



BRIEFING PAPER

Number CBP7496, 21 June 2018

The Parliamentary Ombudsman: role and proposals for reform

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Summary

The Parliamentary Ombudsman can investigate complaints from members of the public who believe that they have suffered injustice because of maladministration by government departments or certain public bodies.

The Parliamentary Ombudsman is one of two ombudsman offices (the other being the Health Service Ombudsman) which, by convention, is held by the same person. That person is referred to as the Parliamentary and Health Services Ombudsman but each post is technically a separate office. This briefing paper only focuses on the role of the Parliamentary Ombudsman. Information on the Health Service Ombudsman can be found in the Commons Library Briefing Paper [NHS Complaints Procedures in England](#).

Complaints to the Parliamentary Ombudsman must be directed through a Member of Parliament (the so-called 'MP filter') and the complainant must first have put their grievance to the department concerned in order to allow officials to respond before taking the matter further.

There is, however, no requirement for an MP to refer a case to the Ombudsman. Nor is there a requirement that it must be the constituency MP who refers a case. However, there is a general convention that MPs do not deal with the cases of those who are not their constituents. Referral to the Ombudsman by another MP would therefore be unusual. An MP can also refer a case without supporting it as such.

If the Ombudsman believes that an injustice has been done that is unlikely to be remedied she can make a special report to Parliament, but this is rare. There have been just seven special reports made since 1967. In recent cases where special reports have been made, the Government have then given way on at least some of their objections to the Ombudsman's findings.

There is no right of appeal against the Ombudsman's decisions, although decisions are subject to judicial review. The Judicial Review procedure is complex and expensive; a constituent would be well advised to take legal advice before taking this route.

The Parliamentary Ombudsmen deals with reserved matters in relation to Wales, Scotland and Northern Ireland, as well as complaints about maladministration in UK Government departments and public bodies. It therefore has a mix of jurisdictions. Separate ombudsman structures exist in Scotland, Wales and Northern Ireland.

The Government published a draft Public Service Ombudsman Bill in December 2016. The draft bill contains proposals for a single Public Service Ombudsman for UK reserved matters and for public services delivered solely in England. The new Public Service Ombudsman would absorb the existing remits and responsibilities of the Parliamentary Ombudsman, the Health Service Ombudsman and the Local Government Ombudsman.

The Parliamentary Ombudsman's powers and responsibilities are set out in the *Parliamentary Commissioner Act 1967*, as amended.

1. Role of the Parliamentary Ombudsman

Summary

The Parliamentary Ombudsman can investigate complaints from members of the public who believe that they have suffered injustice because of maladministration by government departments or certain other public bodies.

Complaints must be directed through a Member of Parliament (the so-called 'MP filter') and the complainant must first have put their grievance to the department concerned in order to allow officials to respond before taking the matter further.

The Parliamentary Ombudsman deals with reserved matters in relation to Wales, Scotland and Northern Ireland as well as complaints about maladministration in UK Government departments, their agencies and some other public bodies in relation to England. Separate public service ombudsman systems exist for the devolved administrations.

The Parliamentary Ombudsman's powers and responsibilities are set out in the *Parliamentary Commissioner Act 1967* as amended.

1.1 What is the Parliamentary Ombudsman?

The role of the Parliamentary Ombudsman is to investigate complaints from members of the public who believe that they have suffered injustice due to maladministration by government departments or certain other public bodies.

The Parliamentary Ombudsman is one of two ombudsman offices (the other being the Health Service Ombudsman) which, by convention, is held by the same person. That person is referred to as the Parliamentary and Health Service Ombudsman, although each post is technically a separate office. This briefing paper only focuses on the Parliamentary Ombudsman.¹

1.2 What can the Parliamentary Ombudsman investigate?

The Parliamentary Ombudsman (hereafter, the Ombudsman) investigates complaints from those who allege to have suffered injustice due to maladministration by government departments or certain other public bodies.

Maladministration can be defined as the public body not having acted properly or fairly, or having given a poor service and not put things right. At the time the office was established, Richard Crossman, the then Leader of the House of Commons, defined maladministration as including "bias, neglect, inattention, delay, incompetence, inaptitude, perversity, turpitude, arbitrariness and so on".² He explained that

¹ Information on the Health Service Ombudsman can be found in the House of Commons Library Briefing Paper, [NHS Complaints Procedures in England](#), 12 May 2015, section 4

² HC Deb 18 October 1966 vol 734 c51

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“Discretionary decision, properly exercised, which the complainant dislikes but cannot fault the manner in which it was taken” was excluded by the legislation.³

The bodies that are within the jurisdiction of the Ombudsman are essentially UK government departments and non-departmental public bodies. The authorities are listed in Schedule 1 of the *Parliamentary and Health Service Commissioners Act 1987*. The Ombudsman is also authorised to investigate actions taken by or on behalf of an authority listed in the schedule, for example “next steps” executive agencies. Bodies operating essentially under a contract with central government, rather than an agency relationship, are not within jurisdiction.

The Parliamentary Ombudsman provides a list of the subjects they cannot normally look into:

With a few exceptions, we cannot normally look at complaints about the organisations, people or matters listed below....

- Consumer issues (goods or services you have bought)
- Financial services and pensions (banks, building societies, insurance and private pensions)
- Gas, electricity and water
- Local council (includes council tax benefits, housing, planning, social care)
- Members of Parliament
- Police
- Political parties
- Postal services
- Privately funded healthcare
- Social care
- Telecommunications (telephones and internet)
- Television, radio, newspapers and advertising.⁴

A list of authorities which the Ombudsman can investigate are also listed on its website. However, the Ombudsman’s office explains that the full list cannot be comprehensive because the names and responsibilities of departments can change; and others not named in the list may be legally connected to, or acting on behalf of, others which the Ombudsman can investigate.⁵

The Ombudsman will not normally investigate a complaint more than a year after the complainant became aware of the problem. The Parliamentary Ombudsman requires that the complainant must first have put their grievance to the department or public body concerned to allow officials to respond before taking the matter further.

³ *Ibid*

⁴ Parliamentary and Health Service Ombudsman, [If we can't help](#) [accessed 11 February 2016]

⁵ Parliamentary and Health Service Ombudsman, [Which organisations can we investigate?](#) [accessed 11 February 2016]

1.3 The Ombudsman and devolution

The Parliamentary Ombudsman deals with reserved matters in relation to Wales, Scotland and Northern Ireland as well as complaints about maladministration in UK Government departments, their agencies and some other public bodies in relation to England. It therefore has a mix of jurisdictions. Separate ombudsman structures exist in Scotland, Wales and Northern Ireland.⁶

1.4 How to make a complaint: the MP filter

It is not possible for individuals to complain directly to the Ombudsman; their complaint needs to be referred by a Member of Parliament. This requirement is set out in the *Parliamentary Commissioner Act 1967* and is known as the “MP filter”. There is no MP filter for the Health Service Ombudsman.

There is a form on the Parliamentary Ombudsman’s website for complainants to fill in, with a section for their MP to add their details and sign if they wish to send the complaint on.

There is no requirement, statutory or otherwise for a Member of Parliament to refer a case to the Ombudsman. A constituent may, however, approach another Member, if their MP decides not to forward the complaint. There is no requirement in the legislation that it is the constituency MP who makes the referral. However, there is a general convention that MPs do not deal with the cases of those who are not their constituents. Referral to the Ombudsman by another MP would therefore be unusual. A Member of Parliament may also refer a case to the Parliamentary Ombudsman without supporting it as such.

1.5 Powers of the Ombudsman

The Ombudsman has the right to summon persons and papers, (i.e. to require the attendance of witnesses and to have access to information), and absolute privilege to protect his or her reports. These powers are analogous to the powers of a judge of the High Court.

Box 1: Contact details for the Ombudsman’s office

The Ombudsman’s office has a customer helpline: 0345 015 4033. They also offer advice and information on their website about how to complain along with information for Members of Parliament and their staff: www.ombudsman.org.uk

⁶ The [Scottish Public Service Ombudsman](#), the [Public Service Ombudsman for Wales](#), and the [Northern Ireland Ombudsman](#)

2. The Ombudsman's findings

Summary

The Parliamentary Ombudsman is not able to enforce her recommendations. Usually departments are able to come to an agreement on an acceptable outcome. If the Ombudsman believes that an injustice has been done that is unlikely to be remedied she can make a special report to Parliament. This happens very rarely: there have been just seven such special reports made since 1967. In recent cases where special reports have been made, the Government have then given way on at least some of their objections to the Ombudsman's findings. A court case in 2008 found that it is lawful for the government to reject the findings of the Ombudsman, but that their reasons for doing so must be rational.

2.1 Available remedies

If the Ombudsman finds in favour of the complainant, and against a department, the Ombudsman has no executive powers to alter a department's decision or award compensation. An appropriate remedy may be suggested, as a recommendation; and an appropriate response may or may not include a financial remedy. The former Ombudsman, Ann Abraham published her "principles for remedy" in 2009. The principles state that:

...not all maladministration or poor service results in injustice or hardship, but where it does, our underlying principle is to ensure that the public body restores the complainant to the position they would have been in if the maladministration or poor service had not occurred. If that is not possible, the public body should compensate them appropriately.⁷

The Ombudsman has no power to enforce provision of a remedy. Usually departments are able to come to an agreement on an acceptable outcome but in exceptional cases a department may refuse and may argue that the Ombudsman's conclusions are mistaken.

2.2 Instances where an injustice seems unlikely to be remedied

Under Section 10(3) of the [Parliamentary Commissioner Act 1967](#), the Ombudsman has the ability to lay a special report before Parliament if an injustice has been done, and it seems unlikely to be remedied.

The Ombudsman has only made special reports to Parliament in a total of seven cases since 1967:

- July 1978, *Rochester Way, Bexley – Refusal to meet late claims for compensation*, Sixth Report, Session 1977-78, HC 598.
- February 1995, *The Channel Tunnel Rail Link and Blight: Investigation of complaints against the Department of Transport*, Fifth Report, Session 1994-95, HC 193.

⁷ Parliamentary and Health Service Ombudsman, [Principles for Remedy](#), 2009

- July 2005, [*A Debt of Honour' The ex gratia scheme for British groups interned by the Japanese during the Second World War*](#), Fourth Report, Session 2005-2006, HC 324.
- March 2006, [*Trusting in the pensions promise: government bodies and the security of final salary occupational pensions*](#), HC 984
- May 2009, [*Injustice unremedied: the Government's response on Equitable Life \(HC 435\)*](#).
- December 2009, [*Cold Comfort: the Administration of the 2005 Single Payment Scheme by the Rural Payments Agency*](#), HC 81
- July 2014, [*A report by the Parliamentary Ombudsman on an investigation into a complaint about the Electoral Commission*](#), HC 540

The Public Administration and Constitutional Affairs Committee would normally follow up any special report made to Parliament, and hold oral hearings. However, such hearings are not a requirement in House of Commons Standing Orders.

In most instances, the Government has given way on at least some of their objections to accepting the Ombudsman's recommendations. For example, the *Debt of Honour* case involved the administration of the ex gratia payment scheme to former prisoners-of-war of Japan. The Ombudsman's report, *A debt of honour: the ex gratia scheme for British groups interned by the Japanese during the Second World War*, was published in 2005.⁸ Complaints of maladministration were upheld by the Parliamentary Ombudsman and supported by the Public Administration Select Committee. The Ministry of Defence eventually paid compensation payments for maladministration. For details see the Library Standard Note, [Ex-gratia Payment for Far East POWs and Civilian Internees](#).

In 2006 there was also a disagreement between the Department of Work and Pensions and the Ombudsman over an Ombudsman's report.⁹ In *R (Bradley) v Work and Pensions Secretary* the Court held that it is not necessarily unlawful for a public authority to reject the Ombudsman's conclusions, even if those conclusions were rational. However, the judgement concluded that it was not sufficient for the Secretary of State to simply reject a finding of maladministration- the decision to reject had to be rational. The court found that in this case the Secretary of State had not provided sufficient reasons to show why he had decided to reject the maladministration finding and therefore, the judgment in the High Court that the rejection was irrational should stand.¹⁰

2.3 Complaining about the Ombudsman

There is no right of appeal against decisions of the Ombudsman. It is, however, possible to complain to the Ombudsman about their decisions. The Ombudsman's [website](#) explains their complaints

⁸ HC 324, 2005-06, 12 July 2005.

⁹ Parliamentary Commissioner for Administration, *Trusting in the Pensions Promise*, HC 984, 14 March 2006

¹⁰ [2008] EWCA Civ 36 <http://www.bailii.org/ew/cases/EWCA/Civ/2008/36.html>

procedures. Although the Public Administration and Constitutional Affairs Select Committee monitors the work of the Ombudsman. They do not consider individual cases.

Although the Ombudsman is independent of Government, the Cabinet Office has overarching policy responsibility across government in relation to Ombudsman issues in general, and a specific “sponsorship” role. The Cabinet Office has no locus in complaints about the Ombudsman.

2.4 Judicial review

Decisions of the Ombudsman, as with ministerial decisions, are subject to judicial review. Judicial review is primarily concerned with the issue of whether the correct legal basis was used to reach a decision rather than the merits or otherwise of that decision. The Judicial Review procedure is both complex and expensive and a constituent would be well advised to take legal advice before taking this route.

3. Accountability of the Ombudsman

Summary

The Parliamentary Ombudsman is an appointment made by the Crown. The post holder is accountable to Parliament through the publication of annual reports and its relationship with the Public Administration and Constitutional Affairs Select Committee. The Committee has a remit to consider the Ombudsman's reports.

3.1 Appointment and dismissal

The Ombudsman is an appointment made by the Crown under the terms of the *Parliamentary Commissioner Act 1967*.

In practice, an open competition is held for the post, and an interview panel makes the final selection. The chairman of the Public Administration and Constitutional Affairs Committee (previously the Public Administration Select Committee) participated in the process in the last three appointments. The panel has an external assessor from the Public Appointment Commissioner's office to ensure that the appointment is made fairly according to the Commissioner's Code of Practice. The appointment can last a maximum term of seven years.

The current Ombudsman is Sir Rob Behrens CBE. His predecessor, Dame Julie Mellor, retired in July 2017. The Public Administration and Constitutional Affairs Committee's report on the appointment of the Ombudsman details the recruitment process.¹¹

3.2 Parliamentary Accountability

The Parliamentary Ombudsman is sometimes described as an "Officer of Parliament". The term denotes a special relationship of accountability to Parliament and such designation usually implies independence of the Executive.¹² The Collcutt review into public sector ombudsmen stated that the Ombudsman is "practically but not technically an officer of the House of Commons and although answerable to Parliament...has complete independence".¹³ According to Erskine May, the authoritative guide to Parliamentary Procedure, the Ombudsman is "accorded the privileges of an Officer of the House of Commons".¹⁴

The Ombudsman is accountable to Parliament through the presentation of its annual reports and accounts to the House of Commons. In addition, the Select Committee on Public Administration and Constitutional Affairs examines reports of the Ombudsman and the

¹¹ Public Administration and Constitutional Affairs Committee. [Appointment of the Parliamentary and Health Service Ombudsman](#), Section 2 paras 6-13, Jan 2017

¹² House of Commons Library, [Officers of Parliament: recent developments](#), 29 August 2013, p3

¹³ Philip Collcutt and Mary Hourihan, Mary, *Review of the public sector ombudsmen in England*, Cabinet Office, April 2000, pp5-6

¹⁴ Erskine May, *Parliamentary Practice*, 24th edition, p122

Committee notes on its [website](#) that it “monitor[s] complaints about the Ombudsman as a way of scrutinising the work of her office and identifying systemic problems, but we will not consider individual cases”. The Committee has generally held regular evidence sessions with the Ombudsman and is able to raise issues of performance.

There is no facility for parliamentary questions directed at the Ombudsman, but a Cabinet Office minister would answer on general issues of policy.

3.3 The Ombudsman and the Government

The Ombudsman is independent from Government and its cases, findings and recommendations cannot be overruled by Government Ministers. Nevertheless, a Cabinet Office Minister would answer on behalf of the Ombudsman in Parliament on general issues of policy. The salary of the Ombudsman is also paid by the Treasury via the Consolidated Fund.¹⁵

When investigating a complaint of maladministration against a government department, all government information relating to an investigation is disclosable to the Ombudsman; and it is for the Ombudsman to decide what constitutes relevant information. However, under section 8 of the *Parliamentary Commissioners Act 1967*, departments are allowed to withhold Cabinet or Cabinet Committee papers or papers relating to their proceedings.¹⁶ In order to withhold such papers, the Act requires the production of a certificate signed by the Cabinet Secretary and approved by the Prime Minister.

A Minister may also give notice to the Ombudsman that, in respect of any document or information referred to in such a notice, the disclosure of the document or information would be prejudicial to the safety of the State or contrary to the public interest.¹⁷ That information could not then be disclosed by the Ombudsman.

Relations with the Government

The Ombudsman’s role investigating complaints from members of the public about alleged maladministration in government departments has sometimes created tensions between the Government and the Ombudsman. In an article for *Parliamentary Affairs*, the then Ombudsman, Ann Abraham, discussed the conflict that sometimes exist the Ombudsman’s Office and the Government:

The tension is historical: from the Sachsenhausen case in the later 1960s involving the Foreign Office handling of a compensation scheme for suffering caused by Nazi persecution, through the Court Line case of the mid-70s concerning the collapse of a company with the loss of tens of thousands of holidays and the Channel Tunnel Rail Link case of the early 1990s centred on the inability of Kent householders to sell their properties because of the way the Department of Transport handled the project, to the more recent occupational pension report and its findings of

¹⁵ HM Treasury, [Consolidated Fund Account 2014-15](#), 20 July 2015

¹⁶ [Parliamentary Commissioners Act 1967](#), Section 8(4)

¹⁷ Under section 11(3) of the [Parliamentary Commissioners Act 1967](#)

maladministration on the part of the Department for Work and Pensions, the pattern of occasional conflict when the going gets tough is well established.¹⁸

In most cases the Government has given way on at least some of their objections to accepting the Ombudsman's recommendations (see section 2.2 above).

¹⁸ A Abraham, 'The Ombudsman as Part of the UK Constitution: a contested role?', *Parliamentary Affairs*, 61, 2008, p213

4. The development of the Ombudsman role

Summary

The post of Parliamentary Ombudsman was established in 1967 by the *Parliamentary Commissioner Act*. The office of Health Service Ombudsman was created in the *NHS Reorganisation Act 1973*.

Until devolution, the Parliamentary Ombudsman was chosen by convention as Health Service Ombudsman for each constituent part of the UK, except for Northern Ireland. Currently, the post is combined with the Health Service Ombudsman for England, as separate arrangements apply in Scotland, Wales and Northern Ireland.

The MP filter (the requirement that an MP must refer any case to the Ombudsman) was introduced as a way to ensure MPs were not being by-passed by their constituents. It was also designed to ensure that Parliament would remain the forum within which grievances were raised with Ministers. However, several reports and reviews have suggested that the MP filter should be removed to increase the efficiency and speed of the investigative process.

The Government [published a Draft Public Service Ombudsman Bill in December 2016](#). [The draft bill would](#) bring together the existing jurisdictions of the Parliamentary and Health Service Ombudsman, the Local Government Ombudsman [and create a single Public Service Ombudsman for UK reserved matters and for public services delivered solely in England](#). Similar public service ombudsman roles already exist in Scotland, Wales and Northern Ireland.

4.1 Establishment of the Parliamentary Ombudsman

The post of Parliamentary Ombudsman was established in 1967 in the *Parliamentary Commissioner Act* as a new type of public official who could investigate complaints of citizens about maladministration by government officials. The office holder was given statutory powers to have access to information, to require the attendance of witnesses and absolute privilege to protect his reports.

The idea of an ombudsman was originally a Scandinavian concept. An Ombudsman was established in Sweden in 1809, and Finland followed just over a century later, setting up its own Ombudsman in 1919 following independence from Russia. The first Ombudsman to be established in a 'Westminster style' model of Government was the Parliamentary Commissioner in New Zealand, which was set up in 1962.¹⁹

At the time of its introduction in the UK in 1967 the concept was attacked as a constitutional innovation which could not be reconciled with ministerial accountability to Parliament, and which usurped an

¹⁹ R Gregory and P Giddings, *The Ombudsman, the Citizen and Parliament: A history of the Office of the Parliamentary Commissioner for Administration and Health Service Commissioners*, 2002, p6

MP's traditional role of pursuing the grievances of constituents. Partly as an answer to such criticism, the new scheme required that all complaints were to be channelled through MPs who could pass them on to the Ombudsman. This is known as the 'MP filter'.

The 'MP Filter'

The MP filter was part of the design of the Ombudsman system as it was thought this was the best way of ensuring compatibility of the complaint handling system with ministerial accountability to Parliament and with the role of a Member of Parliament in relation to their constituents. The operation of the MP filter was intended to ensure that Members were not being by-passed by the public in their relationship with Government. It would also ensure that Parliament would remain the forum within which grievances were raised with Ministers. However, the filter would also act as a way of managing the caseload of the new Ombudsman Service.

In Britain, the White Paper declared, Parliament had always been the place for ventilating grievances, and it was one of the functions of the elected Member to ensure his constituents did not suffer injustice at the hand of the government. The intention was not to create any new institution which would erode the functions of the Member of Parliament, but to develop still further the existing parliamentary and informal remedies already provided by the British constitution. The idea, it observed, was to give MPs a 'better instrument' which they would be able to use to protect the citizen, namely the services of a Parliamentary Commissioner for Administration.²⁰

4.2 Combining with the office of Health Service Ombudsman for England

The office of Health Service Ombudsman was created in the *NHS Reorganisation Act 1973* following pressure for an effective resolution of grievances, given the exclusion of the NHS from the 1967 *Parliamentary Commissioner Act*, as outside the direct responsibility of the then Minister for Health. It was subsequently modified by the *Parliamentary and Health Service Commissioners Act 1987*, the *Health Service Commissioners Act 1993* and the *Health Service Commissioner (Amendment) Act 1996*. This last Act considerably broadened the scope of the investigations by enabling the Health Service Commissioner to investigate all aspects of NHS care and treatment, including clinical judgement. It was designed to place the Ombudsman at the top of the new unified NHS complaints procedure.

Until devolution, the parliamentary ombudsman was chosen by convention as Health Service Ombudsman for each constituent part of the UK, except for Northern Ireland. Currently, the post is combined with Health Service Ombudsman for England, as separate arrangements apply in Scotland, Wales and Northern Ireland.

²⁰ R Gregory and P Giddings, *The Ombudsman, the Citizen and Parliament: A history of the Office of the Parliamentary Commissioner for Administration and Health Service Commissioners*, 2002, p94

4.3 Proposals for reform

A number of criticisms of the Parliamentary Ombudsman system have been identified over the years. The pressures for reform have included:

- The large number of complaints rejected by the Ombudsman's office as inappropriate for investigation;
- The MP filter and its impact on the number of complaints brought to the office.
- The complexity of the ombudsmen landscape with a number of ombudsmen with different jurisdictions that can be difficult for individuals to navigate.

Some changes to the role of Parliamentary Ombudsman have been made. Some of the main proposals and changes are outlined below.

The House of Commons Briefing Paper, [The Ombudsman – the developing role in the UK](#), contains further information on this.

Collcutt Report (2000)

In April 2000 the Collcutt Report, entitled *Review of the Public Sector Ombudsmen in England*, was published. Its remit had been to consider whether the present arrangements were in the best interests of complainants and others against a background of moves towards the more integrated provision of public services; and whether those arrangements hindered achieving better value.²¹

The Collcutt Report reflected the strong support it had received for the removal of the MP filter. It was argued that this would increase the efficiency and speed of the investigative process.²²

Following the Report, the Government carried out a consultation on its recommendations in June 2000. On 20 July 2001 the Government said that in light of the consultation responses, they were satisfied that there was broad support for Collcutt's main recommendations. They therefore announced their intention to:

replace the existing arrangements by a unified and flexible ombudsman body for central and local government and the national health service...In line with the review's recommendations, there will be direct access to this new body irrespective of whether the complaint is concerned wholly or in part with a central Government body. Furthermore, and again in line with the review's recommendations, the new body will have a collegiate structure within which the individual ombudsmen are identified with a particular group of the bodies under jurisdiction but free to carry out crosscutting investigations.²³

Pressures on legislative time meant that these intentions were not implemented. However, a new Scottish Public Services Ombudsman scheme was created in 2002 and a Public Services Ombudsman for

²¹ P Collcutt & M Hourihan, *Review of the public sector ombudsmen in England*, April 2000, pp5-6

²² Ibid; Parliamentary and Health Service Ombudsman, [The MP Filter](#) [accessed 8 February 2016]

²³ [HC Deb 20 July 2001 cc464-465](#)

Wales in 2006, “both of which were established on the principle of direct public access”.²⁴

Planned reorganisation of ombudsman services

In August 2005 plans to reorganise ombudsman services under the regulatory reform order procedures were announced, alongside a consultation paper on reform of the public sector ombudsman services in England.²⁵ The main proposals were to:

- Enable the Ombudsmen to consult each other and work together on cases and issues that are relevant to more than one of them.
- Give the Ombudsmen powers to seek the resolution of a complaint through more informal means without having to conduct a formal investigation.
- Provide powers for the Ombudsmen to issue advice and guidance on good administrative practice to those who deliver our public services.²⁶

The legislative changes were implemented by way of Legislative Reform Orders. In June 2007 the *Regulatory Reform (Collaboration etc between Ombudsmen) Order 2007* was passed by both Houses of Parliament.²⁷ It provided for increasing the collaboration between the Parliamentary Ombudsman and the Local Government Ombudsman by sharing information, conducting joint investigations and issuing joint reports. It also enables the ombudsman to appoint mediators to assist in investigations.

Reports by the Law Commission and the Public Administration Committee

The Law Commission, an independent body created to review law and propose reform, published a report in 2011 on the public ombudsmen services. The report recommended that the Government should establish a wide-ranging review of the public service ombudsmen and their relationship with other institutions for administrative redress, such as courts and tribunals.²⁸

The Public Administration Committee (now the Public Administration and Constitutional Affairs), published a report, *Time for a People’s Ombudsman*, in April 2014. Amongst other things, this recommended the removal of the MP filter and that there should be a consultation on the creation of a single public service ombudsman.²⁹

²⁴ Parliamentary and Health Service Ombudsman, [The MP Filter](#) [accessed 8 February 2016]

²⁵ Cabinet Office, [Reform of Public Sector Ombudsmen Services in England: A Consultation Paper](#), August 2005

²⁶ Cabinet Office, [Consultation launched today on reform of public sector Ombudsman services](#), Press Release, August 2005

²⁷ [Regulatory Reform \(Collaboration etc between Ombudsmen\) Order 2007 \(SI 2007/1889\)](#)

²⁸ The Law Commission, [Public Services Ombudsmen](#), HC 1136, July 2011

²⁹ Public Administration Committee, [Time for a People’s Ombudsman Service](#), HC 655, 28 April 2014

4.4 A public service ombudsman for the UK

A review of public sector ombudsman was carried out by Robert Gordon QC in 2014. His report, *Better to Serve the Public*, recommended that “the public should not have to make complex determinations about who is accountable for delivering a service and to whom they should turn to for redress if the service deliverer fails to address their complaint to their satisfaction. Gordon also recommended that there should be no MP filter for the new Public Service Ombudsman.”³⁰

The Government then held a consultation on Gordon’s findings and recommendations in 2015. The Government response, issued in December, stated that they intended to create a public service ombudsman that would encompass the existing jurisdictions of the Parliamentary and Health Services Ombudsman and the Local Government Ombudsman only. However, this would include a framework that would allow others, such as the Housing Ombudsman, to join over time.³¹

On 5 December 2016 the Government published a draft Public Service Ombudsman Bill. The Bill would create a Public Service Ombudsman (PSO) for UK reserved matters and public services in England.

The draft Bill abolishes the existing Parliamentary and Health Service Ombudsman (PHSO), Local Government Ombudsman (LGO), merging their responsibilities into a single PSO. The Housing Ombudsman would continue unaffected. However, the draft Bill does contain provisions which may allow some of its responsibilities to be absorbed by the PSO at a later date.

Other public service ombudsman – in Scotland, Wales and Northern Ireland – are also unaffected by the draft Bill, although it is envisaged that the new PSO will work with these existing ombudsmen.

Pre-legislative scrutiny of the draft bill was carried out by the Housing, Communities and Local Government Select Committee at a one-off evidence session on 6 March 2017.³²

In December 2017 the Minister for the Cabinet Office, Chris Skidmore, was asked when the Government expects to publish its response to the pre-legislative scrutiny of the draft bill. Chris Skidmore responded that “responses will be taken account of in the final Bill, which will be introduced as and when a legislative opportunity arises.”³³

A more recent parliamentary question, answered in May 2018, likewise stated that “the draft bill will be progressed as and when a legislative opportunity arises.”³⁴

³⁰ Robert Gordon CB, *Better to Serve the Public: Proposals to restructure, reform, renew and reinvigorate public services ombudsmen*, October 2014

³¹ Cabinet Office, *A Public Service Ombudsman: Government Response to Consultation*, 17 December 2015

³² Housing, Communities and Local Government Committee: [Government draft Public Service Ombudsman Bill inquiry](#), HC 1052 9 March 2017

³³ PQ 119692 [[Public Service Ombudsman](#)] 14 December 2017

³⁴ PQ 141686 [[Draft Public Service Ombudsman Bill](#)] 15 May 2018

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