

# The creation of an English Public Services Ombudsman: mapping a way forward

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The Local Government Ombudsman is the independent public body that investigates complaints from service users about councils and some other authorities and organisations, including education admissions appeal panels and adult social care providers (such as care homes and home care providers). [www.lgo.org.uk](http://www.lgo.org.uk)



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## Introduction

Strong democracies should be backed up by robust accountability frameworks, an aspect of which includes redress mechanisms. This paper explores the current debates surrounding one such mechanism, the ombudsman, and the proposal to integrate the ombudsman community in England. There is much support for this proposal but less agreement on the way forward. It is argued here that, in the long-term, successful reform will not occur unless three distinct perspectives on administrative justice are incorporated into the proposal to form a single public services ombudsman for England. This approach points to a set of principles that should direct redesign of the ombudsman sector in England in order to establish an institution capable of responding to current and future demands.

It is now widely understood that the austerity drive of the Coalition Government has triggered a distinctive shift in the model of public service provision in England. A significant aspect of this shift is the hastening of a drift towards consumer democracy which, amongst other impacts, has forced the ombudsman world to reconsider the strength of the redress service that it provides. This reflective process has led to the reappearance of the long-standing proposal to harmonise existing ombudsman schemes into an integrated Public Services Ombudsman (PSO) for England.<sup>1</sup>

At its strongest, the proposal to form an English PSO entails the harmonisation of multiple schemes, plus the reconsideration of the office's powers. Given the potential scale of the project and its need for new legislation, the formation of an English PSO should be considered a major exercise in reform. By contrast, minimalist approaches to ombudsman reform reduce the chances of meaningful reform being implemented and run the risk of the ombudsman system being restructured in a manner insufficiently robust or flexible enough to meet the challenges of the future.

But major reforms require a high degree of political will to secure implementation and are hampered by the lack of a clear process in the administrative justice system as to how such projects should be conducted.<sup>2</sup> In response to this dilemma this paper highlights both the reasons why major reform in the ombudsman sector is necessary, and the different perspectives

on administrative justice that should be accounted for within that reform process. As well as outlining the key features that should be included in a 21<sup>st</sup> century ombudsman scheme, we conclude the paper by drawing together some principles which should inform the creation of an integrated ombudsman scheme. So long as sufficient political capital in the project can be secured, combined these principles have the potential to align the capacity of the ombudsman system with the public service model that has evolved in modern England and in so doing allow it to contribute fully to the promotion of administrative justice.

## The long-standing problem of ombudsman reform in England

The basic argument for harmonisation is that the current design of the English ombudsman sector is only explicable as the end product of an uncoordinated set of historical events. The first ombudsman scheme in the UK was introduced in 1967 with a limited jurisdiction and without proper consideration of the option of a public sector wide ombudsman scheme. This was followed, over time, by the introduction of new ombudsman schemes in response to new pressures in different parts of the public sector. Throughout this process little thought was ever given to the overall structure of the administrative justice system, resulting today in a network of multiple overlapping schemes which do not always map onto the delivery of 21<sup>st</sup> century public services in a comprehensible, efficient or possibly even effective manner.<sup>3</sup> To address this mismatch, the time has come to redesign the structure of the ombudsman sector in England in a manner that is appropriate for the way that public services are delivered today and into the near future.

A number of subsidiary arguments for reform in the ombudsman sector can also be identified, such as the unnecessary complexity that the existing system presents users of ombudsman services and the potential for the ombudsman enterprise to achieve more than it currently does.<sup>4</sup> Adopting these arguments, the list of proponents of reform of the current structure of the ombudsman sector in England is a long one, and includes a 2000 Cabinet Office report, many current and former ombudsmen and most recently a Parliamentary select committee inquiry. Moreover, the solution to the problem most often advocated is the unified ombudsman model, as has been introduced in Scotland and Wales<sup>5</sup> and is planned in Northern Ireland.<sup>6</sup> Other countries too tend to favour a general purpose ombudsman over the specialised ombudsman model, which is dominant in England.

But despite the degree of support for the harmonisation plans, reform of the network of ombudsman schemes in England has proved elusive for some considerable time. A major barrier to reform has always been the need for cross-cutting legislation, as the nature of the underlying problems in the

English ombudsman sector is that they can only be fully addressed by an initiative that moves beyond incremental efforts to amend or tinker with existing legislative schemes. But the challenge of coordinating such a wide-ranging reform initiative is a 'wicked' problem,<sup>7</sup> in which most of the key stakeholders recognise the merits of change but there exists a lack of coordinated energy to drive the agenda forward. A key difficulty is the disparate oversight of the ombudsman sector in government and Parliament. Partly as a result, even when momentum has been created in the past, a myriad of conflicting concerns about the proposal have arisen to provide strong incentives for one or more parties to disengage from the process.

But with the Coalition Government looking for legislation to fill its final year in office, 2014/15 might represent the best opportunity in a generation to implement change in the ombudsman sector. Despite the difficulties, therefore, in this paper we consider what a fully rounded approach to thinking about ombudsman reform would look like.

## Channelling thinking on administrative justice

The starting premise for undertaking reform in the ombudsman sector should be that the ombudsman is designed with the core objective of contributing to the delivery of administrative justice.<sup>8</sup> Although an uncontroversial premise, the challenge in choosing the goal of administrative justice as the launch pad for redress design is that the concept is short of substantive meaning. Thus the public may expect 'justice' to be delivered by public sector providers,<sup>9</sup> but it is improbable that a theory could be devised that could explain the substantive meaning of administrative justice in every instance of administrative decision-making. Instead, the idea of administrative justice captures a wide variety of competing values and aspirations, about which there will always be contested interpretations of fact and policy viewpoints at play, and limitations on the resource capacity of administrative agents to deliver.<sup>10</sup>

In response to this apparent relativity of values, administrative justice is ordinarily understood to be upheld through an extended series of procedural protections which aim to ensure that all relevant interests are properly factored into decision-making. But there is no single procedural model of administrative justice. Thus there are different processes for overseeing the manner in which laws and rules are made; administrative discretion is exercised; citizens acknowledge or resist those decisions; and the veracity of those decisions are checked, reviewed, amended and verified.<sup>11</sup> What, therefore, can the goal of administrative justice tell us about how the ombudsman sector should be reformed?

In this paper we offer three interlinked accounts of the driving forces behind the processes by which administrative justice is delivered and which in turn should underpin initiatives to reform the ombudsman system in England.

### **Step One: identifying the pragmatic drivers for change**

The first unavoidable factor that needs to be incorporated into any reform of the ombudsman sector is the power the prevalent administrative justice model retains in the executive. The experience of users of public services is

that administrative justice is largely implemented by a complex array of hard-pressed service providers, some public and increasingly many private, using what discretionary power they possess to juggle the demands of restricted budgets, diverse targets and the expectations of citizens. This dynamic picture of public service delivery suggests that the meaning of administrative justice is often fluid and context dependant on the circumstances found at the administrative coal-face. But overseeing the work of these various service providers, the UK constitution endows large scale power to Parliament and the executive to set the framework within which administrative justice is delivered, commensurate with the demands and the politics of the day. Therefore, ultimately administrative justice remains under the control of the executive, subject to whatever checks and balances it has conceded or Parliament has imposed, including the rule of law and a range of redress mechanisms and regulators.

The background influence of the executive on administrative justice in the UK dictates that for major reform to happen would-be reformers are required to build into their efforts a proper appreciation of the strategic drivers which dominate government thinking. This practical reality is illustrated by past efforts to harmonise or reform the English Ombudsman sector. In this sector the challenge has always been to engage government in the merits of reform and then to retain sufficient momentum behind the project to implement proposals. Without such support only relatively small-scale and incremental improvements can be made. By contrast, any significant reform of the ombudsman sector in England will have to be managed by the government as it will involve fresh legislation. Yet Parliamentary time for new legislation will only be found if a government is persuaded that various discrete and/or short-term measurable solutions exist that appeal to its overall strategy.

But the positive opportunity for ombudsman reform right now lies in the existence of at least three such primary drivers for harmonisation of ombudsman schemes, which connect very closely to current government agendas.

*Efficiency:* The reduction of public expenditure and an increased focus on value for money will be an ongoing feature of government policy for some time. So far the pressure on budgets in the ombudsman community has



largely been pursued through existing institutions, but as noted in a recent evaluation of the LGO:

Any further radical budget cut to the LGO would test the store of energy and commitment in the organisation to its limits, and would likely lead to a situation that the LGO would no longer be able to meet the standard of effective and expeditious complaint-handling for the scale of functions that it currently is responsible for.<sup>12</sup>

This background pressure suggests that within the current budgetary climate, bolder solutions, including harmonisation, will become inevitable.<sup>13</sup>

*Enhanced consumer service:* There is a growing body of evidence that there is dissatisfaction with current arrangements for complaints handling<sup>14</sup> and that complainants expect more from ombudsman schemes and better access to justice.<sup>15</sup> A particular problem is the overall structure of the administrative justice system, which has become unnecessarily complicated to anyone navigating a route to redress through the current 'complaints maze'. Pragmatic incrementalism is largely the cause of such complexity, not least in creating additional routes to redress in response to changes in public service delivery. By contrast:

The direction of travel for the provision of services across all Whitehall departments and local authorities is towards integration, increasingly blurring the lines between services. This is most visibly demonstrated by the new government website, which brings all departments under one online roof creating a single point of access and demonstrating a joined up approach. The argument is that it is more effective, more efficient, better value and easier to understand for the user.<sup>16</sup>

Simultaneously, the Coalition Government is pursuing an agenda of open public services, which involves localising service delivery and making increased use of a diversity of providers.<sup>17</sup> To assist in facilitating this agenda and offering meaningful support to users of services, complaint processes will need to be flexible enough to oversee complaints that cross over traditional public service boundaries and the increasingly integrated nature of governance. But it is questionable whether the current arrangements

provide citizens with either a user-friendly or an appropriate set of redress opportunities.

*Improvements in public accountability:* The confused landscape of the current ombudsman sector not only creates a barrier to justice but also fails to address the need for more effective public accountability in a consumer democracy. The focus here should be on enhancing democratic accountability, particularly local democracy as the ‘localism’ agenda implies. But the need for improved redress mechanisms to bolster existing regulatory and accountability mechanisms is strong. An erosion of public confidence in the complaints system as a whole, such as demonstrated in the large scale public outrage in response to failures in public services,<sup>18</sup> has led to an urgent need to once again legitimise the authority of the ombudsman pillar of administrative justice. This issue has become difficult for the Government to ignore, culminating in the Minister of State’s 2013 promise to review the coordination of practice in the complaints branch as part of his responsibility in the Cabinet Office.<sup>19</sup>

The fundamental principle that users and their interests are central to administrative justice, and central in a manner that goes beyond simply providing individual redress,<sup>20</sup> is supported by the findings of a series of reviews into public service provision. In particular, the Francis Report<sup>21</sup> delivered the most challenging criticism of failure in complaints handling in relation to one particular hospital trust, but echoed earlier inquiries calling for a more responsive system.<sup>22</sup> The key message from Francis was that consumer voice leads to better public accountability and service improvement. If the hospital under scrutiny had made it easier for patients to make their voices heard in relation to concerns in the quality of care, and had listened and acted upon those concerns, then service failures could have been addressed at a much earlier stage.

### **Step Two: Ask radical questions about the real needs of users**

The drivers of efficiency, enhanced consumer service and improvements in public accountability are themes closely aligned to this and past government strategies on administrative justice. But focussing on government-related drivers of reform alone risks encouraging issue-specific and incremental policy-making to occur in silos. The very pragmatic evolution of the various

ombudsman and complaint-handling schemes in England is strong evidence of the inefficient legacy of this approach to administrative justice reform.<sup>23</sup> Hence, considering ombudsman reform through the pragmatic lens of the current administrative justice system, by itself, offers a limited framework through which to conduct reform, as it inevitably favours consideration of the short-term objectives of either the government or the institution implementing the process. The design of the current system also does not encourage the systematic consideration of the wider consequences of reforming one branch of the administrative justice system on other branches.

In order to meet effectively the challenges facing the ombudsman sector, the evidence suggests that the time has come to move beyond limited and short-term responses to discrete aspects of the problem, responses which might store up problems for the near future. Instead, radical solutions need to be considered which are an accurate reflection of, and relevant to, the current socio-economic and political context of the public domain in which administrative justice is delivered. Without such a willingness to engage in radical thinking there is a risk of stagnation as old solutions become increasingly less and less relevant to the needs of the day. This risk is enhanced in the case of ombudsmen, given the relative rarity in which systemic reform in the sector occurs.

Applying a radical approach to the ombudsman sector requires asking first what has changed in the delivery of administrative justice since the older ombudsman schemes were introduced and then second what needs to be done to realign the ombudsman enterprise with the current landscape. Within this approach, questions as to how justice *is* achieved and *for whom* are fundamental and more important than what the system may have been originally designed to deliver. In this respect, at least three major paradigm shifts in public services have occurred which undermine the existing legislative design of ombudsman schemes in England. These paradigm shifts help explain the existence of some of the pragmatic drivers for reform identified in the previous section.

*The shift towards consumerism:* The first is the tendency for the public today to see themselves as consumers of public goods, benefits and services in a 'transactional' relationship with the local and central state (and those bodies providing services on their behalf), rather than as citizens. This change in the

public's expectations of public services has been encouraged by the public policy reforms pursued by successive governments. This trajectory has led to a prevalent understanding that taxpayers who fund public services regard themselves as customers and expect a customer-focused service.<sup>24</sup>

*The changing model of public service provision:* The second paradigm shift in administrative justice is the ever increasing delivery of public services by private providers, in particular in health and social care, as well as education and housing. In what has become a multi-agency delivery environment, the public interest in the fair allocation of scarce resources (in terms of statutory duties to provide), especially to the most vulnerable, remains a key administrative justice consideration. Yet unlike with *public* service providers, the individual user cannot rely upon the ballot box to call the *private* provider to account. Hence, this shift towards private sector provision has left a deficit in accountability and reinforced the need for redress mechanisms which can achieve an effective remedy. Increasingly the pressure is for remedies capable of dealing with service failure, as well as procedural fairness.

*The changed regulatory model:* The third shift is the complexity by which public services are regulated today. The increasing use of private sector providers has not led to full de-regulation. Instead, regulatory systems are designed to accommodate the need for lighter-touch (and less expensive) central inspectorates, whilst maintaining regulatory frameworks which provide public confidence and assurance in a mixed economy of state and private provision. But light-touch regulation risks failing to reassure the public that the diversification of public service provision has not led to the endemically inconsistent provision of administrative justice. To compensate for this risk, part of the solution is the added confidence in a system that can be provided by the timely and effective local resolution of complaints. Further, as the Clwyd Report into complaints systems in the NHS demonstrated,<sup>25</sup> such confidence will be difficult to secure without the potential for speedy escalation of the dispute to an independent body. This requirement for individualised justice has always been present, but in the current regulatory context there is arguably a heightened need for service providers to comply with standards within a framework which guarantees access to justice and holds providers to account.

This call for a better focus on local resolution is balanced by a recognition of the need for a more effective feedback mechanism to regulators who need to continue to secure an appropriate and robust standards framework. Both elements are needed to secure consistent and comprehensive administrative justice which covers both the statutory duties and functions of public bodies and the private and independent providers acting on their behalf. The Care Quality Commission, for example, has committed to developing the way it uses complaints' information to assure the quality of services.<sup>26</sup>

A radical approach to administrative justice recognises that these three significant changes in the context of public service provision – namely the needs of consumers, the increasing privatisation of services and new forms of public accountability - cumulatively drive an increased public expectation for responsive services, which are designed and delivered with the service user in mind. Consequently, services are expected to be transparent and open, as well as capable of offering timely redress and changes to practice when concerns are raised. Neo-liberal concepts of privatised consumerism now permeate the democratic relationship in which the statutory duties and powers of the state are exercised. An 'I want my money back' culture cannot be disregarded in the forms of administrative justice which are required to address service failure, as much as procedural fairness. Indeed, safeguarding administrative justice should be regarded as one of the key mechanisms by which government regulates a market economy of public services designed to deliver increased choice and personalisation.

The most radical challenges to thinking on administrative justice in recent years flow from this dynamic shift in the foundations of the administrative state. Looked at through the prism of this changed administrative justice environment, it can be easily understood why the current ombudsman sector struggles to respond in full. The Francis report, already mentioned, has highlighted the cultural lack of seriousness given to complaints in the current system, a view echoed in a recent Parliamentary inquiry. But in a similar vein, other recent reviews have found that the Health Services Ombudsman was operating too far removed from local resolution<sup>27</sup> and that the LGO was unresponsive and taking too long to complete investigations.<sup>28</sup> In short, the role of the ombudsman in supporting local redress mechanisms should be focussed on real-time resolution, rather than time-consuming retrospective redress.

Cumulatively, it has become increasingly evident that the existing legislation allows for a structure which is too inflexible when compared to the modern landscape of administrative justice. Further, the ombudsman method is too procedurally formal in places and does not allow sufficiently for the ombudsman to be proactive. Developments at the 'coalface' of administrative justice should ideally be backed-up by an appropriately designed ombudsman system. The risks of not repositioning the ombudsman to meet the public services context of the 21<sup>st</sup> century are extensive. At a time when austerity measures have imposed limitations on access to justice through the courts, reduced budgets are resulting in greater rationing of welfare benefits and service provision and the public service delivery chain is more complex than ever, the need for a clear and accessible route to redress through informal independent dispute resolution has never been more important. In this context, the focus of public policy should be on enhancing consumer rights and consumer protection. Such goals should be mirrored in any attempts to reform the ombudsman sector and necessarily this will mean going beyond isolated incremental measures.

### **Step Three: Establishing radical solutions which meet constitutional norms**

It is generally accepted that the ombudsman sector needs to be restructured<sup>29</sup> and various different solutions have been mooted, many of which attempt to address the paradigm shifts in the provision of public services outlined above. Fortunately, despite its tendency towards piecemeal reform, provided that the government can be persuaded of their merits, the British constitution is capable of embracing radical new ideas. For instance, the introduction of both the Parliamentary Ombudsman and the Citizens Charter illustrate that radical solutions can be adopted as a pragmatic response to public policy concerns. These solutions, embracing as they do the right of citizens to complain, have gone on to become permanent features of the British constitutional settlement.

But, assuming that sufficient government energy and focus can be generated towards ombudsman reform, there is an inherent danger that the mixture of the pragmatic and radical approaches to administrative justice alone could foster an unconstrained focus on innovation at the expense of fundamental constitutional safeguards. Within any major reform process, therefore, there

should be an off-setting safety net that ensures that lessons from the past are not overlooked and overriding constitutional objectives are not side-lined by a narrow focus on perceived problems and short-term objectives. Such a safety net can be provided by adherence to a background constitutional model of administrative justice. In particular, the purported value of the constitutional model is that it entrenches into the rule of law a fair relationship between the individual citizen and the government of the day.

There is not the space to explore all potential reform measures that could be included in new ombudsman legislation but we consider here two generic sets of issues that flow from the goals raised above and where appropriate test them against constitutional norms. The measures discussed here would all be of value in addressing the leading administrative justice agendas of the government and better reflecting the landscape of the changing administrative justice system.

*Refocussing the ombudsman's core role:* The evidence from recent reports on complaint systems suggests that the ombudsman's role as a complaint-handler and a genuine point of accountability remains essential. As local complaint systems alone struggle to enhance trust, any proposal to reduce the ombudsman's complaints-handling role<sup>30</sup> would contradict standard constitutional understandings of the role of the ombudsman, which in the EU Directive on alternative dispute resolution for consumer disputes was confirmed as an independent complaints-handler.

More boldly, what should be at issue in any reform is the potential for the ombudsman to move beyond this role to offer a more powerful contribution to administrative justice which would tackle some of the pragmatic drivers for change identified above. Here there are a series of measures that could strengthen the ombudsman's capacity.

First, as in Scotland, the ombudsman could become a standard setter for complaints handling for all public bodies.<sup>31</sup> This role could be dovetailed in legislation with the role of relevant regulators, such as the National Audit Office and the Care Quality Commission, to audit compliance with the complaint standards set.

Second, the pursuit of administrative justice would be strengthened further if there was a champion and voice for the administrative justice system (as opposed to the individual). Effective systems are often the outcome of effective leadership, for which role the PSO would be the most obvious candidate. The PSO could have a duty to submit a report to Parliament on the quality of administrative justice provided within the complaints branch and the impact of complaints on strategic decision-making. As part of this role, the PSO might have a duty to report to Parliament on all refusals of public service providers to implement recommendations made by complaints handlers.

Third, in this latter respect, one reform proposal that might require a revision of the current standard conception of the public sector ombudsman is the need to adjust the ombudsman's powers to take into account the enhanced use of private sector providers. Against private sector providers at least, consideration should be given to granting the PSO the discretion to seek judicial enforcement of recommendations and recover the costs of investigating complaints about non-public bodies from the providers themselves. Such measures would reduce the burden on the public purse and help to ensure that all providers are accountable.

Fourth, there is an urgent need to find ways to enhance the capacity of the ombudsman to interact with regulators and service providers to identify areas where improvement is required. The ombudsman is well-suited to being the body that pools together the messages coming out of the complaints process and disseminating the lessons to be learnt from complaints. There are bold models of ombudsmanry elsewhere in the world that could be reflected upon, with a reoccurring proposal that the ombudsman should be endowed with a power to launch investigations even before a complaint is received or to continue investigations long after the original complaint has been resolved. A corresponding duty could be placed upon the PSO to refer issues to the appropriate regulator where it is felt that the regulator is in a better position to pursue systemic improvements.

*Mapping the 'new' ombudsman to the administrative terrain:* Given the modern day multi delivery model of public services, the rationale for the harmonisation of a number of ombudsman schemes is hard to resist, although the extent of that integration and the corporate governance



arrangements that would be required to manage and call to account the PSO is beyond the scope of this article. Harmonisation should still allow for the delivery of ombudsman services to be managed through specialised branches within the PSO, but it would have the potential benefit of dramatically raising the profile of the ombudsman enterprise, securing significant economies of scale. If sufficient economies were made the regionalisation of ombudsman offices might become a realistic possibility, a goal which could enhance ombudsman efforts to 'localise' justice and work with service providers to promote learning from complaints.<sup>32</sup>

A primary goal of integration should be to enhance public access to and awareness of the ombudsman. The right to complain directly to the PSO about all but specifically exempted public services should be enshrined in law and consideration of human rights concerns should be expressly brought within its remit. The new ombudsman could be given the duty to be responsible for promoting the office to all sectors of the public; to ensure that there is a centralised source of information and advice about all public service complaints in England; and, as with the Public Sector Ombudsman for Wales,<sup>33</sup> to establish a single portal for complaints about public services. Simultaneously, the duty of all providers of public service to establish, operate and advertise a complaints system should be enshrined in law, together with a duty to comply with suitable timescales as set by the PSO. As recommended by the Law Commission, in built into this structure should be a process to manage the overlaps between the PSO and the delivery of administrative justice by other dispute resolution providers.<sup>34</sup>

Finally, to avoid the errors of the past, the devolution riddle would have to be solved. This means that the role of the current Parliamentary Ombudsman, insofar as it applies to complaints from Northern Irish, Scottish and Welsh citizens, should not be included in the jurisdiction of the PSO. Alternative solutions for dealing with non-English UK complaints do exist, such as: retention of the Parliamentary Ombudsman; delegation to the relevant devolved ombudsman depending on the residence of the complainant; or transferal to an existing UK officer, for instance the Parliamentary Commissioner for Standards. All of these solutions have drawbacks, but would respect the devolution settlement and should be considered in the context of the relatively low numbers of complaints currently handled by the PHSO's office that do not involve English residents.

## Conclusion: principles for a radical vision

There exists an urgent need and an opportunity for reform in the ombudsman sector. Drawing on the analysis above we conclude that a radical vision for change is needed to meet the fundamental challenges to the current system, challenges that are becoming increasingly difficult to meet within the outmoded complexity of the ombudsman sector today. We propose a vision which responds to pragmatic drivers for change and maintains the essential building blocks of the constitutional model. In summary, reform should be based on the following principles.

**Increased public awareness and access:** The public need to know about the role of the ombudsman, what can be achieved to remedy their concern and how to access the service.

**Seamless service:** A single PSO for England would require a common business model and service standards about public services which are not confined to administrative or other sector boundaries.

**Maximise knowledge and expertise:** An independent and impartial PSO should operate with lead ombudsmen overseeing complaints about specific sectors to provide public confidence and assurance in the quality of the scheme.

**Authority to remedy injustice and require service improvement:** The PSO should have a duty to refer concerns uncovered in the course of its work to the relevant regulator for action, and where appropriate to Parliament or the relevant organisational board.

**Strong local complaint handling with independent oversight:** A PSO should have a duty to set common standards for complaints handling with a role for the relevant regulators to audit compliance.

**Value for money:** An ombudsman service must be free of charge to the complainants. Differing funding models should apply depending on whether the body investigated is publically or privately funded.

**Independent corporate governance:** An ombudsman scheme must be independent of the body complained about. This is best delivered by a governance structure which ensures proper accountability, usually a unitary independent board responsible for appointing a chief ombudsman.

**Increase scrutiny and accountability of services locally and centrally:** The relationship between the ombudsman, local councils, Parliament and other public service providers should be strengthened to support democratic scrutiny of public services.

## Notes

<sup>1</sup> Oliver Letwin, Minister of State, in evidence to the Public Administration Select Committee, 15 October 2013.

<sup>2</sup> V. Bondy and A. Le Sueur, *Designing Redress: A Study About Grievances Against Public Bodies* (2012); A. Le Sueur, 'Designing Redress: Who does it, How and Why?' (2012) 20 *Asia Pacific Law Review* 17.

<sup>3</sup> A.Sampson, 'Time to streamline Britain's complaints system', *The Guardian*, 26 November 2013.

<sup>4</sup> See the oral and written evidence submitted to the Public Administration Select Committee inquiries into *Complaints: Do they make a difference?* Available via: <http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-administration-select-committee/>

<sup>5</sup> The Scottish Public Services Ombudsman Act 2002 and the Public Services Ombudsman (Wales) Act 2005.

<sup>6</sup> Committee for the Office of the First Minister and deputy First Minister, *Report on the Committee's proposals for a Northern Ireland Public Services Ombudsman Bill* (2013).

<sup>7</sup> K. Grint, "Wicked Problems and Clumsy Solutions: the role of leadership" *Clinical Leader* vol.1 no.2 [2009], 11.

<sup>8</sup> T. Buck, R. Kirkham, and B. Thompson, *The Ombudsman Enterprise and Administrative Justice* (2011), chs.2 and 3; C. Gill, *The Evolving Role of the SPSO*. Paper to the Socio-Legal Studies Association Conference, April 2013.

<sup>9</sup> R. Kagan, 'The Organisation of Administrative Justice Systems: The Role of Political Mistrust' in M. Adler (ed) *Administrative Justice in Context* (2010), 161.

<sup>10</sup> M. Adler, 'Understanding and Analysing Administrative Justice', in Adler op. cit. n.33, (2010), pp.132-133.

<sup>11</sup> Eg Adler op. cit. n.34; Halliday and Scott op. cit. n.35 and AJTC, *The Developing Administrative Justice Landscape*. Available at: <http://ajtc.justice.gov.uk/publications/522.htm>

<sup>12</sup> R. Thomas, J. Martin and R. Kirkham, *External Evaluation of the Local Government Ombudsman in England* (2013). Available at: <http://www.lgo.org.uk/news/2013/apr/lgo-welcomes-independent-confirmation-fair-effective-ombudsman/>.

<sup>13</sup> R. Gordon, *Governance Review of the Local Government Ombudsman Service* (2013), paras.25-35. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/262089/131128\\_Governance\\_Review\\_of\\_the\\_Local\\_Government\\_Ombudsman\\_Service.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262089/131128_Governance_Review_of_the_Local_Government_Ombudsman_Service.pdf)

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- <sup>15</sup> Buck et al, op.cit. n.32, ch.4 ; Gill et al, op.cit. n.72, pp.15-22.
- <sup>16</sup> Gordon, op.cit. n.80, para.26.
- <sup>17</sup> Cabinet Office, *Open Public Services* (2013).
- <sup>18</sup> Francis, op.cit. n.65.
- <sup>19</sup> Letwin, op.cit. n.1.
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- <sup>22</sup> Eg J. Smith, *The Shipman Inquiry*, Cm.5854, (2003).
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- <sup>27</sup> Clwyd, op.cit. n.60.
- <sup>28</sup> Communities and Local Government Committee, *The work of the Local Government Ombudsman* HC 431 (2012–13).
- <sup>29</sup> PASC, op.cit. n.4.
- <sup>30</sup> Eg Department of the Environment, *Report of the Financial Management and Policy Review of the Commission for Local Administration in England: Stage I* (1995).
- <sup>31</sup> See the work of the Scottish Public Services Ombudsman under the Public Services Reform (Scotland) Act 2010.
- <sup>32</sup> Dunleavy et al, op.cit. n.62.
- <sup>33</sup> Complaint Service Wales. See: <http://www.complaintswales.org.uk>
- <sup>34</sup> Law Commission, *Public Services Ombudsmen* HC 1136 (2010-11).