

OMBUDSMAN ASSOCIATION

Promoting independent complaint resolution

23 June 2016

CALL FOR EVIDENCE: IMPROVING THE CONSUMER LANDSCAPE

The Ombudsman Association welcomes the opportunity to respond to the call for evidence on improving the consumer landscape. Our response is attached at Annex A.

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.

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.

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.

Ombudsman schemes 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.

We have restricted our comments to the first part of the call for evidence on the consumer landscape, namely questions 1-9 and 12.

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

Yours sincerely

Donal Galligan
Director

**Annex A - Ombudsman Association response to Call for evidence:
Improving the consumer landscape & switching**

Confidentiality and disclosure of responses

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses. If you wish your response to remain confidential you must provide a reason. Do you agree for your response to be published or disclosed if requested?

No

Your details

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Please tick the box from the list that best describes you, your company or your organisation

Other? (please state what): an Association

If responding on behalf of an organisation, please state the name of your organisation

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We have restricted our comments to our area of expertise, namely Questions 1-9 and 12.

Q1. Are there problems with the current provision and routes to advice and information for consumers in these sectors?

Yes

Q2. If yes, what are these problems and how can provision be improved?

The provision of advice and information for consumers in these sectors suffers from the same problems faced in the wider consumer sector; namely the confusion about where, and whether, people can seek independent redress.

The complicated landscape means that in some areas (e.g. energy) there is clear access to one ombudsman, whereas in another (communications) the company could be signed up to either an ombudsman or another ADR provider, and in water and the rail sectors there is not access to an ombudsman at all.

Creating a 'single portal' for advice and information would be beneficial for consumers. The current convoluted landscape means that advice and information needs to be provided by highly skilled and experienced staff, with an in-depth knowledge of the different nuances of each sector. Anecdotal evidence, from consumers contacting the Association seeking advice, is that it is felt that Citizens Advice do not currently have enough resource in order to meet demand.

Q3. Are there problems with the way that consumers are represented in these sectors?

Yes

Q4. If yes, what are these problems and how can it be improved?

The Association does not have any evidence that consumer advocacy is not effective in these areas, but our expertise in complaint handling shows that it is very important to separate consumer advocacy from complaint handling, to ensure a truly independent complaints process for both parties; the consumer and the provider. At the moment, there does not appear to be clear separation of advocacy and complaint handling in the water and rail sectors.

Q5. Are there problems with the current provision of ADR in these sectors?

Yes

Q6. If yes, what are these problems and how can provision be improved?

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At the moment people do not have access to an ombudsman in several sectors. In some instances, for example in communications, an ombudsman exists but there is also a rival ADR provider (that either does not provide a free service or does not meet the Association's criteria of Independence; Fairness; Effectiveness; Openness and transparency; and Accountability) delivering a complaint handling service for some companies. In other sectors an ombudsman exists but it is not compulsory for a business to be signed up to one (or indeed to any ADR provider). It is not the consumer that gets to choose whether to access an ombudsman, but rather the company that they purchase from. In the case of water and rail an ombudsman does not exist at all in those areas.

This causes confusion for consumers, weakens both their ability and the opportunity to secure redress and undermines consumer trust in these sectors.

The Ombudsman Association's Guiding Principles state that: *"In the case of private sector schemes, the Association is opposed to the fragmentation of redress schemes within a single industry. The Association prefers there to be a single Ombudsman within an industry. Where more than one scheme is established within an industry, the Association will normally only afford recognition to the scheme or schemes to which a substantial number of firms in the industry belong."*¹

The principle of non-proliferation is based on a presumption that it is in the interests of consumers for access to redress to be simple and straightforward. The establishment of more than one Ombudsman scheme within an industry can create consumer confusion and uncertainty. The principle is consistent with the general direction of consumer policy in the absence of legislation establishing mandatory ombudsman schemes in all areas of consumer and public services.

In recognising the success of mandatory ombudsman schemes in both the energy sector and the financial sector in the UK (to name just a few), it is clear to the Association that the provision of ADR would be improved in all of these sectors if a mandatory ombudsman scheme were established.

Q7. Should the criteria for allowing the use of the word Ombudsman be strengthened and if so how?

Yes

Protection of the word 'Ombudsman' should be strengthened. Holding 'Ombudsman Membership' of the Ombudsman Association is currently one of the criteria used by Companies House, recognising the best practice enshrined in our criteria of: Independence; Fairness; Effectiveness; Openness and transparency; and Accountability. To ensure members continue to meet our criteria they are re-validated on a regular cycle (currently at least every 5 years) to ensure they remain compliant, and can be expelled from the Association if they no longer meet our criteria.

¹ www.ombudsmanassociation.org/docs/OA-Rules-Schedule1.pdf

The Association understands that Companies House do not have the power to 'strip' a company of the right to use the title 'ombudsman', once approved, and that they cannot close a company down, or their website, unless it is causing 'serious harm to the public' (presumably a fairly high bar).

Giving the Secretary of State / Companies House the power to withdraw permission for a company to use the title 'ombudsman', if for example it no longer met the Companies House criteria, would encourage continued compliance.

Increasing the deterrence for misusing the term 'ombudsman' would also strengthen its protection. The fine that companies face for using the term 'ombudsman' without permission, currently £100/day, could be considered small in light of the possible advantages in a competitive ADR environment. Increasing the fine to £1000/day, or more, would be a greater deterrent.

QB. Is there scope to make consumer complaints data in these sectors easier to access and more widely available?

Yes

Q9. If yes, how can this be achieved and what protection should be included?

Putting in place a statutorily underpinned ombudsman, mandatory for providers to be part of, with suitable powers to investigate and publish data / information about complaints, as in the energy or financial sectors, would make consumer complaints data in these sectors easier to access and more widely available

Q12. What more can be done to get consumers their money back and give them information on a business' past performance when consumers have suffered detriment in these sectors?

A statutorily underpinned ombudsman, mandatory for providers, with suitable powers to investigate and whose decisions were binding, would greatly strengthen the consumer's ability to recoup money and increase the information publicly available on a business' past performance.