

Annex F4: Ombudsman Case 2 Closure Decision (OMB-163546-W7H8X9)

Source

Ombudsman closure decision, 3 December 2025. Case OMB-163546-W7H8X9 (Department of Transport, Governance).

Case Overview

- Case Number: OMB-163546-W7H8X9
- Complaint against: Department of Transport
- Subject: Failure to exercise statutory governance responsibilities over daa, AirNav Ireland, and ANCA
- Filed: 11 October 2025
- Caseworker: Initially Padraig Gleeson, then Ahmed El Baradie
- Status: Closed 3 December 2025 (Ombudsman declined to pursue)

Closure Rationale

Ahmed El Baradie declined to pursue every element of the complaint:

1. ANCA independence / EU 598/2014: "we cannot examine the aspect of your complaint that the Department breached EU Regulations by placing ANCA within Fingal County Council as we are precluded from examining the underlying legislation." Suggested filing an EU Commission complaint instead.
2. daa complaints system: "DAA is not a body under the Ombudsman's remit" and the Ombudsman had not received evidence that the complainant specifically raised this with the Department.
3. Planning enforcement: "given the Council has not yet decided whether to issue an Enforcement Notice, there would be no basis to pursue your complaint concerning the Department." Deferred to Case 1.
4. Corporate governance: Cannot examine "given it is predominately predicated on the fact that an ongoing planning breach...has occurred and, is continuing" (circular logic: cannot examine governance failure because the planning breach has not been officially confirmed).
5. ANCA enforcement: "I consider it is reasonable that you should pursue these issues with the ANCA, in the first instance" (another referral elsewhere).
6. Board member suitability: "confined to administrative actions and not recruitment processes." Cited State Airports Act 2004 s.13(4).

Aarhus Relevance

The closure of this case demonstrates the circularity of domestic remedies: the Ombudsman cannot examine the governance failure because the planning breach has not been confirmed, but the planning breach has not been confirmed because the planning authority refuses to make a decision, and the Ombudsman cannot compel the planning authority to act. Each institution defers to another, creating a closed loop with no effective remedy for the affected public. This is the type of access to justice failure that warrants ACCC scrutiny.