



Department for
Communities and
Local Government

Governance Review of the Local Government Ombudsman Service

A report for the Secretary of State for Communities and
Local Government

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Introduction

1. I was delighted to receive and pleased to accept the invitation to be the senior independent person to carry out this governance review of the Local Government Ombudsman Service¹ for the Secretary of State for Communities and Local Government.

2. Prior to this review I had had no involvement with the Local Government Ombudsman Service. I have familiarity with and enthusiasm for public service reform acquired during my civil service career in Scotland. I played a part in the consideration of ombudsman arrangements following devolution there which led to the establishment of the Scottish Public Services Ombudsman (combining the work of three pre-existing offices). As part of a later change initiative I successfully advocated the transfer of the work of the Scottish Prisoner Complaints Commissioner to the Scottish Public Services Ombudsman.

3. Much has been written about and for the Local Government Ombudsman Service in recent years. Many of the issues that the organisation needs and wants to address have been analysed thoroughly in perceptive, thoughtful and well-argued documents. A very significant programme of change is underway as the Local Government Ombudsman Service implements its transformation plan² (building on the Strategic Business Review³ undertaken by Baroness Rennie Fritchie DBE). This plan also goes with the thrust of recommendations of the House of Commons Communities and Local Government Committee⁴ and the External Evaluation⁵ of the Local Government Ombudsman in England carried out by Richard Thomas CBE, Jim Martin and Richard Kirkham.

4. In addressing the terms of reference set for this review, in Annex A, I have sought to draw where appropriate on that prior work and avoid going over again already well tilled ground. I have also taken account of more recent developments - for instance early evidence of the transformation programme beginning to deliver the desired results, literally over the period while this review has been in gestation and underway. So, much is being achieved; yet many further substantial challenges and opportunities remain.

¹ I have referred throughout this report to the Local Government Ombudsman Service and have used that term to embrace the holders of the office of Local Government Ombudsman, the Commission for Local Administration in England and the organisation based in Coventry, London and York save where it has been necessary to distinguish among these elements, in which case I have made the distinction clear.

² Transformation Plan:

<http://www.lgo.org.uk//GetAsset.aspx?id=fAAxADUAOAA4AHwAfABGAGEAbABzAGUAfAB8ADAAfAA1>

³ Strategic Business Review:

<http://www.lgo.org.uk//GetAsset.aspx?id=fAAxADUAOAA3AHwAfABGAGEAbABzAGUAfAB8ADAAfAA1>

⁴ Third Report of 2012-13

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcomloc/431/43102.htm>

⁵ External Evaluation:

<http://www.lgo.org.uk//GetAsset.aspx?id=fAAxADcANwA3AHwAfABGAGEAbABzAGUAfAB8ADAAfAA1>

5. I recommend short and medium term institutional and governance changes to modernise accountability with the objective of ensuring that reform continues and gathers pace; that public ombudsman services are organised to support radical changes in public service delivery with efficient and holistic complaints handling and redress; and that such public resource as can be afforded for ombudsman work is deployed to greatest beneficial effect. (For convenience the five recommendations in the report are listed in paragraph 38).

6. In the course of this review I have had some 40 meetings with a wide range of busy people - almost all of them with much greater experience and expertise in complaint handling and dispute resolution than me. I am indebted to all I have met for their courtesy, candour and willingness to engage with my sometimes deliberately provocative questioning. Interlocutors have been open and frank in identifying the shortcomings in previous and current arrangements and inventive and constructive in suggesting improvements for the future. Among those I have met have been management and staff of the Local Government Ombudsman Service in Coventry, London and York. Other reviewers (notably Dame Rennie Fritchie and Richard Thomas and colleagues) have paid tribute to their commitment and dedication. I too was greatly impressed by their energy and enthusiasm over the opportunities presented by the recent changes in leadership and ways of working to deliver a better ombudsman service. This bodes well for the future given the further operational and financial challenges that lie ahead.

7. I have been supported very thoughtfully and conscientiously throughout this review by Andrew Morris a recent recruit to the Department for Communities and Local Government. He is to be commended for his perceptive grasp of the issues and his skilful management of the logistics of the exercise. But he bears no responsibility for the report and the recommendations.

Approach to the Review

8. My terms of reference require me to have regard to some specified documents as well as all other relevant information and material available to me. I have received and considered a wealth of written material. Much of it has been valuable in helping me understand the background to this exercise and in assisting me to plot a way forward. For completeness the documents I have considered are listed in Annex B.

9. Alongside this consideration of written material I have – as noted above - sought to hear from a wide cross section of expert opinion - ombudsmen (mostly current but including some former) in England and elsewhere in the UK, and civil servants, parliamentary officials and others with an interest in the governance and accountability arrangements applied to ombudsman services and the like. I have been greatly assisted by evidence of what works well (and less well) in different places and different areas of business. A list of those with whom I have had discussions is at Annex C.

10. In the light of discussion and reading and taking account of changes underway, I re-examined my terms of reference. Despite their length they actually turn on two key questions:

Does the current structure and governance of the Local Government Ombudsman Service (as provided in statute and as operated in practice) encourage or inhibit the provision of a redress service which meets the generally accepted principles of good complaint handling? ⁶

What would be the best structures and governance to secure a long-term sustainable local ombudsman service taking account of the likely future pattern of public service delivery and availability of public finances?

11. In the following pages I consider each question in turn and take in these supplementary issues from the terms of reference:

Whether a single Local Government Ombudsman structure would be best

The scope for combining or merging the recommended institution with other public sector ombudsmen

⁶ <http://www.ombudsmanassociation.org/docs/BIOAGovernanceGuideOct09.pdf>

Current Structure and Governance

Does the current structure and governance of the Local Government Ombudsman Service (as provided in statute and as operated in practice) encourage or inhibit the provision of a redress service which meets the generally acknowledged principles of good complaint handling?

12. The institutional structures and governance arrangements that apply to the Local Government Ombudsman Service, representing policy thinking from the late 1960s, were enacted in the Local Government Act 1974. Briefly, the Commission for Local Administration in England is an independent body funded by the Government to support the activities of the Local Government Ombudsmen (or Local Commissioners). The Commission comprises the Local Government Ombudsmen and the Parliamentary Commissioner for Administration. Its functions are to enable the Ombudsmen to investigate complaints (in particular by allocating them staff, offices and facilities) and to provide bodies within jurisdiction with advice and guidance on good administrative practice. The Local Government Ombudsmen are Crown appointments with individual authority to investigate and decide complaints. In doing this they have wide discretion. Traditionally the jurisdiction of the Ombudsmen has been allocated on a geographical basis. The Secretary of State (for Communities and Local Government) appoints one Ombudsman as Chair and another as Vice-Chair of the Commission.

13. Since 1974 some pragmatic changes have been made and consideration has been given to more radical overhauls of these arrangements - including amalgamation and abolition - over the years. An informative table summarising the key events in the history of the Local Government Ombudsman Service is contained in Annex A to the External Evaluation⁷. But the key institutional feature throughout has been an organisation with more than one - in practice no more than three - independent appointees working with their staffs to provide an ombudsman service in geographically defined jurisdictions across England. Throughout this period a small Commission made up of these ombudsmen and the Parliamentary Commissioner for Administration has provided an element of corporate governance.

14. This arrangement of multiple, independent appointee, ombudsmen not accountable to a chief ombudsman differs from the organisation of all other ombudsman schemes in the UK (although I am told it is paralleled in some other parts of the world). It is also regarded by observers and those who have been required to operate in it, including the current ombudsmen, as problematic. I decided to seek to understand the rationale for these structures and arrangements because I wanted, despite the apparent consensus that they should be replaced, to establish whether there was anything of value in them that was being overlooked. Examination of Ministry of Housing and

⁷ Richard Thomas, Jim Martin and Richard Kirkham's *External Evaluation* page 83-85
<http://www.lgo.org.uk//GetAsset.aspx?id=fAAxADcANwA3AHwAfABGAGEAbABzAGUAfAB8ADAAfAA1>

Local Government files reveals proposals from 1968-9 that each local authority should appoint their own ombudsman:

“The council of each main authority shall appoint an officer as ombudsman, and staff to help him, to investigate allegations of maladministration made by inhabitants of the authority’s area.”⁸

15. But this option was soon rejected due to the practical difficulties of finding 80 people of such “high calibre”. The main consideration became one of geography. Into how many regions of ombudsman jurisdiction would England have to be divided so that none would be too large as to be practical for carrying out investigations?:

“If it is to be reasonably easy for them to have discussions with their investigating staff and for the staff to study files and interview complainants on the spot, there must be a fair number of commissioners.”⁹

The argument for fewer commissioners was mainly “to avoid wide variations in practice”. The conclusion was that “the number should, if anything, be on the small side initially, with expeditious means of increasing it.”

16. Rather than specify a high number of ombudsmen and find that there were not enough cases to keep them busy, the legislation allowed for flexibility. There seems to have been an assumption, however, that at least two would be needed to cover the whole of England to enable them to travel around the country interviewing witnesses and examining files. There also seems to have been an assumption of quite extensive personal involvement of ombudsmen in deciding cases rather than, as is the case today, operating with systems of extensive delegation to experienced and proven staff within clear policy and practice guidelines.

17. But even if the model provided for in the 1974 legislation did not in practice lead to the appointment of a great many ombudsmen to deal with cases in localities across England, did the multiple ombudsman institutional structure contribute to or present barriers to the independence, fairness, consistency, effectiveness and efficiency, openness, transparency, and accountability of the local government ombudsman service? These characteristics set out in my terms of reference draw on (but do not reflect precisely) the Ombudsman Association principles of good governance.¹⁰ In considering this question I am asked to have regard to how these institutional structures have been operated in practice by the current ombudsmen.

18. This review is taking place while the Local Government Ombudsman Service is undergoing fundamental change as a new operational structure is introduced as the key component of a transformation plan to allow the Service to function with a significantly reducing budget. The new business model

⁸ Briefing for the Minister of Housing and Local Government 1968

⁹ Directorate files for the Ministry of Housing and Local Government (1969?)

¹⁰ <http://www.ombudsmanassociation.org/docs/BIOAGovernanceGuideOct09.pdf>

effectively substitutes an integrated "single Local Government Ombudsman" operation for the previous fragmented arrangements. Because the change was well underway by the time of this review it was not possible to observe or test how the pre-existing arrangements had operated in practice. Discussion with current and former ombudsmen in England and in other parts of the UK and examination of written material (notably the External Evaluation) lead me to three conclusions. Prior to the transformation plan reforms, the service operated without an overall leader who was clearly in charge both of the internal operation and of the external engagement. Consistency of practice and decision making was difficult to achieve when ombudsmen operated autonomously in their own territories. Agreement to change systems, ways of working and the like was very difficult to secure because local managements including Ombudsmen and Deputy Ombudsmen were accustomed to running their offices to a greater or lesser extent independently of one another. Additionally, in relation to the Commission for Local Administration in England I conclude that, perhaps because of its composition, it had, over the years, been unable to drive energetic action to reform the service, to harmonise procedures and to ensure consistency in decision making across the service.

19. There is urgency, focus and drive in the Transformation Plan (drawing on the independent Strategic Review) emphasising the need for common processes and integrated management to achieve the cost savings and productivity improvements to live within budget and continue to provide an effective ombudsman service. This is in contrast to what went before. That is also the impression formed by the External Evaluation which comments on the environment of change the evaluation team found in the spring of 2013 and observes that "there are some indications that the Local Government Ombudsman Service has been somewhat dysfunctional in recent years". I would echo that on the basis of what I have heard and read.

20. The External Evaluation considers in commendable and painstaking detail¹¹ whether the transformed Local Government Ombudsman Service meets the Ombudsman Association criteria. It concludes that the redesigned business structure meets the criteria for membership of the Association and makes some recommendations for further refinement of the Service's approach, primarily aimed at enhancing the integrity of the scheme.

21. So action has been taken or is underway administratively to deliver a Local Government Ombudsman Service which meets objective external criteria and is showing early signs of meeting the aspirations in the transformation plan. But there is still a disconnect between this integrated organisation with a unified management team under the leadership of one ombudsman (in the long term sick absence of the second ombudsman) and the statutory position. The transformation plan¹² offered a solution whereby

¹¹ External Evaluation sections B1-B6

<http://www.lgo.org.uk/GetAsset.aspx?id=fAAxADcANwA3AHwAfABGAGEAbABzAGUafAB8ADAAfAA1>

¹² "The recruitment of a third Ombudsman has been halted. Nevertheless, comparison with other Ombudsman schemes suggests that LGO is unique in having more than one Ombudsman with individual crown authority for decisions as well as collective and corporate authority as members of a Commission. In other schemes the authority lies with one Ombudsman (Parliamentary & Health

the two ombudsmen and the senior executive team would work to a professional services "partnership" model but in practice the service has operated effectively with a single ombudsman.

22. Given the widely held view that the preferred institutional structure for the Local Government Ombudsman Service is a single ombudsman leading the whole service and given that this is the manner in which the service is being led at present **I recommend that there should in future be one Local Government Ombudsman presiding over an integrated process for handling complaints against bodies within the jurisdiction of the Local Government Ombudsman Service.**

23. Additionally, I consider that while this position is currently being achieved administratively, there would be merit in amending the 1974 legislation to put the new arrangement on a proper statutory footing. **I further recommend that an early opportunity is found to make the limited legislative changes to provide for a single local government ombudsman in England.**

24. As well as this structural change, there is a need to address the fitness for purpose of the Commission for Local Administration in England. If the legislation is tidied up as I recommend, its membership will be one Local Government Ombudsman and one Parliamentary Commissioner for Administration. This does not have the makings of a credible 21st Century governance model with a Board (statutory or advisory) holding the Service to account and providing challenge, assurance and support. I will make a recommendation on the future composition of the Commission in the next section.

Structures and Governance for the Future

What would be the best structures and governance to secure a long-term sustainable local ombudsman service taking account of the likely future pattern of public service delivery and availability of public finances?

25. In considering the best institutional and operational structures and governance arrangements for the future I am asked to have regard to the likely future for public services and finances. On public services, the proliferation of service delivery arrangements, the integration of previously discrete services, the partnering of delivery agents from different backgrounds and sectors, the blurring of institutional boundaries, the commitment to innovate and the energetic pursuit of better value for money are some of the most distinctive current developments. These innovations call into question traditional boundaries and jurisdictions including for ombudsman services.

26. These are not entirely new phenomena. The review of the public sector ombudsmen in England by the Cabinet Office published in April 2000 found after wide consultation that there was “general agreement that the public sector ombudsmen must respond to the changing face of public service delivery. To do this they need to operate in a different structure which removes divisions in their jurisdictions, powers and processes. They must work more flexibly and more closely with other organisations.”¹³ While there was support for the far reaching changes recommended in this thorough and well-argued review, the report was not implemented. I believe the arguments for change are now even more compelling. The following boxes illustrate the quickening pace of public service delivery change.

¹³ *Collcutt Review Executive Summary*

Integrated Services

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 website¹⁴, 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.

In the Community Budgets¹⁵ initiative, the Department for Communities and Local Government worked closely with four pilot areas to produce proposals to make this more holistic approach to services a reality.

Following on from these pilot projects, the new Public Service Transformation Network, made up of people with experience and expertise from across government departments, councils and local agencies, will aim to secure improved outcomes by co-designing better services.

And the same approach is what is driving the Troubled Families¹⁶ initiative to turn around the lives of 400,000 families beset by unemployment and mental health problems, involved in crime and anti-social behaviour, with children regularly missing school.

In the recent spending round (26 June 2013), the Chancellor announced the creation of a pooled fund of £3.8bn to help local authorities put into place their own schemes for integrating health and social care in their areas, investing in prevention and early intervention: "I want to make sure everyone gets a properly joined up service where they won't have to worry if that service is coming from the NHS or the local council. Let's stop the tragedy of people being dropped in A&E on a Friday night to spend the weekend in hospital because we can't look after them properly in social care. By 2015-16, over £3 billion will be spent on services that are commissioned jointly and seamlessly by the local NHS and local councils working together."¹⁷

¹⁴ www.gov.uk

¹⁵ <https://www.gov.uk/government/policies/giving-local-authorities-more-control-over-how-they-spend-public-money-in-their-area--2/supporting-pages/community-budgets>

¹⁶ <https://www.gov.uk/government/policies/helping-troubled-families-turn-their-lives-around>

¹⁷ <https://www.gov.uk/government/speeches/spending-round-2013-speech>

Health and Social Care working together

Torbay and Southern Devon Health and Care NHS Trust provide community health services and commission adult social care services in Torbay. Their mantra is the right care, in the right place, at the right time.

They have identified the essential features of a joined up service to an individual as having:

Professionals that talk to each other

A single point of contact

Quick and responsive services

The need for the patient to only have to tell their story once

Health and social care coordinators act as the main point of contact for referrals, working closely with nurses, health professionals and social care staff. Data is shared between organisations to enable the coordinators to put together the most suitable care packages and support.

In addition, the integrated management structure of Torbay Care Trust saved approximately £250,000 in the first year. This money was used to develop services.¹⁸

Other regions are being encouraged and incentivised to emulate this success, bringing together health and social care into one coherent service. As Minister for Care and Support, Norman Lamb, commented, "People don't want health care or social care, they just want the best care."¹⁹

27. The Local Government Ombudsman Service and the Parliamentary and Health Service Ombudsman already have some experience of dealing with cases which straddle their jurisdictions. All the indications are that such cases will become more common as the service delivery reforms gather pace particularly in the health and social care areas. The following box describes current practice. To their credit, the ombudsmen are already reviewing their procedures for joint working as part of their commitment to closer working. For me the issue is to wonder whether even well thought through and operated joint working will be enough efficiently to deliver timely decisions and redress.

¹⁸ The Kings Fund: Integrating Health and Social Care in Torbay, page 19
<http://www.tsdhc.nhs.uk/aboutus/Documents/Integrating-health-social-care-Torbay-case-study-Kings-Fund-March-2011.pdf>

¹⁹ <http://www.bbc.co.uk/news/health-22515978>

Joint Investigations

The Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007 enables the Local Government Ombudsman Service and the Parliamentary and Health Service Ombudsman to work together on investigations where the complaint involves both health and social care providers, spanning the jurisdiction of both ombudsman services. The order enables the sharing of data between the two organisations.

The Local Government Ombudsman Service provides selected investigators with specialist training to conduct these joint investigations.

Where a complaint appears to include elements of both health and social care, the case will be run by whichever of the two organisations the nature of the complaint most prominently sits with. That organisation will take the lead, and consult the other where needed.

In rarer cases where the case has very significant components of both health and social care, both ombudsmen will need to formally decide to initiate a joint investigation, with a joint report. A lead investigator will be appointed from the organisation under whose jurisdiction the majority of the case lies, but responsibilities for the investigation will be shared between the organisations. By their nature, these are always more complex and time-consuming investigations. Work is being done by both organisations to streamline this process.

If the Intake team receives a case in which no aspect is within the jurisdiction of the Local Government Ombudsman Service, then it is treated in the same way as any other complaint which is not for the Local Government Ombudsman Service - the complainant is advised to contact the most relevant body and given the contact details to do so.

28. In this changing public service climate, I consider first that providers need to have and publicise well to the users of their services, easily accessible, readily intelligible, swift and fair complaints handling arrangements. Ombudsman services have a major role to play in seeing that such systems are in place and it is an important part of their function to provide advice and guidance on good administrative practice. There are differences of view among ombudsmen in different parts of the UK about the role they can appropriately play in mandating, approving or advising on complaints arrangements in public bodies. There is a wealth of guidance on effective complaint handling available to bodies providing public services. Annex D gives further details of how ombudsman services have advised and engaged with this issue.

29. In some jurisdictions the ombudsman has gone beyond issuing or endorsing guidance to engage more directly in the development or approval of bodies' schemes. For instance, in Scotland, following independent reviews of complaint handling which concluded that there was a clear need for a quicker, more consistent, more user focused approach to handling complaints, the Scottish Public Services Ombudsman established the Complaints Standards Authority to work with public bodies to standardise and simplify complaints handling procedures and to help drive improvement. Legislation gives the Scottish Public Services Ombudsman the power to publish standard complaints handling procedures for most public authorities including local authorities and the NHS. He is also under a duty to monitor and promote best practice in complaints handling. Standard complaints handling procedures across delivery bodies yield comparable data and can make performance evaluation easier.

30. Second, I think developments in service delivery could create an increased requirement for citizens with complaints or seeking redress to be assisted to find the appropriate delivery body to address their complaint to in the first instance. This should be met in part by sustained efforts to improve bodies' complaint handling procedures including taking determined steps to ensure they are readily accessible. However the signposting assistance which ombudsmen already provide will continue to be needed. The question is whether it can be provided most efficiently, effectively and intelligibly to citizens - with a complaint and experiencing difficulty in finding the right body with whom to pursue it - by different ombudsmen services with separate jurisdictions. The creation of a single well publicised, joined up contact point to give advice and direction to citizens no matter the subject of their complaint seems to be more in step with the overall thrust of the public service reforms the Government is pursuing. Additionally, at the next stage, when the complainant has exhausted the complaints procedure of the body delivering the service and wishes to register a complaint with the ombudsman, I think a single intake point is the only credible arrangement in keeping with the contemporary emphasis on joined up public services. Passing the complainant on to another telephone intake operation or web or postal address, no matter how efficiently, professionally and courteously done, smacks more of administrative convenience than exemplary public service.

31. Third, and most importantly in my view, the pace of integration of public service delivery across sectors argues strongly for simple and holistic redress arrangements that do not rely on protocols, goodwill, and invention to circumnavigate different jurisdictions, powers, procedures and organisational cultures.

32. Turning to finances, public spending is set to be constrained for the foreseeable future. The Local Government Ombudsman Service faces further budget reductions in the period to 2015 and downward pressure on public spending is likely to continue beyond that. The reductions in funding set against the continuing need to provide effective arrangements to provide redress to those experiencing maladministration in the delivery of local services – irrespective of provider – argue for arrangements that ensure that

such resources as the public purse devotes to this activity are allocated so as to deliver the greatest benefit to the citizen and incur least cost in administrative and governance overheads.

33. Taking account of the organisation of ombudsman services in other parts of the United Kingdom, the appetite for much closer and productive working that is developing between the Local Government Ombudsman Service and the Parliamentary and Health Service Ombudsman and the views of many of those I have met in the course of my review, **I recommend that in recognition of actual, proposed and likely future changes to public service delivery and taking account of pressure on public finances, consideration should be given to the creation of a unified public services ombudsman in the medium term.**

34. I acknowledge that this possible change requires more careful analysis than I am able to give it here. Such a change requires detailed and thoughtful consideration and the engagement of a wide range of interests to address issues such as the appropriate structure, governance and accountability for an integrated modern ombudsman service; the bodies and services to come within scope²⁰; and the optimal method of operation taking account, for instance, of technological and other advances. This consideration needs to take account of the recent experience of existing ombudsman schemes in the UK and further afield and determine how to accommodate the challenge of a much more diverse service delivery landscape than in the past and the likelihood of constrained resourcing for the foreseeable future. The current inquiries by the Public Administration Select Committee into complaints handling and the Parliamentary and Health Service Ombudsman may provide an appropriate forum in which to progress at least some of this further consideration.

35. In advance of decisions on the medium term **I recommend that the Local Government Ombudsman Service and the Parliamentary and Health Service Ombudsman continue to build on their current commitment to closer joint working proactively engaging in substantial initiatives to achieve economies, to harmonise processes and to provide the public with a clearer route to redress.** I understand that recent developments have included a joint meeting of the Local Government Ombudsman Service and Parliamentary and Health Service Ombudsman boards and the establishment of machinery to oversee the delivery of agreed initiatives. I hope that the collaboration can be radical and energetic in examining areas where efficiencies can be made through sharing or by adopting common processes building on the strengths of each organisation.

36. In paragraph 24 above I raised reservations about the fitness of the Commission for Local Administration in England with a reduced membership of two to provide appropriate high level corporate governance for the Local

²⁰ Drawn from among the bodies within the jurisdictions of the local public services ombudsmen in England, the bodies within the UK jurisdiction of the Parliamentary Commissioner for Administration and any local services in England not currently within the jurisdiction of an ombudsman.

Government Ombudsman Service. Similar reservations are expressed strongly in the External Evaluation.²¹ A Commission of two - one executive, one non-executive - sits uneasily with the prevailing guidance on corporate governance in Government Departments²² much of which is commended and applicable to Arms Length Bodies. The constraints on formal membership of non-executive members imposed by the 1974 Act (and considered in detail in the External Evaluation) could be addressed as part of the proposed amending legislation recommended in paragraph 23 to put the single Local Government Ombudsman on a statutory footing should an appropriate early legislative vehicle be found.

37. However, in the immediate term, I consider that the governance and accountability²³ of the Local Government Ombudsman Service should be strengthened administratively (and this may suffice ahead of the more radical legislative changes required to bring into being the single redress body recommended for the medium term) by equipping the Commission for Local Administration in England to operate as a high level leadership board performing effectively the roles for which it has responsibility:

- under the 1974 Act (to enable the investigation of complaints by allocating resources and to facilitate the provision of advice and guidance on good administrative practice)

- under the recently agreed framework document with the Department for Communities and Local Government (which sets out the corporate responsibilities of Commission members and the roles of Chairman and Vice Chairman)

- under the note on delegated executive arrangements for the management of the Local Government Ombudsman at Annex E (which lists the decision the Commission has reserved to itself within a scheme of delegation of other matters to its Audit and Remuneration Committees and Executive Management Team)

There is a range of business here which calls for a range of perspectives to be brought to bear in reaching decisions. The Chair of the Commission for Local Administration in England's Audit Committee already attends meetings of the Commission on a non statutory basis and acts as a non executive board member. To broaden this external contribution to help drive performance, delivery and further reform, **I recommend that the Commission for Local Administration in England should be strengthened by administrative action.** I suggest this should be achieved

²¹ External Evaluation sections B6.4.iv-v

<http://www.lgo.org.uk/GetAsset.aspx?id=fAAxADcANwA3AHwAfABGAGEAbABzAGUAFAB8ADAAfAA1>

²² Her Majesty's Treasury (2013) Managing Public

Money https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212123/Managing_Public_Money_AA_v2_-_chapters_annex_web.pdf

²³ The Service has accountability to Parliament and its expectation is that the Ombudsman and senior management will appear annually before the Communities and Local Government Committee. The Service also has accountability to DCLG set out in detail in the framework document.

by adding one or two members. Given the likelihood of further structural change in the medium term the member or members might be drawn from the membership of the Parliamentary and Health Service Ombudsman's Board or the Commission for Local Administration in England's Remuneration Committee. The Commission Board is proposed to meet 4 times in 2014. The cost of this enhanced governance would represent a very modest share of the saving arising from reducing to one ombudsman (as recommended in paragraph 22).

38. There follows a list of the five recommendations in this report.

Recommendations

1. I recommend that there should in future be one Local Government Ombudsman presiding over an integrated process for handling complaints against bodies within the jurisdiction of the Local Government Ombudsman Service. (Paragraph 22)
2. I further recommend that an early opportunity is found to make the limited legislative changes to provide for a single local government ombudsman in England. (Paragraph 23)
3. I recommend that in recognition of actual, proposed and likely future changes to public service delivery and taking account of pressure on public finances, consideration should be given to the creation of a unified public services ombudsman in the medium term. (Paragraph 33)
4. I recommend that the Local Government Ombudsman Service and the Parliamentary and Health Service Ombudsman continue to build on their current commitment to closer joint working proactively engaging in substantial initiatives to achieve economies, to harmonise processes and to provide the public with a clearer route to redress. (Paragraph 35)
5. I recommend that the Commission for Local Administration in England should be strengthened by administrative action. (Paragraph 37)

Annex A

Governance Review of the Local Government Ombudsman service

Terms of Reference

A review to examine, and to make recommendations to the Secretary of State about, the institutional structures and accountability of the Local Government Ombudsman service.

This review will include consideration of the present institutional structures and governance arrangements of the Local Government Ombudsman service, including an examination of how these have been operated in practice by the current members of the Commission for Local Administration in England.

The review is to consider two particular questions:

1. How have the present institutional structures –
 - contributed to the independence, fairness, consistency, effectiveness, efficiency, openness and transparency, and accountability of the Local Government Ombudsman service; and
 - presented, if any, barriers to the independence, fairness, consistency, effectiveness, efficiency, openness and transparency, and accountability of the Local Government Ombudsman service?

In considering this question, regard is to be had in particular to how these institutional structures have been operated in practice by the current members of these institutions.

2. Having regard to the likely future for public services and finances, what would be the best institutional and operational structures, and governance arrangements, for securing a long-term sustainable local ombudsman service, which acting independently, fairly, consistently, effectively and efficiently, and which being open, transparent and accountable, could be relied upon to provide redress to those experiencing maladministration in the delivery of local services?

In considering this question, regard is to be had in particular to:

- whether an institutional structure comprising of a single ombudsman would provide the greatest likelihood of securing the above;
- if so, what would be the most effective governance arrangements for such an institution; and
- what is the scope for combining or merging such an institution with other public sector ombudsmen.

The review will be undertaken in not more than 15 days by a senior independent person, supported by an official from the Department for Communities and Local Government.

In undertaking the review the independent person will have regard to:

- the report of the CLG Select Committee on the work of the Local Government Ombudsman;
- the Response of the Local Government Ombudsman to that report;
- the external evaluation chaired by Richard Thomas, Chair of AJTC, following the recommendation of the CLG Select Committee; and
- all other information and material available to him which he considers relevant, such as staff survey results

The independent person will report to the Secretary of State for Communities and Local Government, making recommendations for the future.

For the purposes of the above the present institutions of the Local Government Ombudsman service are:

Each Local Government Ombudsman (formally known as 'Local Commissioner'); and

The Commission for Local Administration in England (the organisation that supports the work of the Local Commissioners).

Annex B

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Annex C

Acknowledgements

Marie Anderson, Deputy Northern Ireland Ombudsman
Philip Barber, Arms Lengths Bodies Reform and Governance, Department for Communities and Local Government
Tony Boorman, Deputy Chief Executive and Deputy Chief Ombudsman, Financial Services Ombudsman
Prof Alice Brown CBE, General Secretary, The Royal Society of Edinburgh and former Scottish Public Services Ombudsman
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Sir Jon Shortridge, Chairman of LGO Audit Committee and PHSO Audit Committee

Karen Sykes, Assistant Ombudsman, LGO

Richard Thomas CBE, Author of External Evaluation

Peter Tyndall, Public Services Ombudsman for Wales

Sanjiv Vedi, Director of Governance, Welsh Government

Patrick White, Director, Local Government Policy and Productivity,
Department for Communities and Local Government

Annex D

Complaints Handling Guidance

Local Government Ombudsman

The Local Government Ombudsman Service provides the following principles on complaint handling procedures:

1. Accessibility
2. Communication
3. Timeliness
4. Fairness
5. Credibility
6. Accountability

The following explanation is provided to accompany this guidance:

“This note does not describe a single ideal complaints system. It offers guidance on what to consider in order to construct and maintain a system that best serves the needs of the council and its service users... What we recommend is a clear, accessible and flexible process that forms part of service provision”²⁴

Northern Ireland Ombudsman

Principles of good complaint handling:

1. Accessible and simple
2. Fair and impartial
3. Timely, effective and consistent
4. Accountable
5. Delivers continuous improvement

The ombudsman offers a framework²⁵ to help organisations set up complaints procedures. This recommends that a procedure should have no more than two or three stages, though is not prescriptive about them.

²⁴ “Running a Complaints System: ” <http://www.lgo.org.uk/publications/advice-and-guidance#guidance>

²⁵ *Right, Responsibilities and Redress: A Framework for Effective Complaint Handling*

The Parliamentary and Health Service Ombudsman

Principles of good complaint handling:

1. Getting it right
2. Being customer focused
3. Being open and accountable
4. Acting fairly and proportionately
5. Putting things right
6. Seeking continuous improvement

Like the Local Government Ombudsman Service, the Parliamentary and Health Service Ombudsman, does not promote a specific process. However, guidance for the handling of NHS and social care complaints is provided by the NHS & Social Care Complaints Regulations 2009²⁶. It sets out that:

- Complaints are dealt with efficiently;
- Complaints are properly investigated;
- Complainants are treated with respect and courtesy;
- Complainants receive, so far as is reasonably practical - assistance to enable them to understand the procedure in relation to complaints; or advice on where they may obtain such assistance;
- Complainants receive a timely and appropriate response;
- Complainants are told the outcome of the investigation of their complaint; and
- Action is taken if necessary in the light of the outcome of a complaint.

Beyond this, each NHS organisation has its own process.

Scottish Public Services Ombudsman

In providing guidance on the complaints handling process, the Scottish Public Services Ombudsman goes furthest through The Public Services Reform (Scotland) Act 2010. This “gives the Scottish Public Services Ombudsman the power to publish standardised complaints handling procedures for listed authorities (including local authorities, the NHS, Registered Social Landlords, colleges and universities, Scottish Government, Scottish Parliament and associated bodies). The Public Services Reform Act also requires the Scottish Public Services Ombudsman to monitor and promote best practice in complaints handling.”²⁷

The Scottish Public Services Ombudsman asserts the following principles of good complaint handling:

²⁶ <http://www.legislation.gov.uk/uksi/2009/309/regulation/3/made>

²⁷ <http://www.valuingcomplaints.org.uk/about/csa/>

The procedure must be

1. User-focused
2. Accessible
3. Simple and timely
4. Thorough, proportionate and consistent
5. Objective, impartial and fair
6. Seek early resolution
7. Deliver improvement

The ombudsman has published a two stage process for the bodies under its jurisdiction to follow:

Stage 1 - Frontline Resolution

Stage 2 - Investigation

If still unresolved, this is to be followed by an Independent External Review (Scottish Public Services Ombudsman or other).

In order to support organisations in the adoption of this process, the Scottish Public Services Ombudsman offers:

- A number of e-learning training modules
- Training on complaints investigation
- Training on listening, problem solving and conflict resolution
- Good practice guidance, reference material, online complaints handler forum and more on their Complaints Standards Authority website: www.valuingcomplaints.org.uk
- Local Authority network of complaints handlers – identifying, developing and evaluating best practice, supporting complaints handling practitioners and providing a forum for benchmarking complaints performance.

By the end of 2013 every publically funded body in Scotland will use the same two step complaints handling process.

The Public Services Ombudsman for Wales

The Public Services Ombudsman for Wales promotes similar principles to those in Scotland:

1. Accessible and simple
2. Fair and impartial
3. Timely, effective and consistent
4. Accountable
5. Delivers continuous improvement

The service also publishes guidance²⁸, which, while non-statutory, has, at the time of writing, been adopted by 19 of the 22 local authorities under its jurisdiction. The remaining three are expected to adopt the process shortly. The guidance traces the same steps as advocated by the Scottish Public Services Ombudsman:

Stage 1 - Informal resolution

Stage 2 - Formal investigation

This is followed by referral to the ombudsman if still unresolved.

²⁸ "Model Concerns and Complaints Policy and Guidance" http://www.ombudsman-wales.org.uk/~media/Files/Documents_en/Model%20Complaints%20Policy%20Final%20PSOW.ashx

Annex E

Commission for Local Administration In England

Delegated executive arrangements for the management of the Local Government Ombudsman

The Localism Act 2011 clarified the statutory authority of CLAE to delegate operational functions and decision-making to executive officers. Accordingly this paper sets out the arrangements for the operational management of the LGO through revised executive arrangements.

The Commission for Local Administration in England – This is the statutory body responsible for the provision of the Local Government Ombudsman service. The functions of the Commission are set out in the Local Government Act 1974, and are elaborated further in the Framework Document agreed with the sponsor department. This paper should be read in conjunction with those two documents.

The Commission will reserve the following decisions:

- To agree the mission and strategic objectives of the LGO,
- To approve the corporate strategic plan and annual business plan recommended by the LGO Executive Management Team
- To approve the annual budget proposals, estimates and funding bid, and financial framework recommended by the LGO Executive Management Team,
- To approve other strategic plans and significant amendments
- To approve the annual report and accounts on the recommendation of the Audit Committee
- To maintain strategic scrutiny of the operational performance of the LGO and the functions and decision-making that it has delegated to the LGO Executive Team. This is achieved through:
 - At least Quarterly reporting by the LGO Executive Team of:
 - progress against the business plan,
 - budget monitoring and,
 - performance indicators against corporate success measures,
 - Accountability of the LGO Executive Management Team, collectively and individually, to the Executive Chair of the Commission through performance appraisal against agreed objectives,
- To maintain oversight of strategic risk and internal control mechanisms, as advised by the Audit Committee and the Executive Management Team,
- To agree the remuneration and benefits framework within which the LGO service operates, as advised by the Remuneration Committee.

The Commission will delegate responsibility for operational policy, LGO service delivery, and executive decision making through the arrangements set out in this paper.

The Commission is advised by the Commission Operating Officer/Accounting Officer and the Executive Directors. Secretarial support will be provided by the Executive Services Manager. The Commission will meet 5 times in 2013. Once the new arrangements are embedded the Commission will meet quarterly from 2014.

Items for the agenda will be provided to the secretary to the meeting at least two weeks prior to the meeting and distributed at least five working days in advance. Minutes and action points will be noted and circulated following Chair's approval within five working days of each meeting.

Chair's Action

Urgent actions only

Audit Committee

The Commission has established an Audit Committee which comprises an independent Chair (who has experience of financial matters), an independent member and the Parliamentary Commissioner. The Committee has responsibility to advise the Commission, its Accounting Officer and the other members of the senior management on matters of probity, regularity and prudent and economical administration, efficiency and effectiveness as identified by internal and external audit and through the Commission's system of internal control. It also has responsibilities for monitoring and reporting to the Commission on the operation of its Risk Management Strategy. The Committee normally meets four times a year

Remuneration Committee

The Commission has established a Remuneration Committee that is responsible for advising and making recommendations to the Commission on the remuneration and succession of the senior staff and the pay schemes for other staff. The Committee is chaired by an independent person (also a member of the Audit Committee) who has expertise in the field of remuneration, and its membership includes the Chair of the Commission and the Chair of the Audit Committee. It meets twice a year

The Local Government Ombudsman (LGO) – The organisation will be known as the 'Local Government Ombudsman', and this will be the brand under which the service is delivered.

Executive Team (ET) – This is the team responsible for the operational leadership and management of the LGO, its staff and resources. The Commission has delegated authority to the ET to make all day to day operational decisions on behalf of the Commission, to manage service delivery and to agree operational policy.

Composed of the two Executive Directors and the Commission Operating Officer/Accounting Officer; working together as a team of three equals, with collective responsibility for the overall delivery and performance of the LGO in

line with the strategic objectivesThe ET will carry out the following executive functions:

- delivery of the LGO Business Plan,
- budget planning and monitoring,
- effective procurement and deployment of all resources, including staff, accommodation and external services,
- monitor the internal audit programme and the implementation of audit recommendations
- agreeing and implementing operational policy, professional practice, risk and performance matters,
- developing and recommending strategic policy and planning to the Commission through the annual budget and business planning process

The ET is accountable to the Commission through the Executive Chair, through corporate performance and risk reporting, and individual performance appraisal.

ET will be supported by the corporate service managers, the Assistant Ombudsmen, Head of Assessment, Head of Policy and Communications and Project Co-ordinator, as required. Secretarial support will be provided by a designated Executive Assistant. The group will meet every fortnight, with a rotating chair. Items for the agenda will be received by the secretary to the meeting at least five working days in advance. Action points will be noted and circulated following Chair's approval within five working days of each meeting.

The Casework and Policy Forum (CPF) – This is the forum to agree LGO casework policy and to identify themes and implications arising from this work. It provides the means through which the Ombudsman can exercise her own leadership and direction of casework, supported by the directors, and can assure herself about the operation of her personal delegated authority for deciding complaints.

- Composed of the Ombudsman, the two Executive Directors and the Legal Advisor,

Responsible for:

- Agreeing LGO policy and internal guidance on casework, by:
 - Developing a common understanding and consistent approach to all casework,
 - Reviewing and deciding on the handling of potentially high risk cases, older cases, judicial reviews and potential reports,
 - Reviewing and deciding cases for joint working with the PHSO and IHO,Monitoring the quality of casework and, in particular, decision statements,
- Identifying themes and issues arising from casework that have implications for LGO external communications and stakeholder engagement

The Forum will be chaired by the Ombudsman and will be supported by the Head of Policy and Communications, Legal Team, Assistant Ombudsmen, Head of Assessment, and Policy & Research Officer as required. Secretarial

support will be provided by a designated Executive Assistant. The group will meet every month. Items for the agenda will be received by the secretary to the meeting at least five working days in advance. Minutes and action points will be noted and circulated following Chair's approval within five working days of each meeting.

External Affairs Group (EAG) – This is the group responsible for agreeing, monitoring and implementing the Policy and Communications Strategy. It has delegated authority from the Commission for publishing reports, advice and guidance on the work of the LGO, on good administrative practice, and on procedures for making complaints:

Composed of the Ombudsman, the two Executive Directors and the Head of Policy and Communications,

Responsible for:

- agreeing, monitoring and implementing the LGO Policy and Communications strategy,
- publication and dissemination of advice and guidance arising from knowledge and experience of complaint handling, including themed reports,
- oversight of all LGO external communications and stakeholder engagement activities.

The EAG will be chaired by the Director of External Affairs. It will be supported by the Communications Manager and the Policy & Research Manager as required. The group will meet every month and as appropriate. Items for the agenda will be received by the designated EA who supports the group at least five working days in advance. A note of decisions and action points will be circulated following Chair's approval within five working days of each meeting.

The Leadership Group (LG) – This is the management forum bringing together all senior managers and the members of ET, (including the HofA, HofP+C, AOs, CSM, and corporate service managers).

- Responsible for:
 - Reviewing casework performance and advising ET on operational policy and performance matters,
 - Agreeing appropriate assignment of leadership responsibilities,
 - Reviewing and discussing progress with corporate projects and managerial lead roles
 - Ensuring clear and consistent two-way communication of management information

Secretarial support will be provided by a designated Executive Assistant. The group will meet every month and will rotate between each of the three LGO sites. Items for the agenda will be received by the secretary to the meeting at least five working days in advance. Minutes and action points will be noted and circulated following Chair's approval within five working days of each meeting. The meeting will be chaired by the three members of ET in rotation.

