

Consultation: Changes to the Ombudsman Association's Terms and Rules

Closing date: 9 June 2023

About this consultation

1. The criteria for membership of the Ombudsman Association (“OA”) are set out in the [OA's Terms and Rules](#). The process by which prospective members of the OA are assessed as eligible or ineligible for membership is known as ‘validation’. The process by which existing OA members confirm their ongoing eligibility is known as ‘revalidation’.
2. The [OA's Board](#) has delegated the responsibility for carrying out both validation and revalidation to a Validation Committee. The [Validation Committee](#) considers membership applications and makes recommendations to the OA's Board as to the eligibility of individual schemes. The ultimate decision on membership lies with the Board.
3. Effective validation and revalidation are critical to protecting the reputation, credibility and brand of both the OA and its membership. In addition, the rules of [Companies House](#) in the UK require that the title of “Ombudsman” be used only by companies or businesses that meet the OA's membership criteria. This gives the OA an important role in protecting consumers and other stakeholders from misuse of the Ombudsman title.
4. In 2022-23, the Validation Committee undertook a review of its processes aimed at ensuring its processes remain robust, efficient and fit for purpose. The review was launched at a workshop at the 2022 OA annual conference.
5. In the course of its review, the Validation Committee identified a number of improvements that could be made to the membership criteria set out in the Terms and Rules. Those improvements aim to:
 - reduce duplication and inconsistency across the Terms and Rules;
 - update the criteria and language to reflect current good practice standards and recent OA publications;
 - address areas where, in the Validation Committee's experience, it has been unclear how the criteria should be applied in practice.
6. **Annex A** to this consultation sets out a series of proposed changes to the Terms and Rules, developed by the Validation Committee in close collaboration with the Board. The proposed changes in Annex A are the subject of this consultation.
7. **Annex B** to this consultation is draft guidance from the OA's Board to the Validation Committee, directing the Committee on how to apply the criteria in the Terms and Rules in practice. This draft guidance may be of use to respondents in understanding how the Board intends the Terms and Rules to be interpreted.

8. This consultation paper highlights some of the key changes to Parts A, B and C of the Terms and Rules, however we would welcome feedback on any aspect of the proposals. In your response, please make clear which specific rule or sub-rule you are referring to when providing feedback. Consultation responses should be sent to donal.galligan@ombudsmanassociation.org by **9 June 2023**.
9. Following this consultation, the Board will agree a final version of the Terms and Rules taking into account feedback from respondents. The agreed changes will then inform the final version of the guidance for the Validation Committee and the Validation Committee's own forms and processes.

Consultation

Part A

10. Part A of the Terms and Rules sets out the guiding principles for the recognition of Ombudsman schemes. Key changes include:
 - Removing the distinction between an Ombudsman's "core" role and its "primary" activities to articulate a single, clear statement of what an Ombudsman scheme does (Rule A.1(a)).
 - Removing the reference to an Ombudsman's role being to handle complaints from "individuals", given that it will sometimes be legitimate for a scheme's jurisdiction to cover complaints from small businesses or similar entities (Rule A.1(a)).
 - Clarifying how Parts A and B of the Terms and Rules interact with one another (Rule A.1(c)).

➤ **Q1: Do you agree with the proposed changes to Part A?**

Part B

11. Part B of the Terms and Rules sets out the detailed criteria for Ombudsman members. Key changes include:
 - Reiterating the general principle that the OA expects Ombudsman appointments to be made for a minimum of five years, but acknowledging that there might be exceptional circumstances in which a shorter term is more appropriate, and placing the onus on the scheme to demonstrate that a shorter term does not undermine independence (Rule B.1(c) and page 10 of the draft guidance).
 - Emphasising the importance of the Ombudsman's role in sharing learning from complaints to drive service improvements across the relevant sector (Rules B.3(a), B.3(f)(i), B.4(c) and B.5(b)).
 - Making clear that, as a matter of policy, complainants should always be able to access an Ombudsman scheme directly without, for example, the ability to

accept complaints being subject to the discretion or oversight of an external person or body (Rule B.3(c)(ii)).

➤ **Q2: Do you agree with the proposed changes to Part B?**

Part C

12. Part C of the Terms and Rules sets out the criteria for Complaint Handler members of the OA. Key changes include:

- Promoting a coherent set of values amongst members, and ensuring the OA is not obliged to accept Complaint Handler members whose activities or constitution could damage the reputation of the OA or undermine its objectives, by making organisations that do not support the OA's vision and objectives ineligible for Complaint Handler membership (Rule C.1).
- Clarifying the type of commercial bodies that will not normally be eligible for Complaint Handler membership, namely those that provide complaint handling services in order to generate profit for shareholders (Rule A.1(a)).

➤ **Q3: Do you agree with the proposed changes to Part C?**

Resources

13. In considering this consultation, it might help to refer to the following resources published by the OA, which are referred to in the Terms and Rules at Annex A and/or the draft guidance at Annex B.

- Existing [Terms and Rules](#)
- [Guide to Principles of Good Complaint Handling](#)
- [Guide to Principles of Good Governance](#)
- [Strategic Position Statement](#)
- [OA Service Standards Framework](#)
- [OA Caseworker Competency Framework](#)

Consultation Questions:

- **Q1: Do you agree with the proposed changes to Part A?**
- **Q2: Do you agree with the proposed changes to Part B?**
- **Q3: Do you agree with the proposed changes to Part C?**

Thank you in advance for taking the time to respond to this consultation.

OA Validation Committee
May 2023