



House of Commons
Public Administration Select
Committee

***More Complaints Please!
and Time for a People's
Ombudsman Service:
Government Responses to
the Committee's Twelfth
and Fourteenth Reports of
Session 2013-14***

Third Special Report of Session 2014–15

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The Public Administration Select Committee (PASC)

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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The following Members were also Members of the Committee during part of the inquiry:

Alun Cairns MP (*Conservative, Vale of Glamorgan*)
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The powers of the Committee are set out in House of Commons Standing Orders, principally in SO No 146. These are available on the internet via www.parliament.uk

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/pasc

Committee staff

The current staff of the Committee are Catherine Tyack and Sian Woodward (Joint Clerks), Adam Fenn (Second Clerk), Sarah Taylor (Committee Specialist), Sarah Hawkswood (Senior Committee Assistant) and Jonathan Olivier-Wright (Web and Publications Assistant). Rebecca Short was Second Clerk to the Committee during the inquiry.

Contacts

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Third Special Report

The Public Administration Select Committee (PASC) reported to the House on *More Complaints Please!* in its Twelfth Report of Session 2013-14, published on 14 April 2014, and reported to the House on *Time for a People's Ombudsman service* in its Fourteenth Report of Session 2013-14, published on 28 April 2014. The Government Responses were received on 24 July 2014 and are published in this Report as Appendix 1 and Appendix 2.

Appendix 1: *More Complaints Please!* Government Response

Letter from The Rt Hon Oliver Letwin MP, Minister for Government Policy & Chancellor of the Duchy of Lancaster, dated 18 July 2014

I am grateful to the Committee for its inquiries into complaint handling across Government and the role of the Parliamentary and Health Service Ombudsman (PHSO). I welcome the Committee's emphasis on the value of complaints in driving improvements in public services and the need to ensure complainants feel supported and encouraged to provide honest feedback on the quality of the service they have experienced.

I agree with the Committee that the PHSO can play an important role in improving complaints handling and I am committed to working collaboratively with the PHSO and other public service ombudsmen to deliver an accessible and effective complaint handling process from first contact with a service to final resolution by an ombudsman.

I committed in my oral evidence to two projects. The first project will focus on constructing the online systems that are needed to enable people to make complaints in a way that is structured and precise – thereby providing the transparent data that will enable everyone (public sector staff, managers and users alike) to see and compare the patterns of complaints in the public services.

The aim of this transparency is to create real pressure for a change of behaviour and ethos. Rather than regarding complaints as a 'nuisance' that needs to be 'dealt with', I want each part of the public service to see information about the pattern of complaints as an enormously useful tool for spotting exactly what needs to be improved in order to serve the users better.

Work is underway to develop and test how such a portal might work, with the aim of testing this in the autumn, involving a government department (the Department for Work and Pensions) and a specific service delivery body (the Land Registry).

The second project is a review of the public sector ombudsman landscape, building on the Committee's recommendations. Robert Gordon (formerly Director General, Scottish Government) is leading this work, with a particular focus on whether we should move to the kind of single model your Committee has called for. The terms of reference for this review are attached.

I have sought to offer an initial response to the Committee's recommendations as a means of signalling our intent. Work will continue over the summer and we will put forward our formal proposals in the Autumn.

Responses to Conclusions and recommendations

There should be a single minister for government policy on complaints handling. In our report on the Parliamentary and Health Service Ombudsman, we will recommend that there should be a minister for government policy in respect of the Parliamentary and Health Service Ombudsman. These two responsibilities should form part of a dual role.

(Paragraph 34)

The Committee and others have rightly identified the importance of leadership within Government in delivering effective complaint handling. The Government has committed to taking forward a significant piece of work to examine how it could better handle complaints, under the Minister for Government Policy & Chancellor of the Duchy of Lancaster, Rt Hon Oliver Letwin MP.

The Cabinet Office already has an overarching policy responsibility across government in relation to ombudsman issues in general and shares, with the Department of Health, a specific sponsorship role for the Parliamentary and Health Service Ombudsman. Other ombudsmen have similar sponsorship or liaison relationships with their respective Departments, reflecting the arrangements within Parliament. Any relationship must respect the independence of the ombudsmen which is central to their ability to investigate complaints impartially and fairly, and be authoritative in the conclusions they reach. As part of his review of the public sector Ombudsman landscape, Robert Gordon, a former Director General in the Scottish Government, will consider the accountability lines of ombudsmen (and any future ombudsman).

We recommend that the Cabinet Office work with high performing public and private sector companies in complaints handling to identify best practice and how to apply it to the departments and agencies, taking relevant differences into account. (Paragraph 35)

We recommend that the Cabinet Office audit departmental complaints systems to identify good and bad practice as well as identify where lessons have been learned. This audit should result in recommendations for improvement in complaints handling across departments and agencies. (Paragraph 36)

The Government has established the Cross Government Complaint Forum (CGCF) as a means through which Departments can bring together best practice and establish complaint handling standards. In addition, Robert Gordon's review of the ombudsman landscape will look at the role ombudsmen can play in standard setting and driving improvements across the public sector ombudsmen already work with bodies within jurisdiction.

The impact of leadership of attitudes and behaviour

We recommend that the NHS Leadership Academy acts now on the need to rectify shortcoming in NHS attitudes and behaviour in respect of complaints handling. This is urgent so it can address one of the main findings of the Francis Report. (Paragraph 48)

The NHS Leadership Academy is working with colleagues across health and social care to support the development of a culture centered on patients. In 2013-14 the Academy led a research programme to explore leadership behaviours most likely to produce teams and organisations delivering superior patient care and user experience. This led to the development of the Healthcare Leadership Model - a research led and evidence based model, and a set of online tools (360° feedback and self-assessment) to support leaders in creating and maintaining a culture and climate that welcomes and responds to patient opinion in all its forms. Similarly, it has developed principles for good governance in its Healthy Board guidance.

We recommend that the primary objective of the Cabinet Office review of complaints handling should be to change attitudes and behaviour in public administration at all levels in respect of complaints handling. The review should also aim to help senior leaders to use complaints as a valuable source of information and learning; to raise expectations of complainants that they will be respected and treated in a straightforward manner; and to encourage citizens to complain in order to put things right. (Paragraph 49)

The Government agrees. In his evidence session with the Committee, the Rt Hon Oliver Letwin MP announced his intention to investigate how public services can make best use of complaints, and ensure complaints are welcomed as a valuable source of information about where improvements are required.

Openness and sharing learning

The new Cabinet Office minister for government policy on complaints handling should examine the purpose, powers and structure of the cross-government complaints handling forum and put in place measures to improve the profile and influence it has across departments. The Minister should chair the forum. (Paragraph 54)

The Cabinet Office is examining the role of the cross-government complaints handling forum, including the seniority of those involved in the group, as part of the complaints review.

The Minister for Government Policy and the Head of the Civil Service will now have regular meetings with the Permanent Secretary of the Department that chairs the forum in order to ensure that its influence increases in Whitehall.

Each Government department should publish information on the complaints it has handled in its annual report, including the numbers received and resolved, and the learning has been taken from those complaints. The aim is not to create bureaucracy or a tick box exercise, but to achieve a greater level of transparency. (Paragraph 55)

Transparency is at the centre of the complaints review. The Government is committed to being open about the complaints received and the patterns of success and failure that can be inferred from them. All Government departments publish the numbers of complaints they receive in their annual reports. The volume of complaints received can differ greatly by departments and the level of detail published should accurately reflect the number and complexity of complaints received by each department. But the new online systems that we intend to pilot over coming months will deliver a degree of granularity and transparency that has been wholly absent over many decades, and will enable all participants in the public services to see where change is needed.

Ministerial correspondence

The Minister for the Cabinet Office should review its 2005 guidance on handling correspondence from Members of Parliament, Members of the House of Lords, MEPs and Members of devolved Assemblies, so that it is explicit that responsibility for responding cannot be delegated- ministers remain responsible for replies to MPs. It should also be explicit that a complaint from an MP should only be transferred to the body concerned or to a third party with the explicit agreement of the MP. This would also include how confidential or personal information should be handled. (Paragraph 63)

The Minister for the Cabinet Office should reaffirm the need to adhere to guidance on handling correspondence from Members of Parliament, Members of the House of Lords, MEPs and Members of devolved Assemblies, so that MPs can deliver swift redress for their constituents and that ministers can use the intelligence gathered from correspondence in a timely manner. (Paragraph 64)

The Prime Minister attaches great importance to the effective and timely handling of correspondence. The right of MPs to take up constituents' cases and other issues directly with Government is an important part of the democratic process and underlines the accountability of Ministers to Parliament. The Government is clear that all MPs should receive carefully considered and prompt responses to their enquiries, and that every effort should be made by departments to provide an MP with a substantive reply in good time. We welcome the Committee's views on how the guidance could be improved. The Cabinet Office will revisit the current guidance in light of the Committee's views and provide updated guidance to all departments.

Complaints processes: keep it simple

We recommend that the Cabinet Office introduce a single point of contact for citizens to make complaints about Government departments and agencies. This single point of contact should be active rather than passive in helping complainants navigate the systems and also to frame their complaints. An online solution is no doubt key, but the availability of meaningful human support at the end of a telephone for those who need it must be provided. (Paragraph 81)

The Government's review of complaint handling will include the development of a complaints portal with the ultimate aim of providing a single point of complaint for the public, alongside more effective data gathering for departments to help them identify where service improvements may be required. Work is underway to develop and test how such a portal might work, with the aim of testing this in the autumn involving a government department (the Department for Work and Pensions) and a public service delivery body (the Land Registry).

Appendix 2: Time for a People's Ombudsman Service Government Response

Conclusions and recommendations

"More investigations for more people"

The Parliamentary and Health Service Ombudsman must be explicit in how the decision to investigate more cases is being achieved, to demonstrate that it represents a significant change in the quality of investigations and upheld complaints and that it is a much more substantial shift than a re-classification of current workloads. (Paragraph 23)

The investigation process

We were told that complainants receive a detailed account of the reasons underpinning decisions taken by the Parliamentary and Health Service Ombudsman (PHSO) in respect of their complaint. Nevertheless some complainants told us they do not feel all the evidence available in their complaint was taken into account, and evidence was not treated equally. We recognise that not all complainants may feel this way, but PHSO should review the transparency of its own arrangements for reviewing its decisions. (Paragraph 31)

When explaining to complainants the findings of an investigation and how decisions have been reached, the Parliamentary and Health Ombudsman (PHSO) sets out the evidence that has been relied on or which has influenced investigators in reaching their conclusions. In addition, PHSO should make clear what evidence it received and considered as part of that investigation, and if necessary, what evidence was not used to form the conclusion, and why. (Paragraph 32)

These are matters for the PHSO. Their 2013/14 Annual Report highlights some of the new processes and systems that they have been putting in place already. The Government welcomes their strategy through to 2018 and its commitment to increase the number of cases investigated. As the Committee makes clear, it will of course be essential that such a move does not lead to a diminution in the quality of decision making.

The Government welcomes the PHSO's commitment to investigate more complaints and understands complainants' desire for greater transparency of the process. It is important that the public services ombudsmen are able to operate with a sufficient degree of flexibility to enable them to handle as many complaints as possible in the most efficient and effective way. The Government will consider any evidence that existing frameworks or legislation are causing insurmountable constraints for the public sector ombudsmen, in this respect, in the course of the on-going review of the ombudsman landscape.

PHSO: "stuck in time"?

In our Report, *More Complaints Please!*, we recommend that there should be a minister for government policy on complaints handling. In addition, we recommend that the minister also take responsibility for policy in relation to the Parliamentary and Health Service Ombudsman and that he or she should bring forward the new legislation required to enable citizens to have a simpler and more straightforward Ombudsman service that is responsive to citizens and their expectations. (Paragraph 46)

The Cabinet Office already has an overarching policy responsibility across government in relation to ombudsman issues in general and shares, with the Department of Health, a specific sponsorship role for the PHSO. It acts as the Ombudsman's principal point of contact with government and maintains regular liaison arrangements with the Ombudsman both at official and Ministerial level. This relationship works well. It recognises and respects that the Parliamentary Ombudsman was set up by Parliament and is independent of Government.

In his review of the public sector ombudsman landscape, Robert Gordon will consider the structures and powers of the current ombudsmen, and will look at possible models for the future, including consideration of whether there is a case for a single public sector ombudsman. The Government will consider the conclusions of that review, alongside recommendations put forward by PASC, in concluding whether action, including legislation, is required to reform the existing landscape.

The restriction of direct access

We recommend that the Government's new legislation to create a simpler and more straightforward Ombudsman service includes provision to abolish the iniquitous prohibition on citizens' direct and open access to the Parliamentary and Health Service Ombudsman (PHSO), known as the "MP filter". This would allow citizens to make a complaint unimpeded to PHSO in respect of all complaints about government departments and public bodies, as is already the case in respect of NHS complaints. (Paragraph 56)

The Government recognises the arguments for reform of the present system whereby complaints to the Parliamentary Ombudsman are made via a Member of Parliament, particularly in respect of clarity and transparency for complainants. The Government welcomes the Committee's indication of Parliament's view on this matter and will consider the role of the filter in any action taken forward following Robert Gordon's review of the wider landscape. It is important not to lose sight of the valuable role that an MP can add as an important advocate for a complainant.

The case for allowing telephone, oral and online complaints

We recommend that the Government's new legislation to create a simpler and more straightforward Ombudsman service should allow complaints to the Parliamentary and Health Service Ombudsman to be made other than in writing, such as in person, by telephone or online, just as is expected of other complaints systems. (Paragraph 60)

The Parliamentary Commissioner Act 1967 and the Health Service Commissioner Act 1993 require complaints to be made in writing, whereas an amendment to the Local Government Act 1974 allows for the Local Government Ombudsman to receive complaints in formats other than written.

The Government agrees that it is important that procedures and systems for those making complaints are clear and responsive, and that the public services ombudsmen are able to operate with the necessary flexibility to enable them to provide a service that keeps pace with technological developments and supports new channels of communication.

The public services ombudsmen themselves have noted that “in practice, the current constraints, where they exist, have not proved insurmountable”.¹ The question of accessibility will be a key aspect of Robert Gordon’s review of the ombudsman landscape, and any future work taken forward by the Government in this area.

The case for ‘own-initiative’ powers

We recommend that the Government’s new legislation to create a simpler and more straightforward Ombudsman service should grant the Parliamentary and Health Service Ombudsman the power of own-initiative investigations. (Paragraph 72)

The on-going review of the ombudsman landscape will consider the role and powers of any future ombudsman structure. The Government recognises existing constraints in this area and the wider powers held by other national Ombudsmen in Europe who have the power to launch a ‘systemic’ investigation or an investigation on their ‘own initiative’. The Government supports the Committee’s view that the role of the Ombudsman should be maximised in respect of support public sector delivery improvement and will consider this issue in full following the conclusion of the Gordon review.

Oversight of complaints handling

We recommend that the Government’s new legislation to create a simpler and more straightforward Ombudsman service should grant the Parliamentary and Health Service Ombudsman the power to oversee complaints processes across its area of jurisdiction, and a formal role in setting standards and training in complaints handling. (Paragraph 77)

The Government recognises the importance of the public services ombudsmen’s work and supports their vital role in providing individuals with remedies for administrative injustice. Increasingly, the public services ombudsmen’s wider work in the complaints arena is highlighting the positive benefits of effective complaint handling across the public sector, and the importance of learning and sharing good practice and experience. This aspect of their work is an important element in driving improvement and raising standards in public service delivery. The Government welcomes the Committee’s recognition of the importance of this aspect of the PHSO’s role and will consider how best to support this further as part of its wider consideration of reform to the landscape.

¹ Paragraph 3.8 Law Commission Report ‘Public Services Ombudsmen’ July 2011

PHSO's public profile and Accountability of PHSO

We recommend that Parliament should strengthen the accountability of the Parliamentary and Health Service Ombudsman (PHSO). The Public Accounts Commission, or a similar body should take primary responsibility for scrutiny of PHSO, including examining corporate plans, budget and resources. PASC should have its Standing Orders amended to require it to use the intelligence gathered by the PHSO to hold to account the administration of Government. PASC should also ensure that PHSO's reports are referred to the Departmental Select Committee to which they are most relevant. From now on, we will do so. Departmental Select Committees should use PHSO's reports to hold their respective departments to account. (Paragraph 88)

Robert Gordon's review of the ombudsman landscape will include consideration of the accountability lines of any future public sector ombudsman structure and how Government and Parliament can strike the right balance between supporting and maximising the role of the Ombudsman, whilst ensuring it remains suitably accountable for the effective use of public funds. The Government welcomes the Committee's support for increased focus on the Ombudsman's work within Parliament.

An English Ombudsman service?

We recommend that the Government bring forward, and consult on, proposals to create a single public services ombudsman for England, bringing together, for example, the relevant parts of Parliamentary and Health Service Ombudsman, Local Government Ombudsman, and Housing Ombudsman. The jurisdiction of any single public services ombudsman for England should include areas of public services that could benefit from an ombudsman service, including for example, some educational institutions. Branch offices for the public services ombudsman for England should also be explored, to facilitate access for all parts of England and so the office can gather perspective on the performance of public services and administration from across the country. (Paragraph 99)

The implications of devolution: a UK Ombudsman?

The present division of power between the devolved governments of Scotland, Wales and Northern Ireland presents a difficulty for those seeking to provide England with a national ombudsman service. Non-devolved matters require a UK-wide Ombudsman Service. As long as the UK Parliament and the UK Government are responsible for the law and administration of England as well as for UK non-devolved matters, there will be a need for a distinctive ombudsman service for these functions. (Paragraph 104)

We recommend that the Government bring forward, and consult on, proposals to deliver an effective ombudsman service for UK non-devolved matters—in addition to that of a single public services ombudsman for England—in order to optimise an ombudsman service for the UK citizen in respect of those functions. This could be provided, for example, either as a single ombudsman with a dual role as UK and England Ombudsman, or the UK and England ombudsman services could each have separate legal personality. (Paragraph 105)

The Government has committed to undertake a review of the public sector landscape, and to look at the case for a single public sector ombudsman for England. The review will include consideration of the merits of a unified final tier complaint handling service and will consider the jurisdiction of such a body.

The Government welcomes the Committee's consideration of the implications of devolution on potential reforms to the public service ombudsmen. This will be an important part of any consideration of proposals for a reformed landscape within England and the Government will consider the Committee's recommendations alongside those put forward by Robert Gordon at the conclusion of his review.