

3 Wey Court, Mary Road, Guildford, Surrey,  
GU1 4QU, United Kingdom  
[www.ombudsmanassociation.org](http://www.ombudsmanassociation.org)

Company Registration number: 11976831

**Chair:** Richard Blakeway  
**Chief Executive:** Donal Galligan

Levelling Up, Housing and Communities Committee  
House of Commons,  
33 Horseferry Road,  
London, SW1A 0AA

23 August 2022

Dear Sir / Madam,

### **Reforming the Private Rented Sector**

We are writing in response to the Committee's call for evidence on the Government's proposals for reforming the private rented sector, as set out in the [A Fairer Private Rented Sector](#) White Paper. We have restricted our comments to the proposals regarding an ombudsman.

#### **Summary**

1. The Ombudsman Association welcomes the Government's commitment to ensure all tenants in the private rented sector have access to an ombudsman.
2. The most effective way to achieve benefits for both tenants and the sector is to have a single mandatory ombudsman to provide comprehensive and effective redress for all consumers and to enable holistic feedback to the sector.

#### **Background**

3. The Ombudsman Association (OA) was established in 1993 and includes as members all public and private sector Ombudsman schemes and major complaint handling bodies in the United Kingdom, Ireland, the British Crown Dependencies and the British Overseas Territories.
4. The Vision of the OA 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.
5. An Ombudsman helps to underpin public confidence in the sector 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.
6. The OA's membership criteria are recognised as representing best practice. This is reflected in the Cabinet Office's *Guidance for government departments on setting up Ombudsman schemes*<sup>1</sup>, which addresses the point of when it is appropriate to use the title 'ombudsman', and in the criteria used by Companies House on when a company can use the protected term 'ombudsman'<sup>2</sup>.

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<sup>1</sup> [www.gov.uk/government/publications/new-ombudsman-schemes-guidance](http://www.gov.uk/government/publications/new-ombudsman-schemes-guidance)

<sup>2</sup> [www.gov.uk/government/publications/incorporation-and-names/annex-a-sensitive-words-and-expressions-or-words-that-could-imply-a-connection-with-government](http://www.gov.uk/government/publications/incorporation-and-names/annex-a-sensitive-words-and-expressions-or-words-that-could-imply-a-connection-with-government)

## **Does the PRS need its own ombudsman? If so, what powers should it have?**

7. All tenants in the private rented sector should have the same level of protection and access to redress that those in social housing have.
8. We welcome the Government's position that there should be a single ombudsman covering the private rented sector and that it should be mandatory for all landlords to be covered by the scheme, including those operating as 'intermediary' landlords through rent-to-rent agreements.
9. The position that there should be one mandatory ombudsman within a sector has been reinforced by several reports, including the 2017 Citizens Advice report *Confusion, gaps and overlaps*<sup>3</sup>. Those reports are clear that it is in the interests of consumers for access to redress to be simple and straightforward and that confusion is caused by having multiple providers, without any clear evidence of the benefits.
10. That analysis that it should be mandatory is reinforced by research published alongside the UK Government's Consumer Green Paper, which showed that relying on individual businesses to sign up to 'alternative dispute resolution' (ADR) voluntarily has not been successful across the consumer sector. The research undertaken by ICF highlighted that 70% of consumers who went to Court did so because the trader refused to participate in ADR.<sup>4</sup>
11. Unfortunately, across all sectors people are often hesitant to pursue a complaint, even when there is an ombudsman in place. For example, less than 20% of respondents to a recent survey thought complaining about UK public services would make a difference.<sup>5</sup> In 2020/21, the Public Services Ombudsman for Wales (PSOW) did not receive a single complaint about homelessness; yet their subsequent own-initiative investigation showed that vulnerable people were suffering injustice but were either unaware of their rights, did not understand them, or were unable to exercise their right to escalate their complaint.<sup>6</sup> The damp and mold problems uncovered in Housing Association properties by the ITV investigation showed that social housing tenants are also hesitant to take a complaint to an ombudsman.
12. It is therefore essential that tenants are made aware of their rights and the availability of independent redress through awareness raising campaigns and making it mandatory for landlords to signpost to the ombudsman.

### ***Powers***

13. An ombudsman is more a doctor than a police officer, diagnosing what is wrong and making recommendations to improve. This flows from the inquisitorial approach it takes when investigating complaints, meaning that it can identify systemic issues as well as resolve individual complaints.
14. The decisions of private sector ombudsman schemes are legally binding if the complainant accepts the decision (if the complainant does not accept the ombudsman's decision, they can pursue the matter in Court instead).
15. It is recognised best practice for ombudsman schemes to have the ability to set standards for complaint handling, as the Scottish Public Services Ombudsman (SPSO) and the Northern Ireland Public Services Ombudsman (NIPSO) have. 'Own-initiative' powers, the ability to undertake an investigation without having to wait to receive a complaint, as the PSOW did in

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<sup>3</sup>[www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Gaps%20overlaps%20consumer%20confusion%20201704.pdf](https://www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Gaps%20overlaps%20consumer%20confusion%20201704.pdf)

<sup>4</sup> [www.gov.uk/government/publications/resolving-consumer-disputes-alternative-dispute-resolution-and-the-court-system](https://www.gov.uk/government/publications/resolving-consumer-disputes-alternative-dispute-resolution-and-the-court-system)

<sup>5</sup> [Have your say on improving UK government complaint handling | Parliamentary and Health Service Ombudsman \(PHSO\)](https://www.parliament.uk/business/committees/committees-a-z/commons-select/health-service-ombudsman/)

<sup>6</sup> [Ombudsman publishes his first-ever own initiative investigation into the homelessness review process in Wales, finding evidence of "systemic maladministration" by local authorities](https://www.parliament.uk/business/committees/committees-a-z/commons-select/health-service-ombudsman/)

relation to homelessness, are commonplace for ombudsman schemes around the world, including in the Republic of Ireland. They are also held by several offices in the UK, including NIPSO, PSOW and the Independent Office for Police Conduct. Those powers are of most benefit in addressing issues in closed communities, where people are excluded or marginalised from mainstream society, or where there is a fear of reprisal from raising a complaint.

16. The benefit for a sector covered by an ombudsman is the learning loop that it provides via training, setting standards for complaint handling, spotting systemic issues both within a single organisation and across several different organisations, and providing data and insights on common issues industry wide.
17. In terms of the private rented sector, that will enable landlords to improve their services, resulting in cost savings as issues are fixed / prevented rather than reoccurring.

#### ***Compliance / enforcement***

18. An ombudsman scheme is just one piece of the puzzle in ensuring consumers are treated fairly, and they are most effective in sectors where they work closely with a regulator and other accountability bodies. This can be seen, for example, in the energy sector where the ombudsman shares relevant information with Ofgem to inform their regulatory activities and ensure enforcement.
19. An ombudsman is not an enforcement body itself but rather focused, through individual redress, on learning and driving best practice. That needs to be counter balanced by having regulatory bodies with the power to enforce compliance with the ombudsman's decisions and to withdraw a 'license to operate' if the organisation does not comply.
20. For example, it is compulsory for an estate agent to belong to an approved ADR body. If an estate agent did not comply with the decision of the Property Ombudsman they would be expelled from the scheme, meaning they could no longer legally trade. The relevant regulatory body, the National Trading Standards Estate and Letting Agency Team, would be notified to carry out enforcement action. Local authorities, or any other relevant body, should have similar powers to ensure compliance in the private rented sector, and to withdraw a license to operate if necessary, and be resourced to undertake the role.

#### ***Delivery of the ombudsman service***

21. The Committee poses the question whether the private rented sector needs its own ombudsman. Whilst we are clear that the sector should be covered by an ombudsman, it does not necessarily need a new body to be created to do so. 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.

The OA would be happy to provide any further information or meet to discuss if you would find that helpful.

Yours sincerely



**Donal Galligan**  
**Chief Executive**