

## Inland Revenue agrees to offer ex gratia payment for error

<b>Legislation</b>	Ombudsmen Act 1975
<b>Agency</b>	Inland Revenue Department
<b>Ombudsman</b>	David McGee
<b>Case number(s)</b>	W58563 (previously unpublished)
<b>Date</b>	2008

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*IRD delayed advising student of loan liability—IRD agrees to offer complainant ex gratia payment representing the accrued interest for the period the loan repayment had been outstanding*

The complainant had left New Zealand and provided the Inland Revenue Department (IRD) with his mother's contact details. The following year, IRD advised the complainant that he owed \$5000 on his student loan and this was promptly paid. IRD then advised the complainant that his loan was paid off, however it had in fact not processed the complainant's student loan liability for an earlier year, because it had not been transferred to IRD by Studylink. Sometime later, the complainant had asked IRD to remove his mother's name as a contact for him. At this point, IRD did not have a current address for him. Over a period of four years, interest accrued on the student loan liability.

IRD accepted that there was a delay by Studylink to transfer the loan repayment to IRD and that there was further delay within the Department before the loan was loaded to his student loan account in January 2004. IRD accepted that it was at fault in not ensuring that the complainant was treated consistently with other borrowers who were affected by the late loan transfer.

The Ombudsman considered that the complainant could have received an advice letter at an earlier date had the Department sought a contact address from his mother. Although the complainant had made it clear that he did not wish his mother to be concerned about his tax or student loan, the Ombudsman remained of the view that it would not have been

inappropriate for the Department to seek a contact address as it could have done so without raising any substantive issues.

The Ombudsman considered that the complaint should be sustained. IRD believed that a fair and reasonable remedy was to offer the complainant an ex gratia payment representing the accrued interest for the relevant four year period and the Ombudsman accepted IRD's reasoning in this regard.

IRD took this step and the Ombudsman did not find it necessary to make a recommendation as to remedy.

*This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*