

Validation and revalidation processes for Ombudsman Association membership

DRAFT Guidance for the Validation Committee

Last updated: [April 2023]

Overview and purpose

1. This guidance relates to the processes by which:
 - (i) prospective members of the Ombudsman Association (“OA”) are assessed as eligible or ineligible for membership (“validation”); and
 - (ii) existing OA members confirm their ongoing eligibility (“revalidation”).
2. The OA’s board has delegated responsibility to the Validation Committee (“VC”) to carry out both validation and revalidation on behalf of the OA. The VC considers applications for membership and makes recommendations as to the eligibility of applicants.
3. When applying for validation or revalidation, applicants are required to complete a template form. The completed form gives the VC information and evidence needed to assess eligibility for membership. The forms are designed to track the various membership criteria that derive from the OA’s published principles and standards.
4. Effective validation is critical to protecting the reputation, credibility and brand of the OA, both amongst the membership and with external stakeholders. The VC’s processes should reflect this importance, being kept up to date over time to ensure they are modern, robust, efficient and fit for purpose. Applicants should also be asked routinely to share their feedback on the validation or revalidation process, to help the VC improve its own approach.
5. This guidance has been prepared by the VC, in consultation with the OA’s board, to assist with effective validation and revalidation. It is intended to be used:
 - (i) for the induction of new VC members;
 - (ii) by individual VC members, as a resource that is consulted when considering applications;
 - (iii) as a record of the VC’s agreed approach to various issues, to ensure consistency of decision-making over time;
 - (iv) to help the OA board understand and guide the VC’s processes.

The VC’s role in applying the membership criteria

6. Criteria for Ombudsman membership and Complaint Handler membership are set out in the OA’s Terms and Rules. The Terms and Rules cross-refer to the Principles of Good Complaint

Handling and Principles of Good Governance, noting that members are expected to act in line with those documents.

7. According to the Terms and Rules: “The decision as to whether an organisation meets the membership requirements ... will be made at the discretion of the board or by a meeting of the non-company membership. Such a decision will only be made after a recommendation on that decision has been provided by the Validation Committee.” The Terms and Rules also give the VC a remit, when requested by the board, to review whether existing Ombudsman and Complaint Handler members continue to meet the membership criteria.
8. The VC’s full Terms of Reference, including its powers and constitution, are set out in paragraph 54 of the OA’s Articles of Association. This includes additional provisions relating to the VC’s role in considering applications for Associate membership (see paragraph 54.8).
9. The board has instructed the VC to rigorously apply the current membership criteria for Ombudsman members and Complaint Handler members, noting that the Principles of Good Complaint Handling and Principles of Good Governance can guide the VC in applying the five key criteria in the Terms and Rules (namely independence, fairness, effectiveness, openness and transparency, and accountability).
10. VC members should therefore have a general working knowledge of the following resources, in order to rigorously apply the membership criteria when assessing applications:
 - [Terms and Rules](#)
 - [Guide to Principles of Good Complaint Handling](#)
 - [Guide to Principles of Good Governance](#)
 - [OA Strategic Position Statement](#)
 - [OA Service Standards Framework](#)
 - [OA Caseworker Competency Framework](#)
11. That said, the Terms and Rules also provide that the OA recognises and values the wide range of Ombudsman schemes in the public and private sectors and the variations in their constitution, jurisdiction, powers and accountability. The membership criteria have been drawn up with that in mind and the OA (and thus the VC) must apply the criteria with sufficient flexibility to account for those variations.

Application form

12. A template application form for validation and revalidation has been designed to assist the VC in fulfilling the role described above. There are separate forms for Ombudsman member and Complaint Handler member applications. The forms include brief guidance notes (in italics) for applicants, explaining the type of information or evidence the VC might expect to receive.
13. The VC accepts that the forms cannot comprehensively test every aspect of the membership criteria. Indeed, previous iterations of the forms attempted to do so, and feedback suggested that over time those forms had become unhelpfully long, complex and repetitive. The current forms therefore adopt a more targeted approach, using a considered mix of outcomes-based questions and specific yes/no requirements. They are designed to help the VC identify “red flags” in relation to potential non-compliance with the criteria, prompting the VC to ask further questions as appropriate. This allows the VC to take a proportionate, risk-based approach to both validation and revalidation.

14. The Ombudsman member application form seeks evidence in the following areas:

- *General information about the applicant:* This is needed to help the VC understand the nature of the scheme, assess threshold eligibility indicators, and know what kinds of issues to look out for when reviewing the application.
- *Operation of the scheme:* Parts 2, 3 and 4 of the form ask for information about how the applicant scheme operates, focusing on the foundational elements of Ombudsman membership as identified during workshops carried out with OA members in 2022. The form seeks detailed evidence in the categories of impartiality and integrity, process and outcomes, and accessibility and information.
- *Expectations on Ombudsman members:* This tests and encourages compliance with OA guidance.

Seeking further information

15. The primary role of the VC is to apply the membership criteria. The forms are a helpful tool in doing this – aimed at giving an overall picture of compliance and highlighting areas of risk – but the VC should not feel bound by the content of the form. The VC may ask for any other information or evidence from applicants that it deems necessary to determine the applicant’s eligibility for membership.
16. The VC consists of five members, being the Vice Chair of the OA board, one other Ombudsman member of the board and three independent members. Usually, an independent member will take responsibility for reviewing an application in the first instance and will prepare a validation or revalidation report for consideration by the full VC. Where further information is needed from an applicant – for example, because the application form is incomplete or it flags a risk of non-compliance – this information should be obtained (where timing permits) prior to the independent member’s report being submitted to the full VC.
17. In some instances, the VC may wish to invite an applicant to attend a meeting or deliver a presentation in relation to the scheme. This might be appropriate, for example, where the VC has a lot of questions about the scheme, where there are fundamental concerns about the application, or where it would be helpful to talk through different options for resolving an issue.
18. Only once the VC has all the information needed to make an informed decision, or the applicant has repeatedly failed to provide requested information, should the VC make a recommendation to the board in relation to the applicant’s membership.

Revalidation

19. The board has instructed the VC that existing members, in both the Ombudsman and Complaint Handler member categories, should be revalidated against the membership criteria at least once every five years. This corresponds to the minimum tenure of office holders proposed by the OA.
20. As noted above, the VC’s processes are intended to be proportionate and risk-based. In the context of revalidation, this means focusing primarily on changes to a scheme since the last

validation or revalidation event, and seeking assurance of compliance with the membership criteria in those areas.

21. It might be appropriate to revalidate a member sooner than five years, for example if the constitution or scope of its scheme changes significantly. The board has issued guidance to the VC in relation to revalidation where a scheme expands into a new sector (see section 2 of **Annex A**).
22. At the start of the revalidation process, the VC will provide the member with an application form that is pre-populated with the information provided by that member when they last applied for membership or were revalidated.¹ The member will be asked to update the information in the form, highlighting any changes to the scheme, and explaining how any recommendations for improvement or other feedback provided previously by the OA have been addressed.
23. Revalidation is also a key touchpoint for encouraging the implementation of new OA initiatives, and the application form should be regularly updated to allow for this.

Outcomes of validation and revalidation

24. At the end of the validation or revalidation process, the VC will make one or more of the following recommendations to the board.

25. ***That the applicant become/remain an Ombudsman member of the OA***

This recommendation will be made where the VC is confident that the applicant meets the criteria for Ombudsman membership in the Terms and Rules (subject to paragraphs 34 to 36 below in relation to statutory schemes).

26. ***That the applicant become/remain a Complaint Handler member of the OA***

This recommendation will be made where the VC is confident that the applicant meets the criteria for Complaint Handler membership in the Terms and Rules, and does not meet the criteria for Ombudsman membership.

27. ***That recommendations for improvement be communicated to the applicant***

Even where an applicant meets the criteria for membership, there might be room for improvement in some areas. Validation and revalidation are opportunities for the OA to provide constructive feedback to members and persistently strive to raise standards. The OA should therefore clearly communicate to an applicant any recommendations for improvement identified by the VC during the validation or revalidation process.

Examples of such improvements – none of which would prevent the applicant from being a member – include:

- publishing policies or other documents that are currently internal
- emulating examples in the Guide to Principles of Good Complaint Handling
- improving the user journey or making information more accessible

¹ It will take a full revalidation cycle to transition all members to the new processes set out in this document. Existing members will need to complete the full application form once, enabling pre-population of their form for future revalidation events.

- working toward implementation of a Caseworker Competency Framework
- adopting good practice in communications, such as using gender neutral language

The revalidation section of the application form acts as a prompt to the VC to follow up on the implementation of recommendations for improvement.

28. ***That the applicant's membership be conditional upon specified action being taken***

Where an applicant meets most but not all of the criteria for membership, the VC may recommend that the applicant's membership be subject to conditions. This approach will only be appropriate where the applicant has indicated that it is willing and able to meet the proposed conditions and where conditional membership will not cause material detriment to users of the scheme or the public. This might be the case, for example, where an applicant for revalidation has failed to keep up with changes to the OA's expectations, or for new schemes that will need time to develop certain processes (as to which, see below from paragraph 31).

The conditions should be specific, attainable, and linked to a timeframe for compliance. Where appropriate, the OA may wish to agree a formalised action plan with the applicant. Fulfilment of conditions will need to be followed up by the OA in line with the agreed timeframe.

In the context of validation – where an applicant is making a first application for membership – the applicant will become a member of the OA when it fulfils the conditions to the satisfaction of the board, upon the recommendation of the VC.

In the context of revalidation – where an applicant is already a member – the applicant's membership will continue while the conditions are pursued. If the conditions are not fulfilled within the agreed timeframe, and it is not appropriate for the OA to amend the conditions or extend the agreed timeframe, then the VC will recommend to the board that it considers invoking the expulsion procedure set out in paragraph 51 of the OA's Articles of Association.

29. ***That the application for membership be refused***

Where an applicant does not meet the criteria for membership in any category, and conditional membership is not appropriate, the VC will recommend that the application be refused. This is most likely to be the case where, for example:

- there is a significant issue with the application, it is within the applicant's power to address the issue, but the applicant indicates it is not willing to do so (or is not willing to do so within a reasonable time);
- there is a multitude of issues that the applicant needs to address before it will meet the criteria for membership;
- the application is not consistent with the OA's position on non-proliferation of private redress schemes (the Board's guidance to the VC on this issue is at **Annex A**).

Where the VC recommends that an application be refused, the VC will provide feedback to the applicant on what changes they could make to meet the criteria, where appropriate.

30. Note that, under the Terms and Rules, the OA will not admit to membership *in any category* bodies that use the title of Ombudsman (or equivalent, such as 'Ombuds', 'Ombudsperson' or 'Ombwdsmon' (Welsh)) but do not meet the OA's criteria for Ombudsman membership. Thus if a scheme meets the Complaint Handler membership criteria, but uses the "Ombudsman" title or equivalent (as indicated on the application form), the VC should not recommend it for membership as a Complaint Handler member or otherwise.

Applying the criteria to new schemes

31. In some instances, the VC may conclude that a private sector scheme established on a voluntary basis appears to meet the membership criteria in theory, but has not yet demonstrated that it does so in practice. The VC may, in such situations, recommend that the scheme not be admitted as an Ombudsman member for a period of one year, until the VC is in possession of at least one annual report from the scheme in order to evaluate its performance against the membership criteria.
32. If the scheme meets the criteria for another category of membership, such as Complaint Handler membership, it may be admitted into that category, enabling it to take advantage of OA membership and the services provided in the interim.
33. It may also be appropriate to grant conditional membership (as described at paragraph 28 above) to new schemes, although keeping in mind that conditions should be specific, attainable, and linked to a timeframe for compliance. So, for example, membership that is conditional upon publishing an annual report and accounts after one year of operation might be appropriate, while membership that is conditional upon being visibly and demonstrably independent from bodies within jurisdiction is unlikely to be.

Applying the criteria to statutory schemes

34. In the context of either validation or revalidation, the VC may recommend to the board that a statutory scheme be admitted as an Ombudsman member even where it does not strictly meet all the criteria in the Terms and Rules, so long as it is not within the scheme's power or control to make the changes necessary to meet the criteria. The most likely reason for a change to be outside the scheme's control is that it would require a legislative amendment.
35. In considering whether to make such a recommendation, the VC should take into account the following factors:
 - whether there is an upcoming opportunity (such as a proposed Bill) that would provide a suitable vehicle for making the necessary change;
 - whether the scheme is established or whether its statutory basis is still being agreed;
 - the ease with which the change could be effected, for example whether it requires primary legislation, secondary legislation or Ministerial approval;
 - the scheme's efforts to influence stakeholders in order to bring about the change;
 - the reasons why change is difficult or inappropriate.
36. In all cases where the VC recommends that a scheme be admitted to membership on this basis, and the board follows that recommendation, the OA will write to the relevant decision-maker(s) stating that the scheme does not fully meet the OA's criteria and making suggestions for change. Such approach may also be appropriate in the context of revalidation, depending on the political environment.

Guidance on the Ombudsman member application form

37. The table below provides guidance on specific aspects of the Ombudsman member application form. It explains the rationale for certain questions and highlights potential follow-up queries.

Part 1: About the applicant	
<p><i>Date on which the scheme began accepting complaints</i></p>	<p>The form asks about the date on which the scheme opened. This will give the VC an indication of how established the scheme is, and therefore what kind of evidence the applicant might be able to provide.</p> <p>Where a scheme has not yet commenced operation, and the applicant is applying for membership prior to commencement (for example, in order to use the Ombudsman designation) then the VC might consider asking the applicant to provide additional evidence after a certain period of time (see paragraphs 31 to 33 above).</p>
<p><i>Is the scheme's core role to investigate and resolve, determine or make recommendations with regard to complaints about bodies within the scheme's jurisdiction? (First threshold criterion)</i></p> <p><i>Does the scheme primarily handle complaints from members of the public about maladministration, unfair treatment, poor service or other inequitable conduct by those within the scheme's jurisdiction? (Second threshold criterion)</i></p>	<p>These two threshold criteria derive from the Guiding Principles in Part A, paragraph 1 of the Terms and Rules. That paragraph provides that the OA will recognise a body as an Ombudsman scheme if (amongst other things):</p> <p>(a) the body's core role is to investigate and resolve, determine or make recommendations with regard to complaints about those whom the body is empowered to investigate;</p> <p>(b) the body primarily handles complaints from members of the public about maladministration, unfair treatment, poor service or other inequitable conduct by those subject to investigation.</p> <p>If a body fails to meet either of these criteria, it is not eligible for Ombudsman membership; there is no discretion in this regard. Equally, if a body meets all the requirements of Part A, paragraph 1 (which also incorporates the criteria for Ombudsman members found in Part B of the Terms and Rules), then the OA <i>will</i> recognise it as an Ombudsman scheme. Again, this is not discretionary and the VC must recommend admission to membership in these circumstances.</p> <p>In relation to the first threshold criteria, which asks about the body's "core role", it is axiomatic that Ombudsman schemes will spend considerable time and resource on activities related to, but not necessarily falling within, their core complaint handling role. Such activities might include delivering training or working with the sector to improve standards. Engaging in such activities does not mean that complaint handling ceases to be the body's "core role".</p>
<p><i>Does the scheme comprehensively cover complaints in its sector, free from exclusions or exemptions to its jurisdiction?</i></p>	<p>The Guiding Principles in Part A of the Terms and Rules provide that a key objective of the OA is for all members of the public to have simple access to an Ombudsman scheme with comprehensive and coherent coverage across the public and private sectors, and the OA will take this into account when considering applications for membership.</p> <p>The Strategic Position Statement also includes, as part of the Principles for Ombudsman Schemes, a principle that there should be comprehensive Ombudsman coverage in all areas of consumer and public services (unless already covered by tribunals).</p> <p>Any exclusions or gaps in coverage noted by the applicant should be considered in the context of these expectations, and full coverage should be encouraged where possible.</p>

<p><i>Is this the only Ombudsman scheme or complaint handling body operating in the relevant sector?</i></p>	<p>The Terms and Rules provide that, in the case of private sector schemes, the OA is opposed to the fragmentation of redress schemes within an industry, because a single Ombudsman within an industry provides a clear and straightforward route for members of the public. Where more than one scheme is established within an industry, the OA will normally only recognise as an Ombudsman those schemes to which a substantial number of firms in the industry belong.</p> <p>Thus where an applicant answers “no” or “other” to this question, and the applicant is a private sector scheme, the VC should always consider whether it is appropriate to refuse the application on the basis that it would cause the proliferation of redress schemes. Guidance from the OA board as to how the VC should approach this issue appears at Annex A.</p> <p>In exploring the issue with the applicant, the VC might want to ask questions guided by the following principles which are taken from the Strategic Position Statement (at page 2):</p> <ul style="list-style-type: none"> • To ensure access to redress is simple and straightforward there should be a single Ombudsman within a sector, and there should be increased harmonisation of powers and processes between Ombudsman schemes in different sectors. • New Ombudsman schemes should not be created where the role could be appropriately fulfilled by an existing Ombudsman, and existing Ombudsman schemes should be rationalised where this is in the interests of members of the public. • There should be clear boundaries between different Ombudsman, avoiding gaps and overlaps. Where there are overlaps between schemes they should work together to ensure clear signposting and hand-offs, to help complainants get to the right place.
<p>Part 2: Impartiality and integrity</p>	
<p><i>Please describe the process for appointing and, where relevant, renewing the appointment of the Ombudsman (or equivalent office holder).</i></p>	<p>Part B, paragraph 1(b) of the Terms and Rules provides that the persons who appoint the Ombudsman should be independent of those subject to investigation by the Ombudsman. This does not exclude minority representation of those subject to investigation on the appointing body, provided that the body is entitled to appoint by majority decision.</p> <p>The Principles of Good Governance also require the appointment, reappointment and remuneration of the office holder to be consistent with ensuring independence.</p> <p>In relation to Ombudsman schemes for public services, the Strategic Position Statement adds (at page 2) that appointment, including reappointment, should be through an open and transparent process that is consistent with best public appointments practice.</p>
<p><i>Please describe the governance structure of the scheme, including reporting lines for the Ombudsman (or</i></p>	<p>Part B, paragraph 1(g) of the Terms and Rules provides that, unless otherwise determined by statute, the Ombudsman should be accountable to report to a body independent of those subject to investigation, but this does not exclude those subject to investigation having a minority representation on that body. That body should also be responsible for safeguarding the independence of the Ombudsman.</p>

<p><i>equivalent office holder) and other staff with responsibility for decision-making.</i></p>	<p>The Principles of Good Governance also require schemes to have governance arrangements that ensure and safeguard the independence of the office holder and the scheme.</p>
<p><i>Please describe any circumstances in which the Ombudsman (or equivalent office holder) can be dismissed or have their remuneration suspended or reduced.</i></p>	<p>Part B, paragraph 1(d) of the Terms and Rules provides that the remuneration of the Ombudsman should not be subject to suspension or reduction by those subject to investigation, but this does not exclude their minority representation on the body authorised to determine the Ombudsman’s remuneration.</p> <p>Paragraph 1(e) provides that the appointment should not be subject to premature termination other than for incapacity, misconduct or other specified good grounds. The grounds on which the Ombudsman can be dismissed should always be stated, although the nature of the grounds may vary from scheme to scheme. Those subject to investigation by the Ombudsman should not be entitled to exercise the power to terminate the Ombudsman’s appointment, but this does not exclude their minority representation on the body which is authorised to terminate.</p> <p>In relation to grounds for dismissal, the VC interprets the Terms and Rules as meaning that each individual ground for premature termination must: (i) be expressly stated; and (ii) constitute good cause. It is not sufficient for a contract or statutory provision to simply state that the Ombudsman can be terminated “for good cause” or “on good grounds”.</p>
<p><i>Is the Ombudsman (or equivalent office holder) appointed for a term of at least five years?</i></p>	<p>Part B, paragraph 1(c) of the Terms and Rules provides that the term of office should be of sufficient duration not to undermine independence. This is the overriding criterion that the VC must consider in this area.</p> <p>The Terms and Rules go on to provide that the OA interprets this to mean that an office holder’s appointment should be for a minimum of five years, unless (exceptionally) the applicant can demonstrate that a shorter appointment term is more appropriate and does not undermine independence. Appointments may be subject to renewal but the renewal process should not undermine or compromise the office holder’s independence.</p> <p>An applicant may be able to demonstrate that a shorter period is more appropriate because, for example, the scheme is temporary or transitional, or the appointment was made on an emergency or interim basis.</p> <p>The applicant must also explain why the shorter appointment term does not undermine independence. This could be done by pointing to other robust mechanisms for ensuring independence or by providing undertakings relating to future appointments. The shorter the appointment period, the more assurance the VC will require.</p> <p>Where an appointment term of less than five years is dictated by statute, see paragraphs 34 to 36 above.</p>

<p><i>Is the Ombudsman able to make decisions (including as to whether complaints are within jurisdiction) free from actual or perceived influence?</i></p>	<p>Part B, paragraph 1(f) of the Terms and Rules provides that the Ombudsman alone (or someone acting on the Ombudsman’s authority) should have the power to decide whether or not a complaint is within the Ombudsman’s jurisdiction. If it is, the Ombudsman (or someone acting on the Ombudsman’s authority) should have the power to determine it.</p>
<p>Part 3: Process and outcomes</p>	
<p><i>How is the scheme funded? What mechanisms are in place to ensure the scheme is adequately resourced to carry out its role effectively?</i></p>	<p>Part B, paragraph 3(a) of the Terms and Rules provides that the Ombudsman scheme should be adequately staffed and funded, either by those subject to investigation or from public funds, so that complaints can be effectively and expeditiously investigated and resolved.</p> <p>Similarly, the Strategic Position Statement provides (at page 2) that Ombudsman schemes should have sufficient funding for the proper discharge of their role, and remain free-of-charge to those bringing complaints.</p>
<p><i>What guidance, training or other mechanisms have been put in place to ensure the Ombudsman (and any other decision-making staff) proceed fairly, impartially and in accordance with the principles of natural justice in all aspects of their role?</i></p>	<p>Part B, paragraph 2 of the Terms and Rules provides that the Ombudsman should be impartial, proceed fairly and act in accordance with the principles of natural justice. The Ombudsman should also make reasoned decisions in accordance with what is fair in all the circumstances, having regard to principles of law, to good practice and to any inequitable conduct or maladministration.</p> <p>In previous versions of the application form, applicants invariably answered “yes” when asked merely whether the scheme met these criteria. This question is therefore intended to provide the VC with assurance that proactive steps have been taken to ensure compliance, rather than applicants simply self-certifying that they act in this way.</p> <p>This question is also linked to the Principles of Good Governance relating to integrity (which requires impartiality in all activities) and core competencies 5 (open-minded) and 6 (professional) of the Caseworker Competency Framework.</p>
<p><i>Please explain how the scheme ensures that decisions and recommendations of the Ombudsman (or other decision-making staff) are implemented in practice.</i></p>	<p>The guidance for applicants relating to this question states: <i>Please include an explanation of whether decisions are binding on those subject to investigation, how the implementation of decisions and recommendations is monitored and followed up, and any measures or sanctions that can be applied in cases of non-implementation.</i> This question is therefore quite broad and goes to the heart of a scheme’s effectiveness.</p> <p>Linking it to the criteria, Part B, paragraph 3(e) of the Terms and Rules provides that either those investigated should be bound by the decisions or recommendations of the Ombudsman, or there should be a reasonable expectation that the Ombudsman’s decisions or recommendations will be complied with. In all those cases where they are not complied with, the Ombudsman should have the power to publicise or require the publication of such non-compliance at the expense of those investigated.</p>

	<p>The Guide to Principles of Good Complaint Handling at paragraph 3.5 provides that whenever recommendations are made to an organisation, its response should be recorded and the implementation of the recommendations monitored. The scheme can then explain what has happened, both to the complainant and, where appropriate, publicly.</p>
<p><i>Please describe the quality assurance mechanisms the scheme has in place in relation to its complaint handling practices.</i></p>	<p>The Principles of Good Governance relating to:</p> <ul style="list-style-type: none"> • “accountability” require schemes to have a robust mechanism for the review of service quality; • “effectiveness” require schemes to deliver quality outcomes, have quality assurance mechanisms and a process for review of service, and deliver quality outcomes for the complainant, organisation complained about, the scheme and other stakeholders. <p>The Guide to Principles of Good Complaint Handling sets out further requirements in relation to quality assurance at paragraph 6.5 and in relation to quality outcomes in part 7.</p>
<p><i>Please demonstrate, using examples where relevant, how the scheme proactively works to improve the service provision and complaint handling of the bodies within its jurisdiction.</i></p>	<p>The Strategic Position Statement, at page 2, provides that Ombudsman schemes should share information wherever possible to help the wider sector learn from complaint handling and improve the provision of services.</p>
<p><i>How does the scheme seek and obtain feedback from users, and potential users, about their experience? How is this feedback acted upon?</i></p>	<p>The Guide to Principles of Good Complaint Handling, at paragraph 1.6, provides that the scheme’s service should be regularly reviewed in light of feedback from complainants and organisations within its remit, to ensure that it continues to meet changing demands and circumstances. Schemes should continue to look for improvements in service provision and be prepared to learn from and assist others in OA membership.</p>
<p>Part 4: Accessibility and information</p>	
<p><i>Is the scheme able to investigate a complaint that is within its jurisdiction, free from any barriers?</i></p>	<p>This captures a number of potential barriers to accessibility from across the membership criteria. The form includes guidance as to what might constitute a barrier. The VC should keep in mind the following requirements when considering an applicant’s response:</p> <ul style="list-style-type: none"> • Part B, paragraph 3(c)(ii) of the Terms and Rules provides that complainants should have direct access to the Ombudsman scheme. • Similarly, the Strategic Position Statement (page 1) establishes the principle that members of the public should have direct and immediate access to the Ombudsman if the organisation complained about does not resolve the complaint promptly. • Part B, paragraph 3(c)(iv) of the Terms and Rules provides that those complaining to the Ombudsman should be entitled to do so free of charge.

	<ul style="list-style-type: none"> Part B, paragraph 3(d)(i) of the Terms and Rules provides that the Ombudsman should be entitled to investigate any complaint made to the Ombudsman which is within the Ombudsman's jurisdiction without the need for any prior consent of the person or body against whom the complaint is made. This does not preclude a requirement that before the Ombudsman commences an investigation, the complainant should first have exhausted the internal complaints procedures of the person or body being investigated.
<i>Are complainants able to lodge a complaint via a range of methods, including post, email/online and phone?</i>	The Guide to Principles of Good Complaint Handling, at paragraph 2.3, provides that whilst accessibility to schemes will differ depending on size, location and remit, complainants must be given as many ways of contacting schemes and referring their complaints as is practically possible within legislative and other constraints. Most should be able to do so by letter, email or telephone. It may also be helpful to consider other methods of communication commonly used by particular age or social groups, such as SMS text messaging.
<i>Does the scheme have the right to require all relevant information, documents and materials from those subject to investigation, and (other than in exceptional circumstances) disclose information provided by each party to the other?</i>	Part B, paragraphs 3(d)(ii) and (iii) of the Terms and Rules provide that, save as otherwise provided by law, the scheme should have the right to require all relevant information, documents and other materials from those subject to investigation. It should also be entitled to disclose to the complainant relevant information, documents and other materials obtained by the Ombudsman from the other party unless there is some special reason for not making such disclosure, for example where commercially sensitive information is involved or disclosure would be a breach of the law.
<i>Does the scheme provide the parties with written reasons for the final determination of a complaint, including providing the complainant with reasons where a complaint is determined to fall outside the scheme's jurisdiction?</i>	Part B, paragraphs 2(c) and (d) of the Terms and Rules provide that in all cases where it is decided not to accept the complaint for investigation, the Ombudsman should notify the complainant of that decision and the reasons for it. In all cases investigated, the Ombudsman should notify the parties concerned of the decision and the reasons for it.
<i>Upon the final determination of a complaint, does the scheme inform the parties about how to appeal (if relevant)</i>	The Guide to Principles of Good Complaint Handling, at paragraph 1.6, provides that a final letter or report should set out a synopsis of the facts taken into account, describe the result of the review and, where appropriate, the reasons for decisions that have been reached. It should also direct the complainant to any further help he or she can get if the communication received is not fully understood or there is dissatisfaction

<i>and where to get further help?</i>	with the service or outcome. This should include how to make representations against a decision.
<i>Does the scheme communicate in language that is accessible to users with a wide range of needs?</i>	A wide range of potential special needs are canvassed in the Guide to Principles of Good Complaint Handling in part 2, particularly paragraph 2.4.
<i>Does the scheme apply its processes flexibly, providing assistance, support and adjustments for complainants and potential complainants to access its processes?</i>	A wide range of potential special needs are canvassed in the Guide to Principles of Good Complaint Handling in part 2, particularly paragraph 2.4. In addition, Part B, paragraph 3(c)(iii) of the Terms and Rules provides that the Ombudsman's procedures should be straightforward for complainants to understand and use.
<i>Please indicate whether the scheme does the activities below.</i>	<p>These activities all relate to the collation and publication of information for the benefit of users and other stakeholders. They draw together requirements from various sources, including the Terms and Rules, Principles of Good Governance and Principles of Good Complaint Handling. If an applicant answers "no" to any of these questions, then the VC should recommend improvements in this area or impose conditions on membership (depending on the explanation provided by the applicant), if the failure does not in itself warrant refusing the application.</p> <p>The VC should check that links provided in response to this question are live and that each document is, on its face, relevant to the requirement. However the VC is not expected to review all documents in full.</p> <p>Where an applicant fails to provide evidence of compliance by way of a link or electronic document, this evidence should be requested before the application is considered by the full VC.</p>
Part 5: Expectations on Ombudsman members	
<i>Please describe the steps you have taken toward implementing the OA's Service Standards Framework / Caseworker Competency Framework, or equivalent, for the scheme.</i>	<p>In 2017, the OA published a Service Standards Framework based around five service commitments to be made by schemes at an organisational level. In 2019, the OA developed a Caseworker Competency Framework that details six core competencies that should be developed in individual caseworkers. Each of these documents aims to disseminate and promote good practice, as opposed to devising new compulsory standards.</p> <p>Depending on an applicant's response to this question, the VC may wish to take the opportunity to promote adoption of these frameworks by members, through recommendations for improvement.</p>
<i>Are there any aspects of the OA's Guide to Principles of Good Governance /</i>	The Guiding Principles in Part A of the Terms and Rules provide that the OA expects Ombudsman members to "comply with" the Principles of Good Governance and "operate in accordance with" the Principles of Good Complaint Handling.

<p><i>Principles of Good Complaint Handling with which the scheme does not comply?</i></p>	<p>A number of questions in the form draw out requirements from these two documents, particularly relating to independence, effectiveness and accessibility. This aspect of the form is intended to ensure that applicants are mindful of their obligations under the Principles, through self-reflection and disclosure of gaps in compliance. It is expected that fundamental failings would be picked up through more specific questions in the form, so it is likely to be appropriate for disclosures made in response to this question to inform recommendations for improvement.</p>
<p>Part 6: Revalidation</p>	
<p><i>Please carefully review all the information in this form, which was provided when you last made an application for membership or revalidation.</i></p>	<p>This section of the form is for use when a scheme is revalidated. At the start of the revalidation process, the VC (via the CEO) should provide the scheme with an application form that is pre-populated with the information the scheme has previously provided. In considering the application, the VC should focus on changes to the scheme that have been identified by the applicant, but should also carry out spot-checks of information that has not been updated to verify that it remains current (for example, by testing hyperlinks).</p> <p>Compliance with any conditions or recommendations that were made following the last validation or revalidation event should be tested, and follow-up action should be taken in line with paragraphs 27 and 28 above. Failure to address recommendations without a good reason may warrant more formal conditions being imposed.</p>
<p>Part 7: Declaration</p>	
<p><i>I sign this form as the Ombudsman (or equivalent office holder), or on the Ombudsman's behalf.</i></p>	<p>Paragraph 48.3 of the OA's Articles of Association provides that membership application forms must be signed by the Ombudsman (in relation to Ombudsman members) or the head of the organisation (in relation to Complaint Handler members), or on their behalf.</p> <p>The VC interprets this requirement as including electronic signatures.</p>

Annex A – Guidance from the OA Board to the VC in relation to the non-proliferation of private sector schemes

25 October 2016

1. Applications for membership

- 1.1 The OA's Guiding Principles in Part A of the Terms and Rules 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."*
- 1.2 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 could 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.
- 1.3 When considering applications in relation to the Association's position on non-proliferation, the Validation Committee will interpret "industry" to mean a Standard Industrial Classification (SIC), as defined by UK and intergovernmental authorities. A full list, including sub-classifications, can be found at: www.gov.uk/government/publications/standard-industrial-classification-of-economic-activities-sic.
- 1.4 The OA Validation Committee will, in relation to the private sector, consider, generally, the following groupings:
 - Retail to include consumer staples (e.g. food, clothing), consumer cyclical (e.g. housing) electrical, leisure goods. (SIC: G)
 - Professional services to include legal services, financial advice services including accountancy, architectural services. (SIC: K,L,M,N)
 - Transportation to include aviation, rail, freight, taxis. (SIC: H)
 - Health care to include medical, dental and other health advice and services. (SIC: Q)
 - Energy, Utilities and Technology, to include provision of water, electricity, heat, IT services, telephonic services. (SIC: D,E,J)
 - Leisure, to include holidays, bars, restaurants, cinemas, cultural and sporting services. (SIC: I, R)
 - Real Estate activities to include real estate agencies, buying, selling, letting, renting of private and Housing Association real estate. (SIC: L)
- 1.5 The Validation Committee recognises that there may be significant cross-over between sectors and that certain industries will be difficult to categorise as sector-specific. In such instances, the Validation Committee will consider the overall impact of validation of schemes against the guiding principle of non-proliferation within sectors/industries, taking into account the interests of consumers.
- 1.6 The Validation Committee recognises that the size of a sector may mean that several Standard Industrial Classifications may exist within it. The Validation Committee also recognises that some areas within a sector may require specialist skills that may not be provided in a non-specialist scheme. The Validation Committee may therefore recommend recognising more

than one scheme within a sector. The Association remains, in principle, opposed to fragmentation of redress schemes within single industries unless further complexity and multiple schemes can be shown to be justified because it is in the interest of consumers.

- 1.7 The Association covers several nations, states and territories and the Validation Committee recognises that multiple schemes might be appropriate within a single sector where those schemes jurisdiction's correlate to distinct political or geographical boundaries.
- 1.8 The Validation Committee will be guided by the principle of requiring a scheme to have a 'substantial number of firms' availing of its services. The Validation Committee recognises that there may be instances where this can be interpreted more fairly as market share. The Validation Committee will consider that, where a scheme within a sector/SIC has a substantial share of the sector within its remit, the validation of other schemes providing the same or very similar service may be contrary to the guiding principles and the interests of consumers. In such situations the Validation Committee may consider whether or not the existing scheme is of a scale that can service the entire sector; whether or not the existing scheme appears likely, within a reasonably short period of time e.g. a year, to serve the entire sector.
- 1.9 In considering these matters, the Validation Committee is conscious that a recommendation not to validate a scheme because it is not thought to be a justifiable proliferation that is in the consumer interest, and a subsequent decision by the board to reject an application for membership of the OA, does not prevent any organisation from conducting business or providing a redress service. The Validation Committee is also conscious that a scheme wishing to be validated may re-submit an application in light of subsequent developments within the redress landscape of the sector.

2. Expansion by existing members into new sectors

- 2.1 Where a scheme is already approved in a particular sector/SIC and wishes to expand its operations into another sector/SIC, the scheme, in particular its proposed services to the "new" sector, will be subject to re-validation within a year of its expansion.
- 2.2 In the interim, the Association will require the member to make clear on its website and in prominent places in all materials, which sectors it is currently validated by the Association to operate in (and therefore, by omission, which of its activities are not).
- 2.3 The scheme will be required to demonstrate its coverage of the additional sector in the same way as a first-time applicant. The Validation Committee will take into account the existence of other schemes in that sector at the time of application/validation in the normal way.
- 2.4 The Validation Committee may make recommendations to the Executive as to whether it considers that the expansion constitutes, in effect, a second scheme within the umbrella of the existing one and may make recommendations as to separate membership, with the appropriate subscription structure.
- 2.5 The Validation Committee may recommend validation of the scheme's service to the additional sector or not. For example, where an existing scheme wishes to offer a service within a sector in which another scheme or schemes already provides substantial coverage of the sector, the issue of the guiding principle of non-proliferation will be taken into consideration.

3. Revalidation and non-proliferation

- 3.1 The existence of validated schemes prior to the application of this guidance will be recognised in terms of a softening of approach in terms of applying the general principles relating to non-proliferation. This is to recognise that it could be unfair, and contrary to the interest of consumers, to invalidate a scheme that meets the criteria and has done so for a considerable time and, in so doing, has established itself as the credible redress scheme for both businesses and complainants.

DRAFT