

Ombudsman Association
Box 308
Twickenham
Middlesex
TW1 9BE

020 8894 9272
secretary@bioa.org.uk
www.bioa.org.uk

Chair: Tony King
Secretary: Ian Pattison

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(justicecom@parliament.uk)

To whom it may concern

Ombudsman Association submission to the Justice Committee on the abolition of the Administrative Justice and Tribunals Council

1. Introduction

The Ombudsman Association was established in 1991 and includes as members all major Ombudsman schemes and complaint handling bodies in the United Kingdom and Republic of Ireland. The Association's objectives include:

- encouraging, developing and safeguarding the role and title of Ombudsmen in both the public and private sectors
- setting criteria for the recognition of Ombudsman offices by the Association
- formally recognising those persons or offices who satisfy the criteria
- facilitating mutual learning and providing services to members designed to develop best practice working to raise the profile of Ombudsmen and the understanding of their work

The Association welcomes this opportunity to submit evidence to the Justice Committee about the proposed abolition of the Administrative Justice and Tribunals Council (AJTC).

Our submission is informed by the experience we have gained representing and working with our member schemes, who together form a key part of the wider administrative justice landscape, as well as with many years of close co-operation and involvement with the AJTC and its predecessor body, the Council on Tribunals.

2. Concerns about an MoJ oversight role

The Association's concerns about the role of the AJTC being taken over by the Ministry of Justice (MoJ) are primarily around the issues of:

- independence from Government;
- the perception of exclusivity of administrative justice within MoJ;
- the need for broad influence and engagement.

2.1 Independence

The Association does not feel that the oversight of administrative justice within the MoJ would be seen as independent, nor would it be truly independent. There would always be a concern that oversight through a central government department may be influenced by government policies and would not therefore be able to provide the necessary independent scrutiny, recommendations and advice required and expected from an oversight body.

Furthermore, without an independent 'champion' such as the AJTC, there is a fear that administrative justice would suffer as the 'poor relation' of justice, second to the criminal and civil justice systems. Administrative justice, including ombudsmen, is of increasing importance and benefit to citizens and consumers seeking redress and remedy for injustice created by public and other bodies.

2.2 Exclusivity

The positioning of administrative justice oversight within the MoJ would give the incorrect perception among government, government departments, MPs and the public that administrative justice is the exclusive concern of MoJ. That is not the case, especially where ombudsmen are concerned. MoJ is currently sponsor department for only two ombudsmen (Legal Ombudsman and Prisons & Probation Ombudsman). Currently, other government departments concerned with public sector independent complaint handlers/ombudsmen include:

- Department for Communities and Local Government: Local Government Ombudsman and Housing Ombudsman
- Home Office: Independent Police Complaints Commission

The Parliamentary and Health Service Ombudsman has no sponsor department, but is answerable to Parliament, through the Public Administration Select Committee

Within the private sector, and arguably also concerned with administrative justice, especially where former public utilities are concerned, regulators concerned with ombudsmen include:

- Financial Services Authority - Financial Ombudsman Service
- Ofcom - Ombudsman Services: Communications (formerly Telecommunications Ombudsman)
- Ofgem - Ombudsman services: Energy (formerly Energy Ombudsman)

The Department of Health, as part of its review into cosmetic interventions, is considering an ombudsman for that sector, and the Department for Business innovation and Skills is involved with EU proposals for alternative dispute resolution for all suppliers of consumer goods and services.

So it can clearly be seen that MoJ is far from having a monopoly in the administrative justice arena. It is inconsistent with the landscape to place the responsibility for oversight with it.

2.3 Broad influence and engagement

Because of the wide range of bodies and departments engaged with administrative justice, the body charged with oversight needs to be able to stand back; to take in the 'bigger picture'. And it needs to be held in respect by all, so that it can command sway and influence. It is self-evident that an independent body is in the strongest position to do so. There is not strong precedent for government departments responding well to oversight by other departments – but putting that to one side, the need for respect and influence extends outside government to the public and institutional stakeholders.

Finally, the AJTC has a UK wide oversight of administrative justice, having both Scottish and Welsh Committees. There is considerable danger, the Association feels, of losing that wider oversight and concentrating solely with provision in England, should the AJTC's role be taken on by MoJ.

3. Conclusion

The Ombudsman Association has a strong belief in the value of independent oversight of administrative justice. For the reasons set out above, the Ombudsman Association supports the current role and functions of the AJTC and supports its retention, even if in a revised form. It does not believe that MoJ oversight, even with the support of the Administrative Justice Advisory Group, will be an appropriate or adequate substitute.

Yours faithfully

Tony King
Chair