

HANDLING OF PARLIAMENTARY OMBUDSMAN CASES

Introduction

1. The Parliamentary Commissioner (or Parliamentary and Health Service Ombudsman) investigates complaints from members of the public of injustice arising from alleged maladministration. The powers and responsibilities of the office are set out in the Parliamentary Commissioner Act 1967¹.
2. This guidance is intended for central government organisations including executive agencies and NDPBs.
3. Departments may find it useful to refer to the [UK Central Government Complaint Standards](#), published by the PHSO.

Powers of the PHSO

4. The Ombudsman has many of the powers of a court, including powers:
 - to conduct formal investigations;
 - to require documents to be produced; and
 - to require witnesses to attend and be examined, if necessary under oath.

The Ombudsman aims, however, to proceed as informally as possible.

Bodies covered by the PHSO

5. The bodies which the Ombudsman is empowered to investigate are listed in Schedule 2 to the Parliamentary Commissioner Act 1967. They include UK Government Departments, executive agencies and a number of NDPBs.

Devolved administrations

6. The administrations in Northern Ireland, Scotland and Wales have their own Ombudsmen, covering devolved matters. The Parliamentary Commissioner handles complaints on reserved UK Government matters.

Handling by departments and Arm's Length Bodies

7. Bodies within jurisdiction are expected to cooperate fully in investigations.

Arm's Length Bodies and ministerial departments

8. Sponsor teams in ministerial departments have an assurance role with regard to complaints standards in the Arm's Length Bodies (ALBs) they sponsor².

¹ This document does not cover complaints about NHS services as they are subject to separate legislation. By convention, the same individual holds the posts of the Parliamentary Commissioner (UK Government) and Health Service Commissioner (England).

² Please see the [Public Bodies Review guidance](#), self-assessment model, review quadrant - governance.

The PHSO's UK Government Complaint Standards recommend that departments have strategic oversight of complaints standards in their ALBs.

Investigations

9. Information on how the PHSO works with organisations to conduct an investigation is available on their [website](#). The PHSO will normally share their provisional reviews with your organisation prior to report finalisation and publication.
10. The Parliamentary Commissioner Act 1967 (Sections 7(1) and 10(2)) places on the Ombudsman certain obligations in respect of "the principal officer" of the body which is the subject of the investigation. The Ombudsman must give the Principal Officer of the body concerned and any other named official complained against, an opportunity to comment on the allegation. For these purposes, the Principal Officer in charge of the department is the Permanent Secretary or senior officer in charge of the department.
11. The Ombudsman normally asks for responses within two weeks, but there can be flexibility. If your organisation cannot meet this timetable, keep the Ombudsman's case worker informed and provide an expected response date.

The complainant

12. Complaints come from members of the public but must be referred to the Ombudsman by Members of the House of Commons. The Ombudsman may contact the complainant directly to get more information.
13. Bodies concerned must continue to deal with the issue under investigation in the normal way of public business wherever this is possible. The Ombudsman may be consulted if there are problems in doing so.

Complaints against individuals

14. Complaints will usually be about action taken by or on behalf of a department, agency or NDPB. Occasionally, however, the actions of individuals will be called into question. The Ombudsman's investigations are carried out in private. The Ombudsman will not name individual officers in his final report unless this is unavoidable.

Provisional views

15. The Principal Officer should draw the attention of the Ombudsman to
 - any factual inaccuracies in the proposed report;
 - any relevant factual evidence which appears not to have come to light in the course of the investigation;
 - action proposed in relation to a recommended remedy.
16. When responding to the Ombudsman's provisional views, the Principal Officer is expected, where appropriate, to give some indication of the action that will

be taken to implement the Ombudsman's recommendations and may discuss with the Ombudsman and the complainant any financial or other remedy that has been recommended.

Final report

17. After taking account of the Principal Officer's comments the Ombudsman will:
 - send the final report to the Member of Parliament who referred the case; and
 - send copies of the report to the Principal Officer of the body concerned and to any individuals against whom the complaint was made.
18. The Ombudsman's recommendations are not legally binding, but the Cabinet Office expects that departments will work with PHSO to come to an agreement on an acceptable outcome. In a case where a body proposes not to accept the Ombudsman's recommendation, the department should notify the Cabinet Office as soon as possible.
19. In rare cases, the Ombudsman may make a special report to both Houses of Parliament where he considers that injustice caused by maladministration has not been, nor will be remedied.
20. The Ombudsman's finding is final: there is no avenue of appeal (although the complainant can apply for a judicial review of the Ombudsman's decision).

Apologies

21. When a department recognises that something has gone wrong or there has been an impact on the complainant, an apology should be made. A direct apology to the complainant should always be sent from a senior officer (normally the official with overall responsibility for the organisation concerned). The timing of the apology will depend on individual circumstances. Departments should ensure that, where fault was less clear cut and remained at issue during the final stage of the Ombudsman's consultations or a draft report, the apology should not be sent before receipt of the Ombudsman's final report.

Changes to procedures

22. In keeping with UK Central Government Complaint Standards, where mistakes have been made, the priority of the organisation should be to avoid a "blame culture" (where staff feel threatened by complaints and defensive about receiving them). Guidance should instead encourage the ready admission of mistakes, the provision of swift and effective redress and steps to ensure that a similar failure does not recur.
23. In addition, each department, agency or NDPB should consider why their own complaints systems failed to satisfactorily resolve any complaints they received which the Ombudsman considered were justified. If the organisation

has not yet implemented the UK Central Government Complaint Standards they should refer to the PHSO website for details of this scheme.

Disciplinary Action

24. The Principal Officer is responsible for any disciplinary action taken against individuals in response to an Ombudsman's report.

Remedy

25. Guidance on remedy is set out in [Managing Public Money, Annex 4.14](#) and on special payments in [Annex 4.13](#).

26. Departments may need to consult HM Treasury on individual remedy payments where these:

- fall outside their delegated authorities; or
- raise novel or contentious issues; or
- could set a potentially expensive precedent or cause repercussions for other public sector organisations.

27. Where any department proposes to set up a remedy scheme in response to a PHSO recommendation they should seek approval from the Cabinet Office and consult with HM Treasury.

28. Departments may find it helpful to read to PHSO's guidance on [financial remedy](#).

CONTACT DETAILS

Cabinet Office Ombudsman policy team:

ombudsman@cabinetoffice.gov.uk

HM Treasury:

The best way to get in touch with HM Treasury is through your spending team. If you do not have contact details, your departmental finance team should be able to advise.

Parliamentary and Health Service Ombudsman:

liaisonmanagers@ombudsman.org.uk

The Cabinet Office

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