

Culture, Media and Sport Committee
House of Commons,
33 Horseferry Road,
London, SW1A 0AA

14 July 2023

Dear Sir / Madam,

Follow-up call for Evidence: Gambling regulation

Thank you for the opportunity to provide evidence to the Committee's inquiry into Gambling regulation following the publication of the Government's White Paper, [High Stakes: gambling reform for the digital age](#).

We have restricted our comments to the Ombudsman Association's area of expertise; consumer redress and the creation of an ombudsman.

Summary

1. We welcome the Government's commitment to the establishment of an ombudsman for the gambling sector that meets the Ombudsman Association's criteria.
2. A single mandatory ombudsman should replace the multiple existing Alternative Dispute Resolution (ADR) bodies, providing comprehensive and effective redress for all disputes between gambling customers and operators, including those relating to social responsibility.
3. Having a single mandatory ombudsman provides more effective consumer protection, facilitates more effective feedback to the sector, and supports the regulator in performing their duties.

Background

4. The Ombudsman Association (OA) is the professional association for ombudsman schemes and complaint handling bodies in the UK, Ireland, the British Crown Dependencies, and the British Overseas Territories.
5. The OA's membership criteria¹, including those relating to independence, are recognised both in the UK and internationally as representing best practice. This is reflected in the Cabinet Office's *Guidance for government departments on setting up Ombudsman schemes*,² 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'.³
6. An Ombudsman helps to underpin public confidence in the organisations that they cover; by providing free, 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.
7. 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.

¹ www.ombudsmanassociation.org/about-us/join-ombudsman-association

² www.gov.uk/government/publications/new-ombudsman-schemes-guidance

³ www.gov.uk/government/publications/incorporation-and-names/annex-a-sensitive-words-and-expressions-or-words-that-could-imply-a-connection-with-government

- 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.

Potential barriers to delivering a Gambling Ombudsman

8. The need for an ombudsman in the gambling sector, and the benefits that it would provide have been set out in detail in various recent reports.⁴ Those benefits will only be realised if the ombudsman has comprehensive coverage of *all* transactions and engagements between customers and gambling operators, both replacing the existing ADR providers and being extended to cover social responsibility failings.

Multiple providers

9. Many of the current issues in redress in the gambling sector stem from having multiple ADR bodies and allowing operators to choose themselves which body *they* would like to rule on the complaint about their own service. As the Cabinet Office *Guidance for government departments on setting up Ombudsman schemes*⁵ highlights, Departments should “Avoid multiple redress schemes within individual industry sectors, which may confuse consumers and may introduce uneven practices in investigation and redress”.
10. The lower standards set in the ADR regulations, in comparison to the OA’s membership criteria, contribute to that, meaning that gambling operators can currently opt for organisations that do not take an inquisitorial approach or organisations that are not fully independent. That diagnosis is supported by evidence from other sectors.
11. The position that there should only be one redress provider within a sector, and preferably an ombudsman, is also widely held in academia and in the advice and advocacy sector.⁶ Evidence compiled by *Which?*⁷ highlights the issues caused in the aviation sector by having multiple ADR providers. 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.
12. The responses to Ofgem’s call for evidence in 2018, on whether to allow an additional redress provider to operate in the energy sector alongside the Energy Ombudsman, further underlined what best practice is; both consumer representatives and the energy companies themselves highlighted that having multiple redress providers did not benefit either consumers or businesses.⁸

Gambling Ombudsman

13. A single mandatory ombudsman not only provides clarity for consumers. Having a holistic overview of all complaints across the sector allows an ombudsman to spot systemic issues both within a single organisation and across several different organisations. In turn, this enables an ombudsman to provide feedback to the sector to help drive improvements in service delivery and customer service, and to inform the regulator’s activities.
14. An ombudsman is just one piece of the puzzle, and they are most effective in sectors where they work closely with the regulator and other accountability bodies; for example, in the energy sector where the ombudsman shares relevant information with Ofgem to inform their regulatory activities and ensure enforcement.

⁴ [Gambling Harm— Time for Action \(parliament.uk\)](https://www.parliament.uk/business/committees/committees-a-z/all-committees/gambling-harm-time-for-action/)

⁵ www.gov.uk/government/publications/new-ombudsman-schemes-guidance

⁶ www.citizensadvice.org.uk/Global/CitizensAdvice/Consumer%20publications/Gaps%20overlaps%20consumer%20confusion%20201704.pdf

⁷ www.which.co.uk/news/2020/10/more-airline-passenger-misery-as-court-cases-could-take-years/

⁸ www.ofgem.gov.uk/publications-and-updates/application-utilities-adr-be-certified-adr-provider-energy-sector-ofgem-decision-following-responses-our-open-letter

15. Whilst the preferred solution to create a single mandatory ombudsman that meets the OA's membership criteria is often via legislation, it is possible to do so without it. In terms of the rail sector, that was delivered via a modification to the passenger licence conditions by the Office of Rail and Road to mandate membership of the Rail Ombudsman.
16. The goal for a new Gambling Ombudsman to be accepting complaints 'within a year' (summer 2024) is an ambitious one. Any lack of clarity over the ombudsman's jurisdiction, in terms of the organisations or issues covered, or pushback against the OA's criteria, could cause delay. A clear understanding and acceptance by all stakeholders that the ombudsman will have a holistic jurisdiction over all interactions between gambling operators and customers, replacing the existing ADR providers and being extended to all elements of social responsibility, is essential in order to make swift progress.

We would be happy to provide any further information or meet to discuss if the Committee would find that helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Donal Galligan', written in a cursive style.

Donal Galligan
Chief Executive