

Date: Wednesday 22 November 2000
Time: 9.00am to 12.25pm
Venue: Committee Room, National Assembly Building

Ombudsman's Report and First Secretary Draft Response

Standing Order 21 - Complaints Procedures

1. Standing Order 21 covers the procedures to be followed for consideration of reports from the Welsh Administration Ombudsman and the Health Service Commissioner for Wales. Where the report states that the complainant has suffered injustice or hardship as a result of maladministration, the Assembly Secretary is required to submit that report to this Committee within 20 working days of receipt, together with a draft response to the report setting out the action taken or proposed action to be taken.
2. At its meeting on the 11 October the Committee agreed that Ombudsman reports finding maladministration would only be discussed in Committee if Members gave notice of particular issues they wished to raise. If any Member wishes to discuss this in Committee they should contact the Committee Clerk. If no request for more detailed discussion is received the Committee will simply be asked to give formal approval of the First Secretary's response at the next meeting.

The Complaint.

3. Committee members are asked to consider one report from the Ombudsman in respect of Mr A.

Ombudsman Case R10/99-00, Mr A

4. The details of this complaint are set out at annex 1, a copy of the Ombudsman's report is at annex 2 and the proposed response for the first Secretary to send to the Ombudsman is at annex 3.

Proposal

5. The Agriculture and Rural Development Committee are invited to agree the draft responses at annex 3 to be issued by the First Secretary to the Welsh Ombudsman.

Case Summary: Ombudsman Case R10/99-00, Mr A

The Complaint

The NFU Wales complained on behalf of their member Mr A that the former Welsh Office Agriculture Department (WOAD) had delayed in issuing three Cattle Identification Documents (CIDs) which resulted in Mr A losing the Beef Special Premium Scheme first premium payment on those three animals.

Background

Mr A submitted a joint application form for four cattle passports on 7 September 1997, and for three CIDs for three of those four animals. On 24 September 1997 the four cattle passports were issued but no CIDs by the Llandrindod Wells Divisional Office.

On 19 April 1999 Mr A telephoned the Divisional Office about the missing CIDs and was concerned that the three animals in question would be too old to qualify for BSPS First Premium. Mr A was advised that the CIDs would be issued as quickly as possible and that he should submit his claim for first premium for those animals with a letter of explanation.

On 20 April 1999 Mr A submitted a claim for first premium which included a claim for the three animals in question together with a letter of explanation.

Mr A's claim for first premium on the three animals was rejected on the basis that the animals were too old. The Divisional Office did however offer to include the animals on a claim for second premium. Mr A appealed against the decision to reject the animals for first premium. But, the original decision was upheld on the grounds that the CID was not the primary reason for determining an animal's age and that it was the responsibility of the farmer to ensure that he has the correct documentation for his animals. In addition the application form for CIDs clearly stated that producers would not receive an acknowledgement of their application and if they had not received the documents within 14 days of making their application they should contact their Divisional Office.

Welsh Administration Ombudsman (WAO) Findings

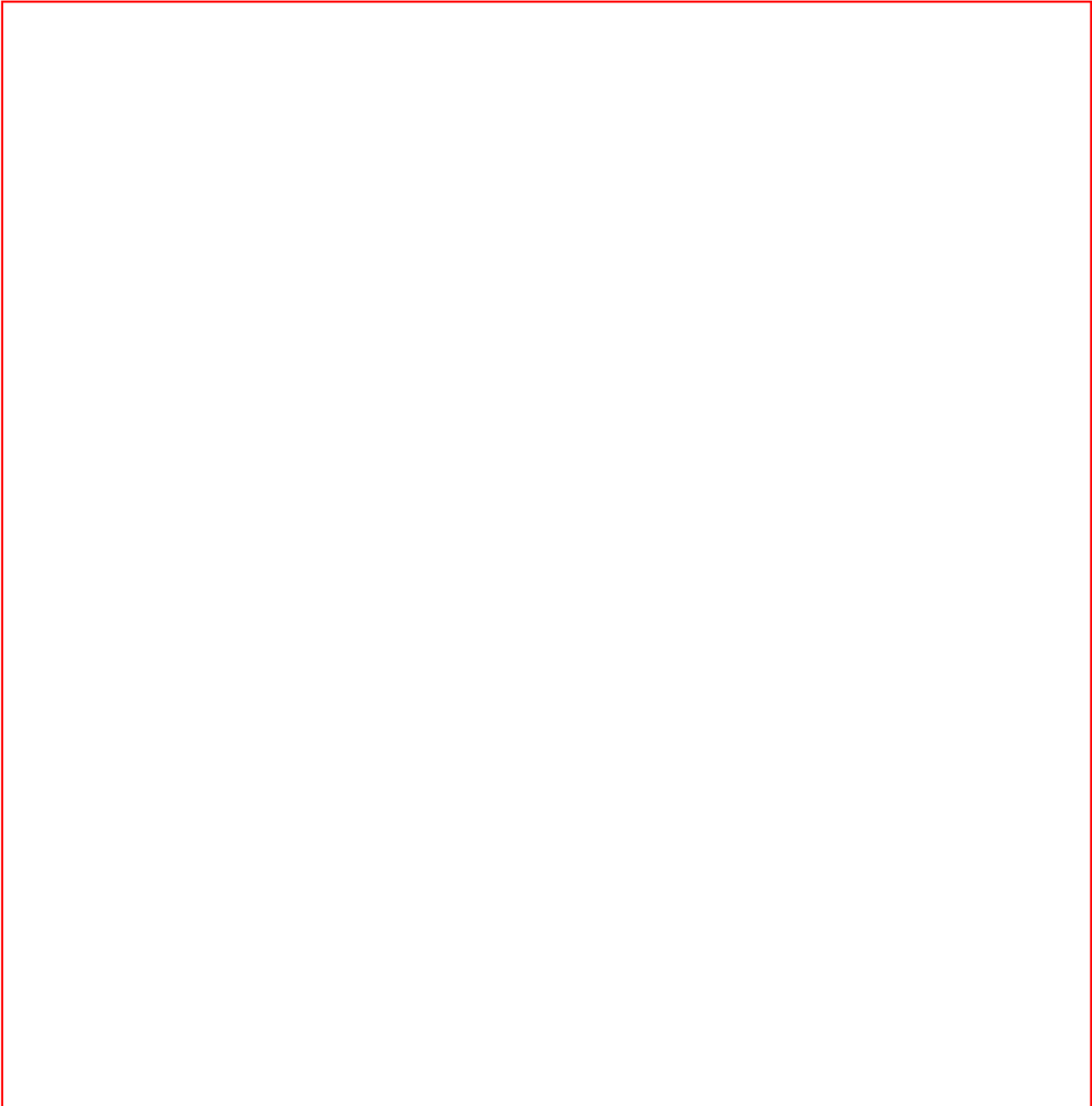
Mr A submitted his application for CIDs and Cattle Passports on 7 September 1997. WOAD issued the Cattle Passports on 24 September 1997 but did not issue the CIDs until 19 April 1999. The delay in issuing the CIDs constituted maladministration on WOAD's part.

Claims for first premium can only be made on animals aged between 8 and 20 months and each claim must be accompanied by a CID. Mr A was unable to submit a valid claim for the three animals in question as WOAD did not issue the CIDs until 20 April 1999. Therefore Mr A sustained an injustice.

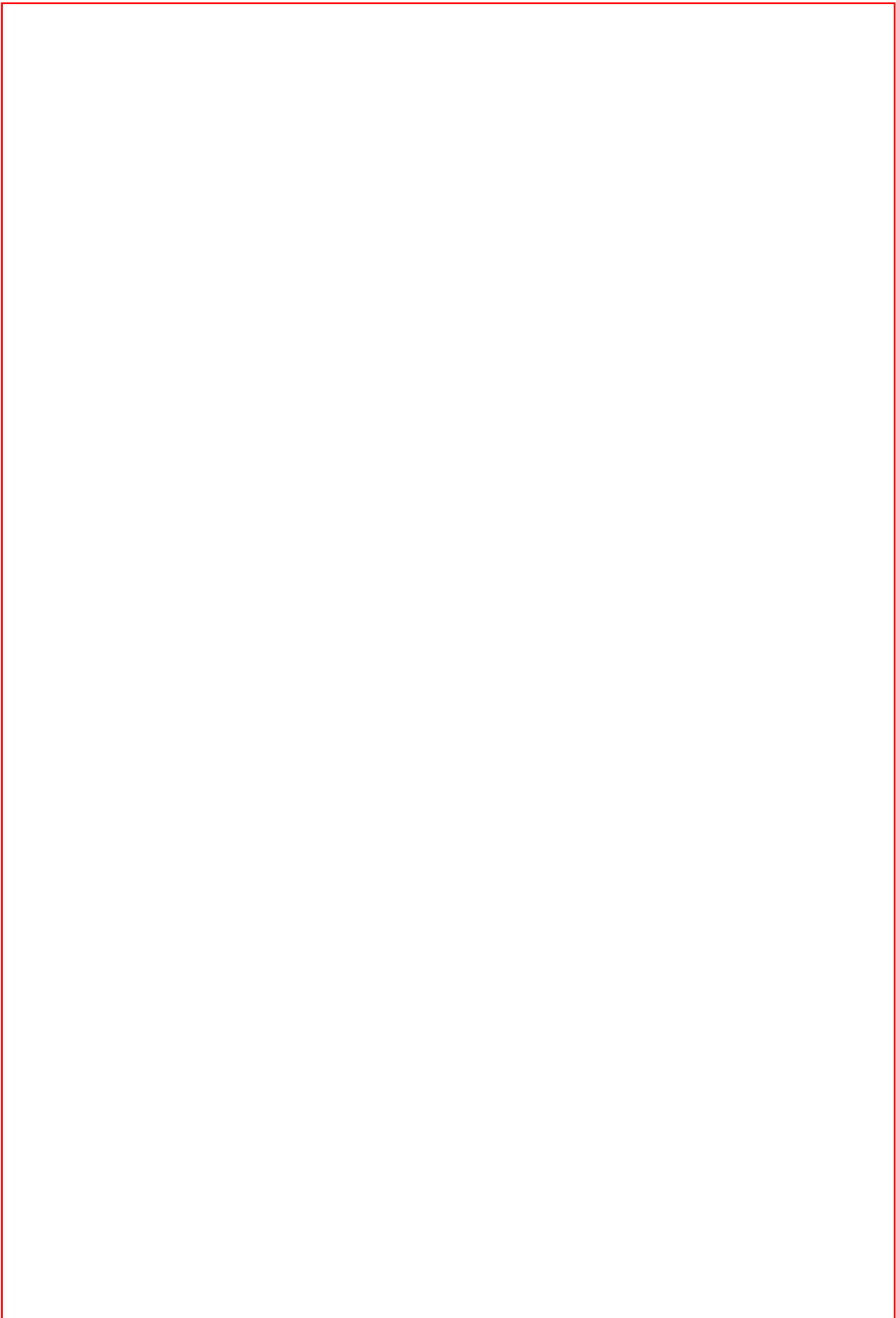
The WAO found that while it was clear that Mr A had failed to follow the advice in the CID application form and did not claim BSPS first premium on the three animals in time these factors alone could not be held to be the reason Mr A had been denied first premium. WOAD’s failure to provide the CIDs also had a direct impact on the eventual outcome.

Welsh Administration Ombudsman Conclusion

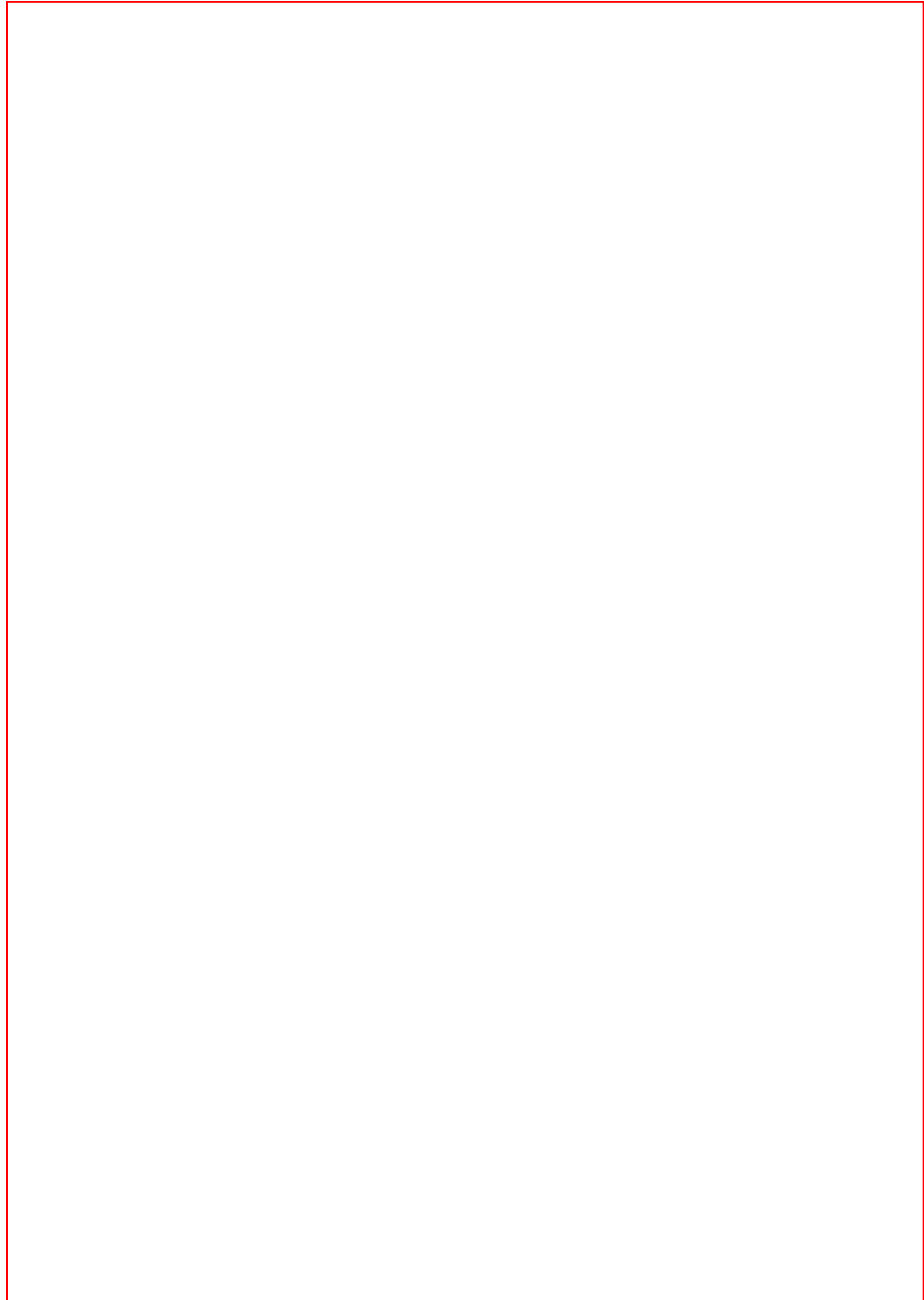
The WAO has concluded that the letter from the Permanent Secretary to Mr A apologising for the Agriculture Department’s shortcomings and offering him an ex-gratia payment of £132.06 (50% of the first premium payment for the three animals) to be adequate redress.



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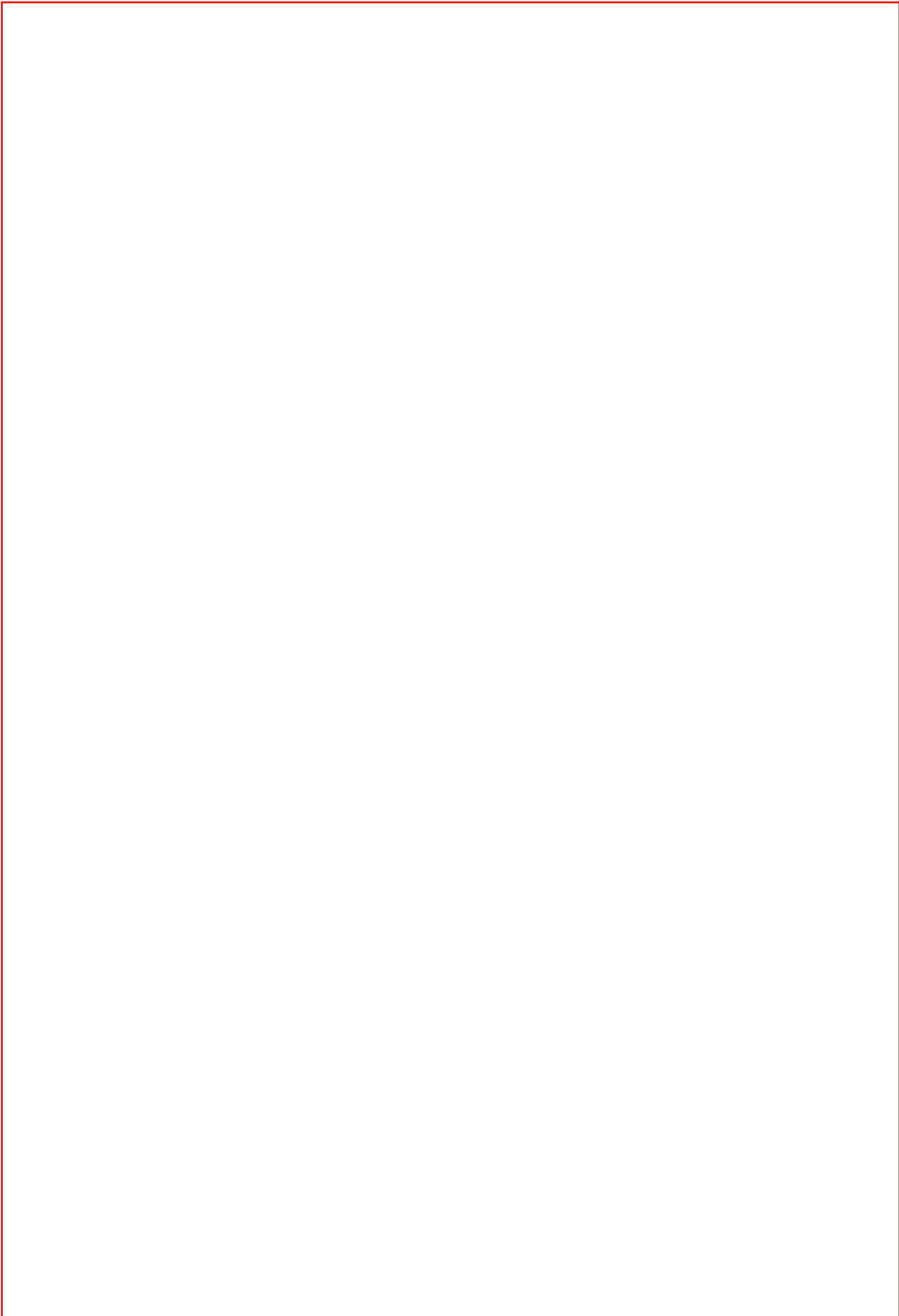
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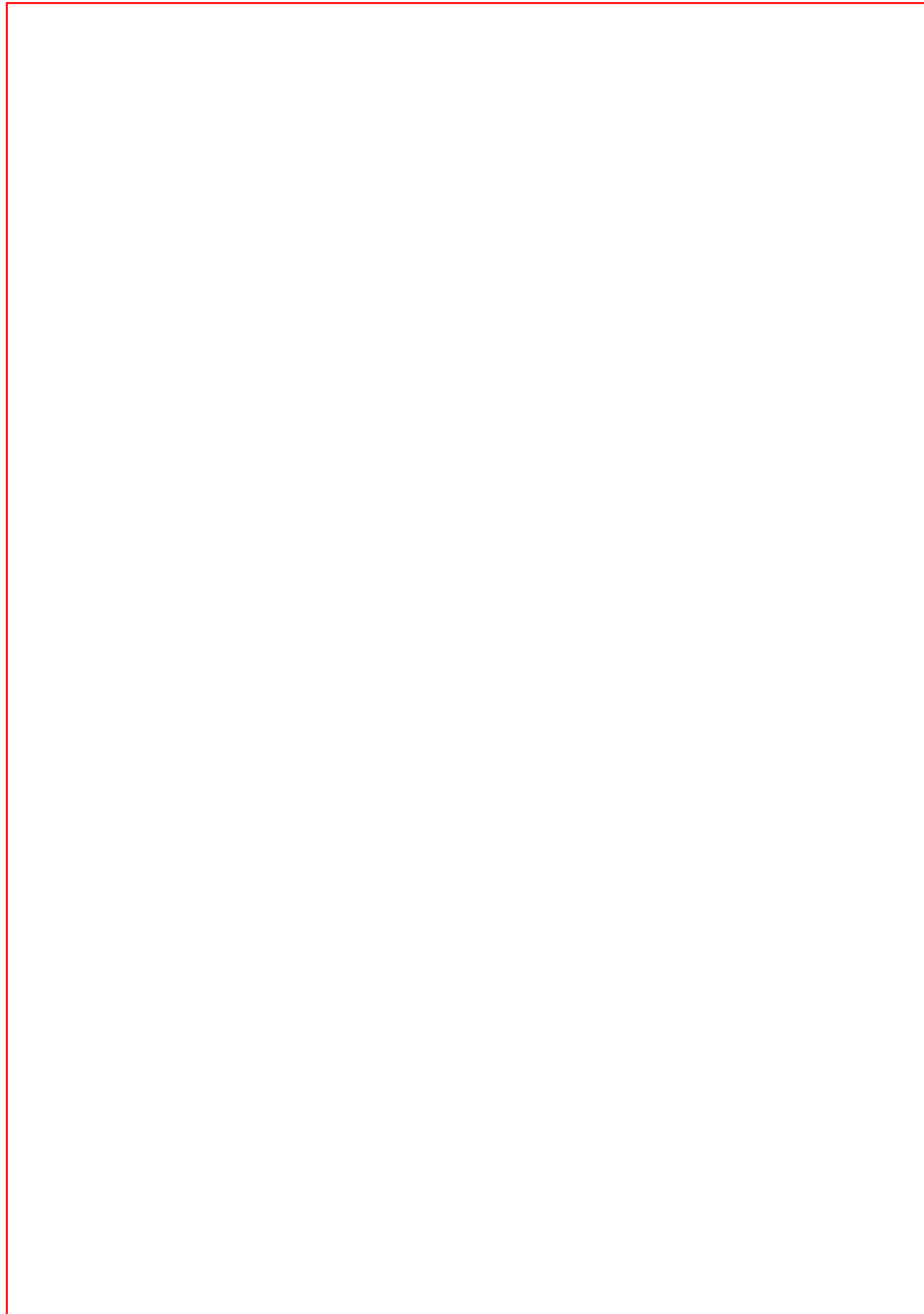
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Rt Hon Rhodri Morgan AM MP

Your ref; R10/99-00

Our ref: SF/00-6656

Mr Michael Buckley
Welsh Administration Ombudsman
5th Floor
Capital Tower
Greyfriars Road
Cardiff

Thank you for your Investigations Manager's letter of 17 October enclosing the final report on the complaint that the former Welsh Office Agriculture Department (WOAD) had delayed in issuing three Cattle Identification Documents (CIDs) which resulted in the complainant losing Beef Special Premium Scheme first premium payment on those three animals.

The National Assembly for Wales is grateful for the work undertaken and has now considered and assessed your Investigating Officer's findings. I note that the report concludes that the actions of both the farmer and WOAD contributed to the failure of the claim. As a result of the Ombudsman's intervention, the National Assembly for Wales Agriculture Department reviewed this case and now accepts that it was not dealt with as well as it should have been.

I can confirm that the complainant has received a letter from Mr Derek Jones on behalf of the Permanent Secretary, apologising for the Department's shortcomings and offering him an ex gratia payment of £132.06. The payment represents 50% of the first premium payment that could have been claimed in respect of the three animals in question.

I am pleased that you have recognised this action as adequate redress.

Thank you for bringing this complaint to our attention.