

16 June 2015

A PUBLIC SERVICE OMBUDSMAN CONSULTATION

The Ombudsman Association welcomes the opportunity to respond to the consultation on the creation of a new Public Services Ombudsman to bring together the existing jurisdictions of three of our members.

There are differences of opinion amongst our members on what model would best deliver the principles that the proposed reform is based upon and I am aware that several of our members will be submitting individual responses to the consultation. This response therefore reflects the overall views of the Ombudsman Association, and does not necessarily reflect the views of all members on every detail.

Background

1. The Ombudsman Association (formerly the British and Irish Ombudsman Association) was established in 1993 and includes as members all major public and private sector Ombudsman schemes and complaint handling bodies in the United Kingdom and the Republic of Ireland, as well as in Britain's Crown Dependencies and Overseas Territories.
2. The Vision of the Association is that throughout the public and private sectors:
 - It is straightforward and simple for people to complain.
 - People making a complaint are listened to and treated fairly.
 - A complaint is dealt with quickly, fairly and effectively at the earliest stage by suitably trained staff.
 - People have access to an ombudsman in all areas of consumer and public services.
 - The learning from a complaint is used to improve services.
3. The Association's objectives are to:
 - a) Support and promote an effective system of complaint handling and redress in the United Kingdom, Ireland, Britain's Crown Dependencies and Britain's Overseas Territories.
 - b) Encourage, develop and protect the role of ombudsmen in both the public and private sectors as the 'best practice' model for resolving complaints, according recognition through membership.
 - c) Provide an authoritative voice and promote best practice and policy for those involved in complaint handling and redress to ensure an effective service for the public.
 - d) Support open and transparent accountability and endorse principles of good complaint handling.
4. Ombudsmen help to underpin public confidence in the institutions that they cover – by providing accessible and effective redress, and by feeding back the

lessons from their work in order to help improve service delivery and complaints-management for the future.

Consultation Questions

Q1. Do you agree that these principles should underpin reform of the Ombudsman Service?

5. The Association agrees that the reform of public services ombudsmen should be underpinned by the principles of making it more accessible for citizens, being accountable to Parliament, not Government, and providing value for money.

Q2. Would you welcome the creation of a single Public Service Ombudsman service and are these the right services to be included?

6. The Association strongly supports the simplification of redress for citizens in England through the creation of a single public services ombudsman and notes the approach taken in Scotland, Wales and Northern Ireland.
7. There is strong disagreement amongst the Association's members around which services should be included in the new organisation. The Association is aware that individual members will be drawing attention to the challenges around the housing sector, and the concern around any new organisation having both a UK and an England-only jurisdiction. The Association supports any further consideration around these issues.
8. The Association's position is that citizens should have access to an ombudsman in all areas of consumer and public services. Notwithstanding the decisions that are made about which services may form part of any new organisation, the Association feels that this opportunity should be taken to ensure that all public services come under the jurisdiction of an ombudsman.

Q3. If so, do you agree with the founding principles for such organisation?

9. The Association has long established 'Principles of Good Governance'¹ and Criteria for Ombudsman membership² which are recognised internationally and by the UK Government³ as best practice. The Association would expect these to be taken into account when the detail of the new organisation's structure and governance is considered.
10. The independence of the new organisation is vital. It should be fully independent of Government and accountable to Parliament, as the PHSO currently is, rather than to a Government department as is the current case with the LGO and the Housing Ombudsman. This would reflect best practice internationally.
11. The new organisation should remain as the final tier of the redress process; having the ability and scope to encourage best practice throughout the system, whilst remaining at the apex of the complaints system for the jurisdiction covered.

¹ <http://www.ombudsmanassociation.org/docs/BIOAGovernanceGuideOct09.pdf>

² <http://www.ombudsmanassociation.org/docs/OA-Rules-Schedule-1.pdf>

³ One of the criteria that a company has to meet before it can use the term 'ombudsman' is to be an Ombudsman Member of the Ombudsman Association:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418150/GP1_Incorporation_names_v5_4-ver0.29-4.pdf

12. The Association agrees that the new organisation will have to ensure it has the relevant knowledge and experience of the different sectors to be able to speak with authority, and to ensure there is no diminution in the quality of service currently provided.

Q4. Should a single public service ombudsman organisation also retain specific sector facing services and staff in e.g. Health or Housing? and Q5. Should each sector within the organisation be led by a senior ombudsman (or someone of equivalent status) e.g. a Housing, Local Government or Health Ombudsman?

13. The Association would expect any ombudsman service to be able to demonstrate knowledge and understanding of the sector under their jurisdiction and to be able to provide an authoritative voice on any sector specific issues. There are many ways that organisations which already cover multiple sectors achieve this and we would expect any new organisation to do so as well.
14. To meet the principle that an Ombudsman institution should be independent, the Association's position is that the new organisation should be free to determine its own structure as it sees fit to deliver its service and ensure a focus on specific areas, whether that be because of volume of caseload or because of sector specific nuances.

Q6. Is 'Public Service Ombudsman' the appropriate title for a new organisation?

15. The Association is aware that concerns have been expressed by some of our members both about the geographical jurisdiction of the proposed new organisation, and the need for the agreed jurisdiction to be reflected in the organisation's title, so as to avoid confusion for citizens in relation to the existing bodies in Scotland, Wales and Northern Ireland that already have 'Public Services Ombudsman' in their title.
16. Further consideration may therefore need to be given to the title of the organisation once its jurisdiction has been agreed.

Q7. Do you agree that there should be the widest possible routes of entry to a Public Service Ombudsman?

17. The Association agrees that there should be the widest possible routes of entry to the new organisation, including by email, telephone and online.
18. The Association agrees in principle that a 'no wrong door' approach should be adopted to assist citizens across the public sector. We do however note the potential complexity, and cost, in delivering such a service and would urge that when this is considered in more detail the activities of other organisations in this area, such as Citizens Advice, the Complaints Wales Service, and other ombudsmen dealing with complaints about public services, are taken into account.

Q8. In what ways could it be made easier for citizens to access resolution and redress?

19. The Association strongly believes that access to justice should be unhindered; citizens should have direct access to an ombudsman. We strongly support the removal of both the 'MP filter' for complaints about central government and the recently introduced 'democratic filter' for housing complaints. Both 'filters' are in fact an unnecessary barrier to justice. Citizens should be free to approach an ombudsman with the support of an elected representative (or any other advocate) but should not be forced to do so or denied access to redress if they choose not to.

Q9. Would you support a wider role for a PSO as a champion of effective complaints handling across the public sector?

20. The Association would support a wider remit for the proposed new organisation to formalise the role that ombudsmen already play in championing best practice and driving improvements in complaint handling across public services.
21. The Association notes the role the Scottish Public Services Ombudsman currently has as the Complaints Standards Authority and the consideration currently underway in Wales and Northern Ireland around giving this role to their own public services ombudsmen. The Association agrees that further consideration should be given to how any new body could effectively champion best practice.

Q10. What range of investigative tools do you think the PSO might need?

22. The Association's position is that all ombudsmen should have the power to begin investigations on their own initiative into matters within their jurisdiction. This is an important tool for the proposed new ombudsman to have, as shown by those ombudsmen elsewhere in Europe, notably in the Republic of Ireland, who already have this power.
23. The Association notes that consideration is already underway in the Welsh Assembly and in Northern Ireland to giving this power to their own public services ombudsmen, and that the UK Government has already agreed a recommendation that the Independent Police Complaints Commission should also have these powers.
24. The Association does however note that there might be an inclination to try and define the circumstances under which that power could be used in a way that might be unnecessarily narrow and as a result weaken the impact the new ombudsman could have. We would suggest that the language used elsewhere where these powers have been effective is taken into account when considering how the scope of the new organisation's own initiative power is drafted.

We would be happy to provide any further information if you would find that helpful.

Yours sincerely

Lewis Shand Smith
Chair, Ombudsman Association