

# OMBUDSMAN ASSOCIATION

Promoting independent complaint resolution

29 July 2016

## IMPROVING ADMINISTRATIVE REDRESS

The Ombudsman Association welcomes the opportunity to respond to the Jersey Law Commission's consultation on Improving Administrative Redress in Jersey, and in particular on the proposal to create a public services ombudsman.

### 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, the Republic of Ireland, Britain's Crown Dependencies and Britain's Overseas Territories.
2. The Vision of the Association is that throughout the public and private sectors in those countries and territories:
  - 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. The Association has two membership levels: 'Ombudsman Member' - for those organisations that meet the five key criteria of independence, fairness, effectiveness, openness and transparency, and accountability - and 'Complaint Handler Member', for those organisations that operate in accordance with the Association's Principles of Good Complaint Handling, but do not meet the criteria for that of an Ombudsman Member.

## **States of Jersey Complaints Panel**

5. The States of Jersey Complaints Panel (SCP) has been a 'Complaint Handler Member' of the Ombudsman Association for several years, meeting the relevant criteria for that category of membership<sup>1</sup>.
6. The Association understands that the SCP has already made some changes to its approach and procedures in relation to that described in the consultation paper, and is open to further changes that might make it more effective. If a decision is taken not to introduce a public services ombudsman the Association will of course continue to support the SCP in improving the service it provides, as appropriate.

## **Jersey Public Services Ombudsman**

7. The Association supports the recommendation that a public services ombudsman be established, following a review into the benefits and costs of doing so.
8. The Association's position is that members of the public should have access to an ombudsman in all areas of consumer and public services. An ombudsman helps 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.
9. The consultation paper sets out many of the benefits that an ombudsman model has over other complaint handling models and these are reflected in our membership criteria<sup>2</sup>.
10. Ombudsman schemes are an alternative to the courts, and it is the differences between the two that help explain the popularity of the institution not only in the British Isles, Crown Dependencies and Overseas Territories (in both the public and private sectors), but also around the world.
11. One of the issues raised in the consultation report is the relatively low numbers of complaints currently received by the States of Jersey Complaints Panel.
12. Surveys carried out by our members<sup>3</sup> and by consumer groups show that 'ombudsman' is becoming an increasingly recognised and trusted term. One of the key foundations for that public trust is the independence of an ombudsman, which is reflected in the Association's criteria for Ombudsman Membership. Our

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

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

<sup>3</sup> <http://www.financial-ombudsman.org.uk/publications/annual-review-2016/ar16.pdf> pp.91-92

members have cultivated the public's awareness of these values to encourage the use of their services by citizens.

13. Another factor in the success of the ombudsman model is the inquisitorial approach taken, as opposed to the adversarial approach taken in the courts. Although some people may want their 'day in court', many are put *off* by the idea that aspects of their personal lives will be interrogated in public. Ombudsman schemes publish summaries of their reports, including their findings and recommendations, but carry out their investigations in private. This approach is popular with both citizens and officials, allowing for a less confrontational, consistent, assessment of the issues.

As well as encouraging more citizens to come forward and receive the redress they may be due, it also results in more feedback for the providers of public services. This gives government bodies an efficient and effective feedback loop on their services, providing the information needed to improve their services to ensure they get things 'right first time', thereby reducing the costs associated with getting things wrong.

14. The Association also supports the point made in the consultation regarding the success of ombudsman schemes in small jurisdictions. There will of course be elements of best practice that can be drawn from the established public services ombudsman schemes throughout the British Isles, and from the recent successful establishment of the Channel Islands Financial Ombudsman, however it is the success of public services ombudsman schemes in the British Overseas Territories that best demonstrate that the model is also appropriate for the States of Jersey. Alongside the schemes mentioned in the consultation in Gibraltar, Bermuda and the Cayman Islands, I would also draw attention to the offices in the British Virgin Islands and the Turks & Caicos Islands (all five being members of the Association), to highlight that the ombudsman institution is suitably flexible to enable its implementation in all jurisdictions.

We would be happy to provide any further information if the Law Commission would find that helpful.

Yours sincerely

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