early correspondence did not understand this very simple point, which the lady explained with great clarity. Thirdly, that correspondence was lost or thrown away and the lady's justifiable complaints ignored.

I therefore recommended

(a) Call Centre staff should tell callers that the "filing history" will contain

a list of documents with the date they went on the public register; and

(b) that details of dates of actual appointment or change of address are only available by buying additional copies.

(c) that the printed "recent filing history" sheet sent to customers should make it clear that the dates in the left hand column are filing dates and not the effective dates of appointment or change.

I did not think that Customer Services dealt with the lady's complaint satisfactorily. The officer concerned eventually explained that the filing history simply set out the dates of registration without applying her mind to the real issue that the public was being sold misleading information. I recognise that this was an issue beyond her level of responsibility but I believe that she ought to have referred it to a senior officer who would have dealt with the issue and not simply sought to justify existing ways of doing things.

It was also very disappointing, to put it at its lowest, that the files had disappeared. Not only was there no trace of the lady's letters of 1 September 2004 and 17 October 2004 but all the previous correspondence had apparently been thrown away.

All the lady's letters were all correctly addressed with the postcode and as most arrived, I believe that there is a fair chance that the missing ones did too. It seems too convenient that two letters raising an awkward matter were lost in the post. Companies House admitted that the earlier correspondence was thrown out; why should the later not have been treated the same way?

I recommended that the Registrar took action to ensure that Companies Administration and Customer Services have proper systems to retain original correspondence and copies of replies.

I did not believe that the lady received a reasonable level of service. Not only was she sold unhelpful information, no one then actually addressed her perfectly reasonable and civil complaint about it. Then, when correspondence was required for me to investigate, it was not available and had obviously been thrown away. The upshot was that the lady was put to the unnecessary expense of writing letters and making phone calls and, during my investigation, of taking time to allow me to go to her house to meet her and see her files.

I recommended that the Registrar made an ex-gratia payment of £25 to include a refund of the £4.

To add to the incompetence, no one actually dealt with my recommendation and I had to apologise to the lady for the delay and insist on Companies House taking immediate action two weeks later. I have not been told whether all my recommendations have been implemented.

(f) According to the main database at Companies House, a company's filing deadline passed without any accounts being delivered. A first default letter was sent on 24 November 2004, which resulted in the director sending a set of accounts by special delivery.

Something happened to those accounts within Companies House, because they were neither examined, accepted nor rejected. On 16 February 2004, a further default notice was sent to the company. The director replied immediately with a second copy of the accounts which arrived, were examined and put on the register. When he received a penalty notice for £250, the director produced evidence that the November set of accounts had arrived. Checks at Companies House proved that they had been indexed as well as going through the incoming Royal Mail special delivery system at Companies House. As a result, the penalty was reduced to £100.

The director then argued that he first sent the accounts

by recorded delivery but he could not find the receipt. Later, he said that he had now discovered that the first set of accounts had been sent by ordinary post on 20 September 2003.

However, my conclusion was that the director should be given the benefit of the doubt. Indexing was introduced to reduce to an absolute minimum the risk of dispute about whether accounts have arrived or not. While it was not working in September 2003, the experience in November showed that it was far from foolproof. I understand that indexing is now working satisfactorily.

In the circumstances, I recommended that the Registrar exercised her discretion further and did not collect the penalty - which had already been reduced to £100. (g) I have left until the end my most significant investigation, which arose from a request from the Registrar. It is difficult to summarise the catalogue of errors - my report contained nineteen separate items which needed to be addressed.

The case opened when a complaint was received that a company's accounts for 2002 did not comply with the Companies Act. It took seven months to December 2003 before a file was opened by the Companies Administration Department, and until August 2004 for a decision to be taken that those accounts could be accepted after all. The accounts for 2003 were delivered in time at the end of January 2004 but, because of the problem with the previous year, were put into a "pending" system. They were held for some time and then rejected.

The Late Filing Section believed that the company had not filed accounts for 2003 and sent default letters. When duplicate accounts arrived, in June 2004, they were held for two months, because they did not comply, but were eventually accepted in the original format. They should, therefore, have been treated as having arrived on time, but no one made the necessary entries on the database, and a penalty notice was sent out.

When the company queried this, the Late Filing Penalty Section failed to notice that the accounts had arrived in January 2004 and made no attempt to trace the indexing record. There was also a silly mistake about the amount of the penalty.

After this, the Companies Administration Department continued to write to the company demanding that the previous year's accounts be put right.

In December 2004, the company wrote to the Registrar in despair, and Companies House hoped that a conciliatory and apologetic reply might have ended the matter. Sadly, Companies Administration Department continued the saga by unconvincingly withdrawing threats of prosecution but never answering the basic question - if the 2002 accounts were in the wrong

format, why had they been accepted by Companies House in the first place?

My conclusions were that the Companies Administration Department had failed to do its job properly, and had continued to write to the company for months without taking the simple step of picking up a telephone. There was an unacceptable delay in handling the accounts for both years. The Companies Administration Department failed to tell anyone else in Companies House what it was doing (or not doing). The Late Filing Penalty Section failed to make basic enquiries about what had happened. No one in Companies House applied his mind to answering the simple question about acceptance of accounts. Everyone who handled the matter made mistakes, failed to keep notes of phone calls or action taken, and did not tell colleagues what was happening.

The company complained - with remarkable restraint - that the left hand of Companies House was unaware of what the right was doing.

The impression given of incompetence was reinforced when one read the files and realised that no one within Companies House was able or willing to realise that something had gone wrong, was getting worse and needed to be resolved.

I was shocked by what I discovered and sent a full adjudication to the Registrar setting out my findings. To demonstrate the seriousness of the matter, I recommended that an ex-gratia payment of £500 should be made. This is by far the largest sum I have ever proposed and reflected my view that the way the case was handled was appalling.

I know that the Registrar has taken action to remedy the shortcomings revealed by my investigation. Time will tell whether the steps proposed will be sufficient to inculcate the need for staff across the organisation to take responsibility not only for their own work, but to ensure that when mistakes arise they are identified and resolved rather than ignored.

Acceptance of documents

9 The last case, and a couple of others, concerned the policy at Companies House for the acceptance of documents. I do not believe that it is well known that Companies House accepts documents on trust. This should be made clearer to companies as well as made more accessible on the website. The only effort made to tell the public the policy about document acceptance is set out in the "disclaimer"

at the foot of the front page of the website.

In real life very few people looking at any information will click on a "disclaimer". That is confirmed by the figures for the Companies House website. In December 2004 there were over 22 million hits on the website; however, there were only 2,037 clicks on the "disclaimer" button, a figure so small as to be statistically insignificant.

These figures confirm ignorance of the "good faith" acceptance policy. I believe that immediate steps should be taken to make it clear on the face of the website, rather than tucked away in the bottom line beside such mundane entries as the "Use of cookies", "Crown Copyright" and "Website powered by Orchid Telematics".

Conclusions

10 The cases to which I have referred above reveal that there have been occasional mistakes and instances of incompetence within Companies House. I know that the Registrar shares my dismay that things can and do go wrong, and that, at times, there appears to be no one willing to admit fault or to take corrective action.

However, it would be creating a false impression to suggest that these cases are typical. They are not. Although they show that there is always room for improvement, I know that the Registrar will wish to show that the points I have highlighted are leading to remedial action. The agency manages the records of two million companies, and receives many million letters and documents each year. Almost always, Companies House gets things right first time, and is renowned for the civility and helpfulness of its staff, qualities that I encounter every day.

W H Thomas
Complaints Adjudicator
30 June 2005



companies house'

response to complaint adjudicator's report

The annual report of the Companies House Independent Complaints Adjudicator, Bill Thomas for 2004 - 2005 is included in this edition of the Register. Last year, following a suggestion from a customer, I took the opportunity for the first time to respond in the Register to his report. We place great value on the work of the Complaints Adjudicator. Although it is often uncomfortable to have our failings exposed in public, it is very helpful for us to know where we have problems so that we can address them and improve our service to customers. As a result of the Adjudicator's investigations and recommendations we are able to improve the practices and procedures we follow and I hope that our customers feel the benefit in terms of fewer mistakes and better performance.

I take comfort in the final paragraph of the report, where the Adjudicator makes the point that the cases where he has found fault with us are not typical of our performance. His positive comments about the helpfulness and civility of the staff are particularly encouraging. However, there is clearly no room for complacency and we must improve our performance in all the areas he mentions. More generally, we have been working with our staff in recent workshops under the title "Great Expectations - Raising the Bar". We have been using these sessions to make our staff aware that, although we generally provide a good service, there is room to improve and cut out unnecessary mistakes - so that we offer a first class service to all our customers, all the time. In order to promote this message, and as part of the Great Expectations theme, all our senior managers have pledged to improve one or more aspects of their work in order to improve the quality of our service to customers. This message has then been passed on to all the teams working in Companies House. I am confident that this will lead to further, continuing improvements.

As in previous years the Adjudicator has pointed out our failings frankly and made recommendations on how we can improve our guidance booklets and internal processes. We have, for example, included additional items in our guidance booklets and on our website about the responsibilities of old and ill directors. We have given more prominence on the website and in our booklets to our policy statement on accepting documents in good faith. We have drawn attention to the different speed at which companies are incorporated on paper compared to electronically. All this information is important to our customers and I am grateful to the Adjudicator for raising these matters and suggesting how we can address them.

The Adjudicator also made recommendations about how we should handle objections from the Inland Revenue to the dissolution of a company, which may well prevent

companies being struck off unwittingly in future. Previously, we did not inform companies when the Inland Revenue withdrew their objection and the dissolution action recommenced. In one case this led to the company being dissolved. We now inform the company when the objection is withdrawn and make them aware that the action to dissolve them will continue. This enables the company to review and consider their position.

He also commented on our examination policy for form 225, used to change a company's accounting reference date. We used to reject the form if the appropriate "shortened" or "extended" box had not been ticked in respect of the new accounting reference date. Now, as long as the dates of the current and previous accounting reference date are clear, we no longer reject for this reason. As a result of this recommendation, we have reduced our rejection rate for the form 225 and consequently made life easier for some of our customers.

We will continue to work closely with the Independent Complaints Adjudicator and to respond constructively and actively to his recommendations. We will also continue to improve our performance and "raise the bar" so that mistakes do not happen in the first place and customers receive the service they deserve whenever they deal with Companies House.

Claire Clancy
Chief Executive & Registrar