Welcome to the 2011 Conference

BIENNIAL CONFERENCE 2011
12–13 May
Burleigh Court Conference Centre
Loughborough University

Ombudsmen in a climate of change

Thursday, 12 May:
BIOA Annual Meeting
Conference opening address:
Peter Tyndall – Public Services Ombudsman for Wales (Chair, British and Irish Ombudsman Association)

Plenary session – challenges to decisions
Ann Abraham – UK Parliamentary Ombudsman and Health Service Ombudsman for England
Emily O’Reilly – Ombudsman for Ireland

Plenary session – Ombudsmen: leaders or followers?
Christopher Hamer – The Property Ombudsman
Natalie Ceene – Chief Executive and Chief Ombudsman, UK Financial Services Ombudsman

Friday, 13 May:
Plenary session
Better public accountability
Beverley Wakem – New Zealand Chief Ombudsman (President, International Ombudsman Institute)

Going forward with administrative justice
Richard Thomas – Chairman of the Administrative Justice and Tribunals Council

Plenary session – how to be an Ombudsman in a new climate
Lewis Shand Smith – Chief Ombudsman, Ombudsman Services
William Prasifka – Financial Services Ombudsman for Ireland
Jim Martin – Scottish Public Services Ombudsman

The following workshops will be run on both days:
- BIOA approved accredited training
- Managing complainant expectations
- Maintaining confidentiality in investigations in a climate of openness (including FOI)
- Maintaining objectivity in casework and avoiding ‘case hardening’
- Tools for wider learning (eg how to improve practice on bodies under jurisdiction)
- Communications and new media
A note from the Editor
Spring, at last. And my last issue as Editor… I’ve thoroughly enjoyed the role for the past four years and it’s now time to hand over to someone else – volunteers welcome! I’m very pleased to be staying on the Editorial Board and our colleagues now include Faye West who joined us recently from the Legal Services Ombudsman. My great thanks to everyone on the Board for their terrific support to me as Editor.

This conference issue highlights a new book about the world of Ombudsmanry with an article from one of the authors and an in-depth book review.

Our profiles are Nigel Ellis, Deputy Local Government Ombudsman, and Tony King, Pensions Ombudsman. We also profile Bev Wakem, New Zealand Chief Ombudsman and President of the International Ombudsman Institute, who will be speaking at the BIOA Conference on 13 May.

The LGO’s Barbara Hedley provides an update on the expansion of the Office’s adult social care remit and the Health Service Ombudsman writes about the impact of her Care and Compassion? report. Susan Hudson brings us up to date with the proposals for a common complaints procedure for public service providers in Wales.

We focus on green initiatives with advice on how to set up and maintain a ‘paperless’ office and we learn about environmental awareness measures underway in the offices of the Ombudsman in Ireland and the Financial Services Ombudsman.

Our Spotlight is on the Service Complaints Commissioner for the Armed Forces (UK) and this issue’s Fair Premises feature is the city of Salisbury, home of the Property Ombudsman.

I hope you enjoy Issue 43 and I look forward to seeing many of you at the Conference next month.

Best wishes, Emma

Sir Tony Redmond

Congratulations to Tony Redmond on his award of Knight Bachelor in the New Year’s Honours List after retiring in November as Chairman of the Commission for Local Administration in England (Local Government Ombudsman). His successor will be appointed for a non-renewable fixed term of no more than seven years. In the meantime, Jane Martin, Local Government Ombudsman in Coventry, has been appointed Acting Chair of the Commission.

Tony has been appointed as a Commissioner for the Local Government Boundary Commission for England, the body responsible for conducting reviews of local authority electoral arrangements. It also conducts reviews of the structure of local government, and the external boundaries of local authorities. From July he will also be Vice President of the Chartered Institute of Public Finance and Accountancy (CIPFA), and then President the following year. CIPFA is the professional body for people in public finance.

Since leaving the Local Government Ombudsman, Tony has had three new grandchildren, so they keep him busy as well!

IOB Anniversary
April 2011 sees the thirtieth anniversary of the founding of the Insurance Ombudsman

PHSO announces retirement
Parliamentary and Health Service Ombudsman, Ann Abraham, has announced that she plans to retire at the end of 2011. Ann was appointed Ombudsman on 4 November 2002. She is the first woman to be have held the role and, upon her retirement, will also be the longest serving Parliamentary and Health Service Ombudsman.

Ann said:
“As Ombudsman, it is a great privilege to serve both Parliament and the public by helping to put things right when public bodies have not acted properly or fairly, or have provided a poor service. My Office has a clear and busy agenda over the next twelve months, with some important work in the pipeline. We stand well equipped to deliver this while the process of appointing my successor gets underway.”

Prior to her current appointment she was Legal Services Ombudsman for England and Wales and Chief Executive of the National Association of Citizens Advice Bureaux (now Citizens Advice). She has also held various posts in the Housing Corporation and in local government.
Bureau (IOB). This was the first of the private sector ombudsmen and acted as a model for the many UK schemes that followed it - and indeed for ombudsman schemes all over the world.

The IOB was set up with a voluntary membership under an industry initiative. There was a single ombudsman, James Haswell, and three caseworkers. The success of this form of alternative dispute resolution can be measured by the fact that the IOB developed into the statutory Financial Ombudsman Service which now has more than 1,500 members of staff and 72 ombudsmen.

**Social Media**

An article of potential interest to communications teams “Are ombudsmen ready for social media? Their stakeholders are!”, by Guy Stephens (of Foviance) and Michael Reddy (Syndicus), is at www.syndicus.org.uk/are_ombudsmen_ready-i-36.html.

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**News from the BIOA Secretary**

**By Ian Pattison**

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**2011 Conference and Annual Meeting**

As reported in some detail in the last issue, the 9th Biennial Conference of the Association will be held on 12/13 May 2011 at Burleigh Court, part of the Imago conference facilities owned and operated by Loughborough University.

Although the event is very well subscribed, there may still be further capacity at late notice if anyone is interested in attending and has not yet registered. Full details can be obtained from the BIOA Secretary (secretary@bioa.org.uk). A full report of the Conference will be published in the next (August) issue of the newsletter.

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The 18th Annual Meeting of the Association will take place immediately before the Conference at 11.30am on Thursday, 12 May, also at Burleigh Court. Formal notification was sent to BIOA members in early March.

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**Annual Meeting 2012**

The 3rd Association Dinner and the 19th Annual Meeting of the Association will be held in Belfast, respectively at Belfast City Hall on 17 May 2012 and in the ‘Baby Grand’ auditorium of the Grand Opera House on 18 May 2012. Further details will be provided in the next issue of the newsletter.

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**Review of Rules and Criteria**

Last year the new Executive Committee reconvened its request to the Validation Committee to review the Association’s Criteria (for membership) and Rules. This was a review originally started during 2008, but put on hold temporarily pending the wider “Future Direction” Review carried out in 2009.

A Sub-Group of the Validation Committee was set up, chaired by Ann Abraham, to make initial recommendations to the full Validation Committee and then to the Executive Committee.

These recommendations, approved by the Executive Committee of the Association will be put to the membership at the Annual Meeting on 12 May, subject to full consultation during March. They include:

- The expansion of membership categories from two to three, namely:
  - Ombudsmen Members (current Members/ formerly Voting members)
  - Complaint Handler Members (primarily current Corporate Associate Members in the ‘Complaint Handling Bodies’ category)
  - Associate Members (Individual and Corporate)

- A redrafting of the Criteria for Ombudsmen Members (formerly Voting members) with an additional key criterion of ‘Openness and transparency’, and a reference to the adherence by Members to the BIOA Guides (Principles of good complaint handling and Principles of good governance)

- New requirements for Complaint Handler Members, with a reference particularly to the Guide to Principles of good complaint handling, and a proposal that the Association should not admit to Complaint Handling Membership organisations which use the title of Ombudsman but do not meet the Criteria for Ombudsmen Members. (However, it is not intended that those existing Corporate Associate Members who already have that title will be precluded from continuing membership.)

- Minor changes to the size and composition of the Executive and Validation Committees.

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**Interest Groups**

All the Interest Groups met during the last four months, as follows:

**Research**

On 25 January at the offices in London of the Prisons and Probation Ombudsman with Preth Rao, Head of Policy & Research at the Local Government Ombudsman, as Chair. Topics discussed included:

- Qualitative customer satisfaction surveys
- Mystery shopping
- The Equality Act information requirements and equality surveys
- Public awareness research

**Legal**

On 22 March at the offices in Birmingham of the Legal Ombudsman with Anne Harding, Legal Adviser to the Parliamentary & Health Service Ombudsman, as temporary Chair. Topics discussed included:

- Presentation on the new Legal Ombudsman
- Legal issues at the Legal Ombudsman
- JRs, including update from schemes
- Enforcement of decisions
- Impact of the Equality Act on Ombudsmen
- Open Forum – matters of interest or concern in member schemes

**HR**

On 23 March at the offices in Birmingham of the Legal Ombudsman with Niki Maclean, Director of Corporate Services at the Scottish Public Services

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Continued on page 4
Ombudsman, as Chair. Topics discussed included:
- Presentation on the new Legal Ombudsman
- HR issues at the Legal Ombudsman
- HR law update
- Investors in People
- Dealing with complainants with disabilities
- Open Forum – matters of interest or concern in member schemes

Communications
On 24 March at the offices in Birmingham of the Legal Ombudsman with Sue Fox, Corporate Affairs Director at the Information Commissioner’s Office, as Chair. Topics discussed included:
- Presentation on the new Legal Ombudsman
- Communications strategy at the Legal Ombudsman
- Update on BIOA communications and profile raising initiatives
- Open Forum – matters of interest or concern in member schemes

First Contact
On 15 April at the offices in Coventry of the Local Government Ombudsman with Carol Neill, Outreach Team Leader at the Scottish Public Services Ombudsman, as Chair. Topics discussed included:
- Presentation on the Local Government Ombudsman and its Advice Team
- The adult social care jurisdiction of the Local Government Ombudsman
- Adapting first contact service to meet the needs of prisoner complaints
- Effect of spending cuts on bodies under jurisdiction
- Online complaint forms
- Open Forum – matters of interest or concern in member schemes

Note: Interest Group membership is open to BIOA members and staff of member schemes. For further information, contact the BIOA Secretary (secretary@bioa.org.uk). Copies of meeting notes are in the ‘member’s area’ of the BIOA website.

Fair Premises
The Property Ombudsman
No. 14 in a series
By Ian Pattison, BIOA Secretary

The Property Ombudsman (TPO), previously known as the Ombudsman for Estate Agents, has been located in the beautiful cathedral city of Salisbury in Wiltshire since its inception in 1990. It was established as a complaints scheme for corporate estate agents (i.e. those chains of estate agents owned by large financial institutions such as banks, building societies and insurance companies). The first Ombudsman was David Quayle.

It was not until 1997 that the scheme was widened to take on independent firms of estate agents. Although originally a voluntarily private scheme, it is now one of the schemes officially approved by the Office of Fair Training under the Consumers, Estate Agents and Redress Act 2007 requiring all estate agents to belong to an approved redress scheme. In 2006, the jurisdiction of the scheme was further widened to deal with complaints against letting agents.

From 1990 until April this year, the TPO was located on two floors of a centrally-located older building (Beckett House) in Bridge Street. In order to have more space and better facilities, the office moved to a newer purpose-built office block (Milford House) in Milford Street which is still very central and in one of the older streets.

Salisbury, the only cathedral city in Wiltshire, is the second largest settlement in the county, the largest being Swindon. However, unusually, it is not the county town, that honour going to Trowbridge which became the administrative centre of Wiltshire and county town in 1889 when the county council was formed.

The first Salisbury Cathedral was built between 1075 and 1092. A larger building was built on the same site circa 1120. In 1220 the city of New Sarum, now known as Salisbury, was founded on a great meadow called ‘Merrifield’. The building of the new cathedral was begun by Bishop Richard Poore in the same year. The main body was completed in only 38 years and is a masterpiece of Early English architecture. The 123 m (404 ft) tall spire was built later and is the tallest spire in the UK.

The cathedral contains the best preserved of the four surviving copies of the Magna Carta and a large mechanical clock installed in the cathedral in 1386 - the oldest surviving mechanical clock in Britain.

The town of Salisbury was laid out in a grid pattern. It developed rapidly, and by the 14th century was the foremost town in Wiltshire. The city wall surrounds the Close and was built in the 14th century. There are five gates in the wall; four are original, known as the High Street Gate, St Ann’s Gate, the Queen’s Gate, and St Nicholas’s Gate. A fifth was created in the 19th century to allow access to Bishop Wordsworth’s School located inside the Cathedral Close. A room located above St Ann’s Gate is where the composer Handel stayed, writing several works while there. During the Great Plague of London (1665–1666), Charles II held court in the Close.

The current Property Ombudsman is Christopher Hamer, who has been in post since December 2006.
Our book is based upon an Economic and Social Research Council funded study into the work of ombudsman schemes in the UK, Ireland, Australia and New Zealand. In developing our ideas, we were heavily reliant on many members of BIOA and ANZOA who freely gave up their time to give us the benefit of their experience, for which we are deeply grateful. It is perhaps indicative of the confidence and energy within the ombudsman community that we found all interviewees very happy to participate, and such meetings were one of the most enjoyable and rewarding aspects of our research. The sense of evolution and development that we uncovered led us to the idea of the ‘ombudsman enterprise’. This might seem surprising but it conveys the idea of a bold undertaking, as well as something under development, two descriptions which appropriately apply to many ombudsman schemes.

Our aim in this book is to revise common outdated representations of the ombudsman which too often omit references to recent innovations in their techniques. We also seek to demonstrate the important contribution which the ombudsman can make as an actor in the constitution and administrative justice system. We analyse the evolution of the ombudsman’s traditional dual roles – resolving complaints and promoting good administration. In their complaint-handling, ombudsman schemes have become more customer-focussed and cognisant of their duty to help complainants navigate the complexity of the modern administrative justice system, helped in some schemes by recent legislation easing the formalities of complaining. We also found evidence that ombudsman schemes have become gradually bolder in their work, for instance in making enhanced reference to human rights considerations. In promoting good administration, ombudsmen use a range of techniques to collate and disseminate good practice. Here too, there has been significant experimentation and arguably this area of work will grow.

Recent developments have demonstrated the ongoing importance of some of the trends that we uncovered. In Scotland, for example, the Public Services Reform (Scotland) Act 2010 has added the role of design authority for complaints systems nearer to service users, a role which the Public Services Ombudsman for Wales has been asked to conduct extra-statutorily. In England and Wales, the Law Commission’s most recent Consultation Paper has elaborated its recommendations for legislative reform for five ombudsman schemes, with a key aim being to fit the ombudsman more coherently within the wider administrative justice system. In Northern Ireland, the Assembly has consulted on proposals to update their ombudsman arrangements, including a possible power of own-initiative investigation. In Ireland the Ombudsman has recently issued proposals on how to develop and optimise the office which is in part a response to difficulties with two reports covered in previous issues of this journal.

Developments continued to reshape the ombudsman’s role and work in the unavoidable gap between the completion of a book and its publication. Having completed the writing in the very early days of the Coalition Government, we did not have time to respond in full to the unfortunate decision to abolish the Administrative Justice and Tribunals Council (AJTC). For us, the establishment of the AJTC mapped perfectly with the need to construct a more rational administrative justice system, in which the ombudsman is well-equipped to play a central role. We do, however, cover in some depth the necessity for ombudsman offices to engage seriously in demonstrating their full impact and being more clearly accountable, an increasingly visible item on the political agenda. We argue that amongst a range of accountability mechanisms the ombudsman must interact with, it remains the case that democratic bodies must oversee and work more seriously with the ombudsman than many currently do; a process we designate as ‘setting it right’ to contextualise the more familiar ‘getting it right’ and ‘putting it right’ processes.

Overall we conclude that the ombudsman is in remarkably good health, notwithstanding the extra pressures that significant public expenditure cuts will bring. It is now a constitutionally vital institution operating across and between the public and private sectors. It will be fascinating to observe the direction in which the next generation of ombudsmen take the office.
The Ombudsman Enterprise and Administrative Justice

Review by Michael Reddy

Books about ombudsmen are not known for their catchy titles. The authors say they have chosen the term ‘the ombudsman enterprise’ because, in their view, ‘the ombudsman community in the UK (and in some other jurisdictions) figures as a much more significant element in the delivery of public services and in our constitutional arrangements than has hitherto been recognized in academic literature’. This is an encouraging observation to start with. Certainly, most books about administrative law appear to regard the role of the ombudsman as a peripheral one so it is good to see this comprehensive academic study focusing on public ombudsmen, although it has been a long wait since the last detailed study: Mary Seneviratne’s Ombudsmen – Public Services and Administrative Justice published in 2002.

The public ombudsman world has changed significantly since then, not least through devolution, and this book provides a welcome description and analysis of the many developments that have taken place from a constitutional, legal and public service perspective. It also provides a timely reminder that there is still much work to be done. The many examples of good practice from commonwealth jurisdictions offer considerable food for thought about the way ahead, especially on governance and public engagement.

Rather than analysing each public ombudsman scheme in turn, the authors have largely focused on three practical themes, following a substantial and incisive discussion of the constitutional role of the ombudsman, which they say has never been properly understood. Those themes are based on the Parliamentary and Health Service Ombudsman’s Principles of Good Complaints Handling, namely, ‘Getting it right’ (initial decision making by public bodies), ‘Putting it right’ (the complaints handling function) and ‘Setting it right’ (governance and accountability). The authors are concerned mainly with national ombudsmen in the UK and the local government ombudsmen in England, but there are plenty of helpful references to practices in Australia, New Zealand, Canada and Ireland.

This approach makes for an interesting and thought-provoking read. The various strengths and weaknesses of ombudsman structures are all discussed. The authors seem rather impressed with the durability of ombudsman schemes which they attribute to their flexibility and wide discretionary powers. The modern ombudsman is no longer slow moving and formal, they say, rather s/he is likely to provide a ‘professional, telephone and internet based consumer focused service’.

The book is an excellent guide to many of the dilemmas facing public ombudsmen and their stakeholders; the extent to which the public need to be aware of ombudsmen, for example, the value of own motion investigations, and the ombudsman’s role in preventing things going wrong in the first place. The authors ask some important questions about current ombudsman structures: They query whether independent complaints bodies like the Adjudicators Office and the Independent Case Examiner are a necessary stop in the complainant’s journey, given that the intermediate stage has been abandoned in health care complaints. They have some suggestions for improving parliamentary scrutiny of public ombudsmen, observing that the current accountability framework for local government ombudsmen is flawed. Because ombudsman appointments are generally for longish periods they recommend an external scheme review at the mid-point stage. They consider that judicial review of ombudsmen has shown reasonable deference to their discretionary powers but they are in favour of further improvements to the way the courts interface with ombudsman schemes (as proposed by the Law Commission in 2008/2010).

The authors conclude that because the ombudsman enterprise has now moved to the centre of our constitutional arrangements, a Leggatt (Tribunals) style comprehensive reappraisal and review of ombudsmen and complaints schemes is justified, suggesting a major role for the Administrative Justice Tribunals Council – which, unfortunately, looks pretty unlikely now.

All in all, this book provides a superb critique of the role of the modern public ombudsman. The book leaves you wanting more, which is no bad thing. A deeper exploration of how public ombudsmen grapple with human rights and equality issues would have been interesting, as would an analysis of how other statutory schemes fit into the administrative law scene. Schemes such as the Financial Ombudsman Service and the Office of the Independent Adjudicator for Higher Education, for example, clearly have a place of some kind. One surprising omission is the lack of a statute/case law list.

So who should read this book? Certainly anybody involved in setting up or running a public ombudsman scheme, or subject to the jurisdiction of one. Lawyers, consumer champions, politicians and senior civil servants wanting to understand the current context of the ombudsman would also find this book of great value. It might well be recommended to students of government and constitutional law, not to mention students studying for the BIOA Ombudsman Certificate!

Michael Reddy is a director of Syndicus and a member of the Waterways Ombudsman Committee. He was formerly chief executive of the Office of the Independent Adjudicator for Higher Education.
The Service Complaints Commissioner (SCC) was set up by the Armed Forces Act 2006 to provide independent external oversight of the Service complaints system – the workplace grievance system for all those serving in Britain’s Armed Forces. Service personnel do not have the same employment protections as other employees, such as trades unions or access to employment tribunals, except for some (but not all) claims of discrimination. Nor do they have the same freedoms to escape bad situations, such as bullying or harassment. Proposals for external oversight were made in a Defence Select Committee Report on Duty of Care, 2004/5 and the Deepcut Report in 2005 into the unexplained deaths of four trainee soldiers.

The SCC’s powers are more limited than those of Ireland’s Defence Forces Ombudsman. The SCC can receive complaints from serving and former Service personnel, their families, or anyone on their behalf. She cannot investigate a complaint but can refer it to the chain of command, usually the individual’s Commanding Officer. If the complaint is about bullying, or any other type of improper behaviour, a referral imposes a duty on the chain of command to keep the SCC informed regularly. This provides oversight but without the power to ensure individual cases are dealt with properly and fairly. If the SCC spots a problem in how a case is being dealt with she can only ask questions. She will receive but cannot challenge any decisions.

The SCC has a duty to make an Annual Report to Ministers and Parliament on the efficiency, effectiveness and fairness of the system. The thousand cases the SCC has received since the start date of 1 January 2008 have provided evidence for the SCC’s assessment that the system is not yet working properly. Action on her recommendations has led to significant changes in understanding the value of complaints in improving operational effectiveness and in the structures to manage them. However delay and poor communication are still endemic. The Annual Report for 2010 will include a review of the first three years and make recommendations for simplifying the system and strengthening the SCC’s powers and resources. It is due to be published in late March 2011 and will be available on the SCC’s website at www.armedforcescomplaints.independent.gov.uk.

The first and current Commissioner is Dr Susan Atkins.
By David Ryan, Investigator, Office of the Ombudsman, Ireland

About five years ago the Office of the Ombudsman in Ireland began a process of raising environmental awareness among staff. At the time of the initiative the segregation of domestic waste was very much in the news in Ireland. The initiative therefore dovetailed nicely for purposes of encouraging participation.

The programme was initially focused on encouraging the recycling of material used in the Office. Separate bins were provided in all common areas and eye catching posters clearly indicated the location of the bins. The initiative was a success and there were high levels of cooperation. Staff were clearly happy to ‘do their bit’ and recycling became a normal feature of life in the Office.

In 2009 it was decided to extend the scope of the initiative by encouraging general energy awareness across the Office. A small group was established to examine ways of reducing both our direct and indirect energy demand. The campaign primarily focused on electricity and gas usage. This encouraged people to switch off lights when rooms were not in use, and computers when going to lunch or going home. The IT section also introduced ways in which equipment could be used more efficiently and achieved savings by shutting down equipment which was not in regular use and by moving to more energy efficient hardware. We also encouraged the use of the stairs as an alternative to using the lift. The health benefits of using the stairs was the focus of this aspect of the initiative.

How is it working now and did we achieve any of our goals?

- Recycling is now the norm.
- The use of bottled water in the Office and its replacement with a filtered mains supply was introduced. Our savings in one year alone were €5,600. It had the added benefit that we also avoided the necessity for storing large water bottles and having to facilitate regular deliveries and collections of bottles.
- In 2009 we achieved savings of circa €8,000 on our energy usage.
- Staff still use the lift though perhaps not as frequently.
- Not all staff are as enthusiastic about switching off computers at lunch as they were during the early days of the initiative. Much of this seems to be due to the fact that some consider that switching computers off during lunch was more hassle than it was worth. Later in 2011 our IT unit intends to introduce a compulsory shut down of...
The most recent member to join BIOA - the Legal Ombudsman - launched its service back in October 2010, with formal powers to resolve complaints about lawyers in England and Wales. We’d heard the organisation had a paperless ethos, so asked LeO’s internal communications officer, Faye West, to tell us more...

Here at the Legal Ombudsman, we want to create a sustainable, green organisation that uses available technology to help achieve high performance and swift complaint resolution. We aim to be as paperless as possible, but as we work alongside the legal profession, known for holding client case files that can stretch to box-loads of paperwork, we knew it would prove a challenge. We may not save the planet but we at least hope to save the taxpayer some money in doing so. The Irish government is incidentally now implementing an Energy Conservation Initiative across all state managed facilities. The aim of the initiative is to reduce energy demand by 20%. It is however nice to know that we in the Office were already very much in the vanguard in conserving energy and changing behaviour.

Switching lights off is however generally the norm, though there seems to be a reluctance to do so in common areas. In particular, there is, it appears, a marked reluctance to switch off lights in bathrooms because of the fear of introducing a new meaning to the expression of ‘staff being left completely in the dark’. We examined whether the introduction of light sensors in all rooms would be justified but the cost of replacement fittings did not make this a feasible proposition at the moment.

Was it worthwhile undertaking the initiative?

We think so, though we do accept that getting people to change their personal habits in a work situation, where there is no apparent direct benefit to them, is sometimes a challenge. We may not save the planet but we at least hope to save the taxpayer some money in trying. The Irish government is incidentally now implementing an Energy Conservation Initiative across all state managed facilities. The aim of the initiative is to reduce energy demand by 20%. It is however nice to know that we in the Office were already very much in the vanguard in conserving energy and changing behaviour.

As well as reducing our carbon footprint, this approach means that our offices aren’t crammed with filing cabinets, so the open plan, collaborative working spaces that were designed aren’t compromised in any way.

Our outsourced printing service, using recycled paper, makes sure our outgoing letters are workflow controlled to reduce waste. The on-screen checking of documents, using the dual screens that are a feature of every employee’s desk, mean we don’t need to print proofs before we send documents to our printers. In addition, our assessors and investigators can have documents open on one screen and be writing away on the other. Software tools such as digital sticky notes and instant messaging also help avoid paper use around the office.

‘Our meeting rooms have whiteboards and several are fitted with smart boards,’

The Ombudsman Issue 43
By Susan Hudson, Policy & Communications Manager, Public Services Ombudsman for Wales

A year ago, I wrote about proposals for introducing a common complaints procedure for adoption by public service providers in Wales (The Ombudsman, April 2010). I set out briefly details of the complaint handling process being developed by the steering group chaired by the Ombudsman, Peter Tyndall, and the benefits that a streamlined and common approach could bring.

Following last April, we consulted widely with public service providers on the proposals. These were on the whole widely welcomed and, having made some amendments to take account of comments received, Peter Tyndall as chair of the group submitted advice to the First Minister of the Welsh Assembly Government. The advice put forward retained the original proposals in terms of the number of stages to the procedure: a first informal stage, where frontline staff are provided with the opportunity to resolve service users’ complaints; a second formal internal ‘investigate once, investigate well’ stage; and then, if complainants remain dissatisfied, a third external investigation stage, normally by the Ombudsman.

Following last April, we consulted widely with public service providers on the proposals. These were on the whole widely welcomed and, having made some amendments to take account of comments received, Peter Tyndall as chair of the group submitted advice to the First Minister of the Welsh Assembly Government. The advice put forward retained the original proposals in terms of the number of stages to the procedure: a first informal stage, where frontline staff are provided with the opportunity to resolve service users’ complaints; a second formal internal ‘investigate once, investigate well’ stage; and then, if complainants remain dissatisfied, a third external investigation stage, normally by the Ombudsman.

The Model Policy was developed to be prescriptive with little variance except to reflect the type of service being provided, and also included a model complaint form. The main change as a result of the consultation related to the accompanying Guidance. Here the ‘behind the scenes’ arrangements were made more flexible in order to better accommodate the variations in types of organisations, from the very small community councils (some of which only have one part time employee) to the very large NHS health boards and county/city councils. Pleasingly, the advice has been accepted and the First Minister announced just before Christmas the intention to adopt the Model Complaints and Concerns Policy and Guidance. These were developed to be compatible with the new statutory NHS redress arrangements in Wales, which came into effect on 1 April 2011. It was the First Minister’s intention that the Model Complaints and Concerns Policy would be issued to coincide with this April date.

With its implementation we very much hope to see the benefits envisaged, amongst them the eradication of uneven practice and performance, eradication of multi-stage processes which only add to complainants’ annoyance and frustration, and a better user experience for complainants whose complaints span more than one organisation.

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Rob continued. ‘We’ve also invested in digital signage throughout the two floors we occupy which we use to broadcast key messages to staff, including call centre statistics and information about upcoming events and activities. They’re regularly reviewed and updated and allow us to be more creative in our approach to internal communications.’

Our intranet forms the main communication channel for staff across the organisation, alongside regular briefings involving all staff, where information is cascaded and staff encouraged to feed back in an open forum.

The monthly briefing note distributed to team leaders and managers is created as a PowerPoint presentation, to enable them to deliver it to their teams and gather questions and comments without using paper.

But what do Legal Ombudsman staff think about working in an environment where use of the humble pen and paper is discouraged?

‘It takes some getting used to – especially as I’ve been used to handling correspondence and scribbling away on notepads while I’m on the telephone,’ said James Pierce, Investigator. ‘However, it means that the information we hold as an organisation is more secure and easily accessible. As we encourage telephone and email contact where possible, we can work faster than if we just relied on handling cases using mail. I like working for an environmentally conscious organisation that is serious about reducing paper waste and being as green as possible.’

If you want to find out more about the investment the Legal Ombudsman has made in creating a sustainable and green working environment, please get in touch with Rob Hezel at rob.hezel@legalombudsman.org.uk.
The expansion of the Local Government Ombudsman’s adult social care remit last year brought many new dimensions to our work. Instead of about 250 councils with adult social care responsibility the LGO now has jurisdiction over the 13,000 or more care service organisations registered with the Care Quality Commission (CQC) as providers of adult social care.

Introduced in October 2010, the new power to deal with complaints from people using adult social care services who self fund or arrange their own personal care was prompted by the rapid change under way in how personal care for adults is arranged and provided. Historically councils’ social services departments both assessed people’s care needs and provided services for adults in their area. But a growing number made their own private arrangements for care with private care homes and home care providers, especially if they had funds above the threshold for public support.

Now there is a complex blend of publicly and privately organised services. These provide personal care for many younger people living in the community as well as older citizens living at home or in residential care. Councils may assess care needs but now often provide people with personal budgets that allow them to commission their own services. So many people were in private contracts with no recourse other than the courts if they felt something had gone wrong with the care provided for themselves or someone they cared for.

This gap in routes to redress was affecting an increasing number of people, many of whom are vulnerable.

At the start of the project back in April 2009 we already had strong links, of course, into the councils’ statutory sector, but had to build new relationships across the private sector before we could develop ways to adapt our service models to be suitable for the current mixed economy in care.

We decided at an early stage to create specialist teams to deal with the adult social care workload. By July 2010 we had established three teams, one in each of our offices. Some existing staff transferred but two thirds were new recruits from the public and private sectors, as well as advocacy organisations. This is giving us a potent blend of skills and experience for handling the new mix of work.

Certain aspects of our new jurisdiction are subtly different for private sector providers, when compared to the public sector remit. So there has been much to reconsider about how and when to exercise our discretionary powers, under both parts of our jurisdiction. It is too early yet to have achieved a settled position until we have more decided cases under our belt – our current approach is to take each case on its merits, but to try and maximise the shared learning across the offices to maximise consistency of approach.

The new jurisdiction has brought us into new relationships with councils. In one case they may be the body in jurisdiction, in the next they may be the safeguarding lead, and intervening with a private provider to deal with an allegation of abuse. In a third instance they may be the commissioner of services for another service user, not involved in this complaint. We have to maintain proper confidentiality in our investigations but balance that requirement against the ‘need to know’ principles that can protect vulnerable people. It’s a complex environment.

Similarly we have developed a memorandum of understanding with the regulator CQC to establish when and where to share information. We tell the regulator when an upheld complaint identifies shortcomings relative to the registration standards. When necessary, they release to us information about a registered provider that may be relevant during a complaint investigation. But the distinction between us must remain clear: the regulator can intervene when essential standards are breached, requiring the registered provider to come into compliance. Only the Ombudsman can deal with a complaint investigation and, where appropriate, get redress for the individual adversely affected by a provider’s actions.

We have started with neither a bang nor a whimper. We were ready, on time and on budget to receive new jurisdiction cases on 1 October 2010. In the first five months from launch we have seen fewer new jurisdiction complaints than expected. They have come in, in fits and starts, alongside a bulge in the existing work. The new teams have bonded well, and are enjoying their specialist role. Each new case extends our thinking and learning.
Nigel Ellis
Deputy Local Government Ombudsman

In June last year, I took up the post of Deputy LGO, based in the London office in Millbank Tower. There is huge variation between the thousands of cases we investigate each year so the role is both fascinating and challenging.

I have previously worked as a parliamentary lobbyist, consumer rights researcher, Director for a national charity (the MS Society) and, most recently, I was part of the newly-created health and social care regulator, the Care Quality Commission, as Head of National Inspection and Assessment, leading eight different specialist teams of inspectors, investigators and professional advisors.

Before this, for five years I was Head of Investigations at the Healthcare Commission, which involved identifying serious failings in the NHS and independent healthcare, and ensuring that action was taken to improve safety on behalf of people using services. Investigations were often high profile, looking into some of the worst cases of systemic failure in recent years including: high mortality rates at Mid Staffs NHS Trust, outbreaks of hospital infections at Maidstone and Stoke Mandeville, abuse of people with learning disabilities at Cornwall Partnership Trust, maternal deaths at Northwick Park Hospital, and the failure of services to Peter Connolly in Haringey.

One of the most important parts of that job was to try to ensure that lessons were learnt as widely as possible and, where necessary, improvements made across the country to avoid recurrences. However, it never ceased to amaze me how often the serious problems uncovered during an investigation were already known about by staff – and tolerated – for literally years, either because ‘that’s the way it is around here’ or because individuals felt that it was too hard to struggle against ‘the system’.

This is where LGO plays a crucial role already, and one which will become even more important against a backdrop of budget reductions. It also appears to me that LGO’s role fits well with the current vision for a public sector which makes sure that professionals are accountable to the public, whilst at the same time avoiding the imposition of overly bureaucratic rules and targets.

Tony King
Pensions Ombudsman

Tony has been the Pensions Ombudsman since September 2007; he also holds the subsidiary role of Pension Protection Fund Ombudsman. Both appointments are made by the Secretary of State for Work and Pensions - and there is a certain irony in where he has ended up. After reading English at university (with a little Welsh and Philosophy on the side), Tony applied to join the Civil Service saying, for reasons that he claims now escape him, that he was most interested in working in the Department of Social Security (antecedent of the DWP). But instead of that he headed off into the private sector. Thirty-odd years later …

The private sector stint took in an insurance company, a firm of solicitors and, for the longest period, a financial services consultancy where Tony was eventually heavily involved in pension scheme trusteeship and administration (including, with dreadful timing, developing a software system running on a particular variety of mini computers just before they were superseded by PCs and the once world-wide computer manufacturer went bust).

In 1993 Tony joined the Pensions Ombudsman’s two year old office as casework director. As the Pensions Ombudsman was the first statutory ombudsman with a mixed public and private sector jurisdiction – and binding powers subject to appeal – the next few years presented considerable excitement; particularly with the pensions industry reeling from the Maxwell scandal and several high profile cases involving large schemes (the highest value case being just under £200m).

The years 2003 to 2007 saw a turn at the Financial Ombudsman Service, ultimately as the ‘Lead Ombudsman’ for pensions and securities. Then came the return to the Pensions Ombudsman’s Office, this time as the Ombudsman.

Outside work, Tony likes to annoy long suffering neighbours with a variety of musical instruments - the most likely to offend being an electric guitar (a Les Paul standard, for those who care). No doubt to the relief of the neighbours he also enjoys occasional long distance walks. He lives in Highbury, North London with his partner (she is inured to noise and allergic to very long walks). He claims to be largely untainted by the proximity of the Emirates Stadium, preferring the oval ball. Though having lived in the area for nearly 35 years he admits that he is happy to see Arsenal doing well at the moment.

Oh – and he is also the Pensions Ombudsman for the Isle of Man by appointment by Isle of Man ministers.
Beverley Wakem CBE
New Zealand Chief Ombudsman and President, International Ombudsman Institute

Beverley Wakem is currently the Chief Ombudsman for New Zealand, a post she has held since April 2008. She is also the new President of the International Ombudsman Institute (IOI), having taken over the presidency recently from Mats Melin, the recently-retired Swedish Chief Parliamentary Ombudsman.

Beverley's background is in broadcasting, public relations and consulting. Beverley had a distinguished career in broadcast news, current affairs and general programming culminating in her appointment as Chief Executive of Radio New Zealand Limited in 1984 - a post she held until 1991. During this period Beverley was also President of the Asia Pacific Broadcasting Union.

From 1991-1996 Beverley was General Manager Human Resources and Corporate Affairs for Wrightson Limited, a company providing various products, services and solutions to farmers, growers and processors in New Zealand, and to end-users internationally. She subsequently undertook freelance management consulting largely with the state sector and held a number of private sector directorships. She was appointed by the Government to the Higher Salaries Commission (now the Remuneration Authority) in September 1997. She was reappointed to that body in 2001 and again in 2004.

In March 2005 Beverley was appointed as a New Zealand Ombudsman, and in April 2008 was appointed Chief Ombudsman.

Having been a Board member of the International Ombudsman Institute representing the Pacific region, Beverley was elected President in October 2010. She is keen to see the IOI as the pre-eminent Ombudsman organisation, but needing to recognise that other organisations have sprung up which may offer more immediate professional support and development to Ombudsman colleagues at a regional and sub regional level. She is aware of the need to rebuild alliances with these groups and with other international integrity institutions to complement the IOI's own renewed efforts to be relevant to its members.

Beverley is also very aware of the importance of the IOI's role nationally and internationally in 'maintaining the rule of law and respect for principles of justice and equality'. It will help to focus the attention of UN member states on their obligations in this regard and the importance of ensuring that the office of the Ombudsman is well supported by the legislature, properly resourced to carry out its work and free from partisan pressure.

This is not yet the case in some parts of the world where Ombudsman offices have been left vacant for long periods and citizens’ appeals for justice are not being answered. Or where attempts have been made to rewrite legislation to abridge citizens' rights of access to information that they need in order to participate effectively in the democratic process. Or where human rights continue to be ignored at best or, at worst, refused.

Beverley was awarded a CBE in 1990 and the 1990 Commemoration Medal.
The launch last month of Care and Compassion?, our report on investigations into NHS care of older people made headlines throughout the country. The stories within the report of the treatment experienced by ten older people and their families in hospital, or under the care of their GP, resonated deeply with lots of people. We received many phone calls on the day the report was published, and in subsequent days, from members of the public wanting to share their own experiences of poor quality care, or add their voices to the debate.

The report contains some harrowing accounts about how the NHS is failing to treat older people with care and compassion: the qualities that its own constitution says are what matter most. Prevailing themes include poor communication and nutrition, shambolic discharge arrangements, failures in medication and pain management and poor complaint handling.

Part of the role of an Ombudsman is to stand in for the ordinary citizen when challenging bureaucracy, acting as the people’s representative and seeing things from their perspective. Where bureaucracy risks being overwhelming, it is the task of an Ombudsman to redress the balance in favour of the ordinary, the routine and the more distinctively human dimension.

Thus, it was important for us to tell the stories in Care and Compassion? simply, with an emphasis on the humanity and individuality of the people concerned, using their own words, or the words of their relatives, where possible. We had significant contact with the friends and families of those who died as we drafted the case studies and scripts for online films. It was only through their contributions that we were able to paint pictures of ten individuals, each with different skills and qualities, loved by their families and friends, all of whom suffered unnecessarily as a result of poor patient care.

After the first, shocked
By Brian Thomson, Complaints Reviewer, Scottish Public Services Ombudsman

The death occurred of Kenneth Bratton on 9 February 2011 at the age of eighty. Born in Hartlepool, Ken saw national service in the Royal Navy, and entered a career lecturing in public administration, latterly at Falkirk College. Ken was appointed by Robert Moore CBE, as Secretary in the office of the Commissioner for Local Administration in Scotland. During his fifteen years in office, Ken served under three subsequent Ombudsmen.

Ken worked closely with his fellow Secretaries in England (Mike Hyde) and Wales (Hywel Jones) and their early networking led to their Ombudsmen regularly attending meetings of the Commission for Local Administration in England, laying foundations for the subsequent establishment of the British and Irish Ombudsmen Association in late 1991. On the international front, Ken regularly attended meetings of European Ombudsmen and published two occasional papers for the International Ombudsman Institute. The first in 1982 followed from a British Council sponsored visit to Lisbon, where he examined and compared the office of the Provedor de Justiça with the Scottish Local Government Ombudsman’s office.

Ken was also an innovator. He actively encouraged research into the workings of the Local Government Ombudsman in Scotland. James Logie and Paul Watchman’s study was published as The Local Government Ombudsman in 1990 and Kathleen Thompson completed her PhD dissertation at Glasgow Polytechnic (The Office of Commissioner for Local Administration in Scotland: A Socio-Legal Study of its Nature and Effectiveness) in 1991. Ken also entered into an agreement to take public administration course students on summer placements and he assisted an international exchange in 1985 of investigators between the Scottish Local Government office and the office of the Alaska State Ombudsman. He oversaw the introduction of word processors and electronic record keeping to the Scottish Local Government Ombudsman’s office, the extension of its jurisdiction to include the housing functions of New Town Development Corporations and the Scottish Special Housing Association, and the opportunity of direct access for complainants in May 1988. One change Ken identified in 1985 (the ability to look into administrative matters in local government schools and colleges) was eventually incorporated seventeen years later in the Scottish Public Services Ombudsman Act 2002!

Among the mourners were Drs Frouwe de Boer, the former Rotterdam City Ombudsman and former colleagues. Ken is survived by his wife Lesley, (a granddaughter of the author Neil Munro), a son and daughter, grandchildren and great-grandchildren.
Accredited Training Courses

New BIOA-approved training courses are to be run by Queen Margaret University (QMU) in London this summer. They are:

**Professional Award in Ombudsman and Complaint Handling Practice:**
- **28 June – 1 July**

**Professional Certificate in Ombudsman**

The summer courses are being run at Millbank Tower in London. QMU intend to hold further courses in Warrington later in the year (October/November) and, subject to demand, in Edinburgh in February 2012.

Last year’s pilot courses took place at QMU in Edinburgh. In December 2010, the Office of the Ombudsman, Ireland, invited QMU to deliver the Professional Award in Ombudsman and Complaint Handling Practice course in its office in Dublin.

There is more information about the London courses on the BIOA website, www.bioa.org.uk.

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**Invitation to INFO2011**

Canada’s Ombudsman for Banking and Investments (OBSI) is hosting the annual conference of the International Network of Financial Services Ombudsmen Schemes in Vancouver, Canada, from 19-23 September. This year’s INFO2011 is taking a thematic approach to the programming that may be of interest to Ombudsman offices from outside of the financial services sector.

Full conference information and registration can be found at www.INFO2011.ca

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