

Levelling Up, Housing and Communities Committee

Oral evidence: Local Government and Social Care Ombudsman Triennial Review, HC 960

Monday 10 January 2022

Ordered by the House of Commons to be published on 10 January 2022.

[Watch the meeting](#)

Members present: Mr Clive Betts (Chair); Bob Blackman; Ian Byrne; Brendan Clarke-Smith; Florence Eshalomi; Ben Everitt; Rachel Hopkins; Andrew Lewer; Mary Robinson; Mohammad Yasin.

Questions 1 - 39

Witness

[I](#): Michael King, Local Government and Social Care Ombudsman.

Examination of witness

Witness: Michael King.

Q1 **Chair:** Welcome to this afternoon's session of the Levelling Up, Housing and Communities Select Committee. We are going to have a session with the Local Government and Social Care Ombudsman to look at the Triennial Review that the ombudsman does and also look at other relevant issues to do with the work of the ombudsman. We have, of course, the ombudsman with us this afternoon to answer questions. I will hand over and ask you to introduce yourself, but first I will ask Members of the Committee to put on record any interests they may have that are relevant to this inquiry. I am a Vice President of the Local Government Association and I will go round the table for Members to put on record any interests they have.

Mohammad Yasin: I am a member of Bedford Town Deal Board.

Rachel Hopkins: I am a Vice President of the Local Government Association and I employ a councillor in my office.

Ian Byrne: I am a councillor on the Poole City Council and I employ a councillor in my office.

Florence Eshalomi: I am also a member of the Local Government Association, Vice President.

Bob Blackman: I am a Vice President of the Local Government



HOUSE OF COMMONS

Association and I employ a councillor in my office.

Brendan Clarke-Smith: I employ councillors in my office, Chair.

Mary Robinson: I employ a councillor in my staff team.

Andrew Lewer: I am a Vice Chair of the LGA, and on the Northampton Forward Board.

Chair: Thanks for that. Ombudsman, over to you.

Michael King: My name is Michael King. I am the Local Government and Social Care Ombudsman and I have been since 2017. I am also the Chairman of the Convention for Local Administration, which is the governing board of the ombudsman scheme.

Q2 **Chair:** Thank you for coming this afternoon to answer our questions. Very obviously, Covid has had a major impact on local government and indeed on your work as well, because you had to suspend dealing with complaints that came to you for a time because of the Covid impact. Can you tell us what impact it has had on your work and what steps you have taken to ensure that those people whose cases were perhaps held on one side during the initial period of the pandemic have received an appropriate service since?

Michael King: As you have said, when the pandemic first arrived in the UK we were approached by the Local Government Association, and also by many individual local authorities, saying that they simply could not respond to our requests in the normal way in that very first, early phase of the outbreak. We took the unprecedented decision to suspend our normal work and we did that for three months. During that time we progressed any cases we could and we did lots of other work in the background, but our normal processes of investigating were suspended. We have never done that before in the 47 years we have been in existence, so it was very unusual. The guarantee we gave was that nobody would be disadvantaged by that and anybody who had a complaint could come to us when we reopened, and that is exactly what happened. When we resumed in June 2020 we had a huge influx of cases and our unallocated cases rose by 172%. People had been delayed coming to us, but nobody was denied the ability to make a complaint.

In terms of our own operations, we had to make our transition where our own staff had to work from home. That was relatively straightforward for us. Our IT teams and facilities people did a great job and our staff were able to move quite smoothly to work from home. Having said that, I think throughout the crisis we have probably only been working at about 80% of our normal capacity. We have lots of staff with young families, so they have been affected by the same problems as everyone else in terms of home schooling and looking after children at home.

Another of the things that has affected us is that to do the job that we do, staff need to be able to communicate with each other. They need to support each other and they need to share knowledge, and working in



isolation has had quite a negative effect on that aspect of our job, so there was a significant increase in complaints when we resumed work and we have had some of the challenges that every organisation has had in terms of the capacity to deal with that. Overall, I think we have been able to work very closely with local authorities to make sure that we kept the complaints process running as well as it possibly can. Certainly since we resumed in June it has been pretty much business as usual in terms of dealing with normal complaints and investigations.

Q3 Chair: Clearly you had a backlog. How have you been dealing with that? You say you are back to dealing with cases as they come in, but are you back to dealing with things in a similar timeframe now?

Michael King: No, we are not. That is the one area of concern I have about our work at the moment. We have really struggled to get on top of the 172% increase in complaints that came in after the pandemic, so much so that last summer we launched a plan internally to reduce waiting times for unallocated cases. Currently they are about double where they would normally be. Obviously at any point in time you have a number of cases just in hand as you progress those, so we have a target to have about 650 cases in that process at any one time. At the moment we have about 1,500 so it is more than where we are comfortable for it to be.

So in July last year we launched a sustainable casework programme, which is a plan to get on top of that. That has proven to be remarkably effective. It is various changes in our process, not least of all looking at making sure that we focus on the right complaints we ought to investigate at the very start of the process. That is already showing a sustained reduction in the number of unallocated cases and we are confident that within the next few months that is going to bring the number of unallocated cases back down to the normal frictional levels that we would hope for. That has been a challenge for us, particularly with continued pressure on staff capacity, but we have a plan to deal with that and we have forecasts to show that we are on track to deal with that in the way that I would hope.

Q4 Chair: Will you continue with those changed processes in the future, and does that mean that cases will be resolved more quickly in the future?

Michael King: Interestingly, once our staff get hold of the complaints our times are holding up reasonably well. We are hitting all of our time targets at the moment, so 99% of our cases are dealt with within 52 weeks, 87% of them within 26 weeks. Our time targets are pretty good. We are hitting our quality thresholds as well and really the problem we have is simply about trying to eliminate the queue time that people have to come into the system. That is coming down quite rapidly at the moment.

Chair: Brendan Clarke-Smith wants to explore the subject of complaints processes, including those within councils.

Q5 Brendan Clarke-Smith: Hello, Mr King. I was reading in your Triennial



Review about the proposals for you to be able to investigate cases where the complainant has not suffered a personal injustice. Why do you feel that change is important and how do you anticipate that it would potentially affect your workload?

Michael King: It is an interesting question; thank you for it. At the moment, when somebody wants to make a complaint to us they must satisfy a requirement that dates from the 1970s that not only do they have a legitimate concern about some aspect of local government administration but they also have to show that that concern has had a direct impact on them and has caused them some harm or loss. It is quite an old-fashioned transactional view that the only things that you would care about are the things that have directly affected you. It causes a problem. Lots of people come to us, including people who have been referred by MPs' constituency offices, who want to complain about something that affects their community, their neighbourhood or their neighbours; these are all legitimate complaints, and absolutely the mainstream of what we would normally investigate, but we have to turn around to them and say that we cannot investigate their complaints because of those qualifying criteria from the 1970s in our legislation.

I will give some examples of the types of complaints I am talking about. Recently a chair of school governors came to us wanting to complain about really poor support for somebody with special educational needs in her school, and we could not look at that because they were not directly affected. I recall another one where an MP's office came to us about concerns about loss of planning control over a traveller site adjacent to a village; we could only look at parts of that complaint because people could not show that they were directly suffering some loss. Similarly, we get complaints about things like loss of community assets and open space. There are a whole range of complaints that people think we can investigate, and they have been the mainstream of what we do investigate, but because of the 1970s construction of our legislation they are prevented from doing so a lot of the time. We think it would be much more sensible if people could complain about those issues and we could investigate them, without their necessarily having to show that they had suffered some direct loss themselves.

Q6 **Brendan Clarke-Smith:** Following on from that, you have been working with the Housing Ombudsman on a joint code for your complaint handling. Particularly with that, how do you envisage that code potentially enhancing your work and co-operation with the Housing Ombudsman?

Michael King: We have a very close working relationship with the Housing Ombudsman. Both our organisations have been giving advice to local authorities for a long time about how to run effective complaint systems. The Housing Ombudsman has taken the kind of principles that we both apply and taken those to another level, with a much more developed code around the way in which both landlords and local authorities should deal with complaints. That has had a positive effect.



HOUSE OF COMMONS

When I talk to people in local government they say that senior managers there are taking housing complaints far more seriously than they have ever done, as a direct result of the Housing Ombudsman's code. That code also has some new dimensions to it; for example, it encourages local authorities to do a self-assessment against a code to see how they are performing, and it also has a system whereby, if local authorities are found to be in breach of the code multiple times, the Ombudsman can issue a complaint failure order, so giving some transparency about those who are not living up to those expectations.

The Housing Ombudsman's code has been a huge success and we think we should emulate that. Both myself and the Housing Ombudsman are conscious that we both talk to local government about complaints, we both talk to the same teams in local government, so we feel there is a moral imperative to make sure that we are speaking with one voice, and that we are consistent in what we are asking of local authorities. Our plan is to try and converge on to a single complaints code for local government, based on the tried-and-tested model that the Housing Ombudsman has, to try and get some greater consistency and raise the standard of complaint handling in local authorities.

Q7 **Brendan Clarke-Smith:** Finally, the Public Services Ombudsmen in Wales and Northern Ireland particularly have powers to investigate issues on their own initiative, without requiring that complaint in the first instance from a member of the public. Are those powers that you would like to have? Is that something that you would support?

Michael King: It is. In our Triennial Review we are specifically proposing that we should have the power to launch proactive investigations in relation to adult social care providers and we are specifically calling for it there because these powers are traditionally used in areas where you know there are problems, but people would not be able to complain. In adult social care there are people who lack capacity or who are in residential care, their ability to complain is much more restricted and in that kind of setting potentially the power for us to launch a proactive investigation into areas of concern could be valuable.

Certainly, this is a power that is well-established. As you say, the Welsh Ombudsman has that power and has recently done an interesting investigation into the way in which homelessness has been dealt with by local authorities in Wales. The Northern Ireland Ombudsman has this. It has also been a feature of ombudsman practice in places like Canada and Australia for many years and is something that in most of the rest of the world is seen as a normal part of an ombudsman's operations. Specifically in relation to social care it is something that we welcome.

Q8 **Mary Robinson:** I declare an interest, in that I am Chair of the All-Party Parliamentary Group for Whistleblowing. You referred earlier to the difficulties that you have because you can only deal on the basis of certain quite strict criteria. How would you deal with a complaint that is a whistleblowing complaint? Presumably you are a prescribed person under



HOUSE OF COMMONS

the Public Interest Disclosure Act. What would you do with a complaint that you would like to take on but you know that you cannot because it is outside your remit, and how comfortable would you feel with having to perhaps refer it back to the local authority or wherever the complaint arises?

Michael King: Again, an interesting question. The interesting thing is that we are not a prescribed person under the PIDA regulations, so where we get a whistleblowing disclosure, normally we would refer that to one of the main bodies. Typically, we might refer that to the Care Quality Commission or Ofsted or one of the regulatory bodies.

Importantly, in the proposals in our Triennial Review we are not trying to step into the role that other people have. I know one of the areas that might give rise to some concern is: are some of our proposals taking us towards being a regulatory body, or a whistleblowing handler? All the proposals in our Triennial Review are very much about trying to do the job we were always intended to do, but do it in a modern context, so it is about trying to update and refresh our existing role, rather than trespass on the role of other bodies.

In terms of classical whistleblowing, it is probably not the area that we would look to move into. We tend to try and work in partnership with others to make sure that those concerns are addressed properly.

Q9 **Mary Robinson:** As part of your streamlined complaint-handling procedure, do you have specific training in dealing with whistleblowing, and how to pass on such complaints?

Michael King: We have specific policies within the organisation about how to deal with whistleblowing. We have guidance for our staff on how to deal with those complaints, where they should go, and references to where the most appropriate body would be, when we get one of those disclosures. Interestingly, we have already mentioned the role of other UK Ombudsmen. In Scotland the Ombudsman has taken on the role of being the body that deals with NHS whistleblowing complaints, so there is a scope for ombudsmen to take on that role, but in Scotland it was a very specific piece of legislation that brought them into play to deal with that.

Chair: We move on now to the issue of the focus reports, which I think is one of the welcome innovations from the Ombudsman in the last few years.

Q10 **Mohammad Yasin:** Good afternoon, Mr King. You have published focus reports on subjects such as domestic abuse and children's services. Looking across these different reports, in your view, what lessons are there that local councils need to learn?

Michael King: We have issued three focus reports in the last 12 months. One of them is about lessons local authorities can learn around domestic violence, in anticipation of the new duties that local authorities are going to get. One was about looking at our first 50 investigations into the



HOUSE OF COMMONS

Homelessness Reduction Act to see how local authorities had implemented the new legislation and what they had learned. Then the third one of our focus reports was about looked-after children, and trying to see where we have seen patterns of problems so that local authorities can learn. Those are three very diverse topics but the intent behind all of those focus reports is exactly the same.

We try to look at the key insights and learning that we could take from what we have investigated, and how we can feed those back to local authorities so that they can learn and improve and avoid the repetition of mistakes. This is fundamental to my view of what we should be doing. If all we ever do is resolve individual complaints, that is not really a very effective service. We try to extract the learning from what might have been a terrible experience for one individual and make sure that is learned more widely by the local authority.

In each of those focus reports, as well as individual case studies that perhaps highlight areas that local authorities can learn from, there is also a list of best practice suggestions for local authorities to consider. I am also absolutely intent on making sure there is democratic engagement with these reports. In every report in the last few years we have a section at the back aimed at local authority elected members, so that through their internal scrutiny processes we provide them with suggested questions they can ask to hold the officers in their authority to account and to try to probe whether the authority is learning lessons from complaints and is mimicking best practice.

We know that they are widely used by local authorities. We did a survey earlier this year to ask local authorities what sort of action they took as a result of our work, and 91% of councils said that they had improved services as a result of our investigations, so that was heartening. We also know of specific examples where authorities have taken action off the back of these focus reports. A couple of years ago we did a report about special guardianship orders, and we pointed out that in many cases local authorities were not providing the support they should to special guardians. We know that a number of authorities changed their policies proactively as a result of that report, and we know of at least one authority who took it upon themselves to identify families who had been underfunded as a result of their previous policy and they provided backdated support and payments to those families, to make sure that they rectified the problems they had.

We know from experience that these reports have quite a significant effect, but they are very practically focused. I think that is the key thing about them; it is not top-down regulation. This is very much about trying to use real-world experiences that people have had to try to inform practical suggestions and improvements for local authorities.

Q11 **Mohammad Yasin:** Your report into the implementation of the Homelessness Reduction Act was based on the cases before the Covid-19



pandemic. Are there any changes in the situation since then?

Michael King: Interestingly, during the Covid outbreaks, like everyone in policy, we did investigate some homelessness cases and in one instance we found a case where a mother and her teenage son were evicted from temporary accommodation during the very first phase of the pandemic and ended up sleeping in a tent because they had been wrongly evicted by the local authority. They were not protected under the Covid protections because they were living in the property under licence rather than being a tenant, so they did not have any of the normal protections. So, there were lessons to be learned even during the pandemic around treatment of homelessness.

What we have seen subsequently—we are keeping a very close eye on this—our real concern is that once some of the protections that were in place during Covid are lifted then there might be a significant increase in problems with homelessness. We are monitoring that very carefully. We have not seen that yet in terms of the numbers of complaints coming to us, but often there is a delay while they are dealt with in local authorities first.

What I would say is that we have looked at the level of fault we found with homelessness over the last few years and sadly it has risen every year, and it was in excess of 80% of cases that we looked at where we were finding fault in the last year. There are clearly some significant problems still in the way in which some local authorities are implementing their new duties and understanding them. Many of the problems we found were fairly straightforward administrative problems around delay, around communication and following the guidance. These are not insurmountable problems, but they are ones that require attention to detail in terms of implementing the requirements of the new Act.

Q12 Bob Blackman: I want to follow up on the Homelessness Reduction Act as I have a little bit of an interest in it. In your report, one of the things that you allude to is the personal housing plans, which are intended to be implemented as soon as someone is assessed, so that no one becomes homeless at all because they will have followed the housing plan. You have commented, I think, adversely, that a lot of authorities do not do that properly. Anecdotally there is a lot of evidence to suggest that a lot of local authorities still wait for someone to become homeless before they address the fact that they are going to become homeless. Have you seen cases like that?

The second issue that I want to pick up on is that during the pandemic I think Shelter have produced quite a lot of evidence of people who have been basically turned away. If they are homeless their ability to complain to an Ombudsman or anyone else is severely limited. Have you seen any cases at all coming in of that type that you can examine and take forward?



Michael King: In terms of the first scenario, of local authorities not understanding the housing plans properly, we have absolutely seen cases like that, where people were not taken through the proper stages of the planning process at the appropriate time. We have also seen cases where those plans were not reviewed and updated as somebody's circumstances changed. Some of that, I think, was due to problems where the housing teams perhaps did not understand. The cases we were looking at were all pre-Covid, so they are some time ago now, but some of them did not understand the new concepts and were not applying them properly. In other cases, it was attributed by the authority to a lack of resource and pressures on the team. What we need to do once we are back into—

Q13 **Bob Blackman:** Sorry to interrupt. On the cases where people had not implemented processes because they did not understand them, the guidance given by the Ministry is huge and very comprehensive. Is it a case that people had not been trained or was it a case of their ignoring the rules?

Michael King: As I say, the cases we were looking at were in the reasonably early stages of this, so I think what we saw were some authorities not fully understanding the changes in what was expected of them. I agree with the implication of your question, that that should not be the case at that point. The new legislation was very clear in its intent and introduced a very clear new process, and we would absolutely expect local authorities to follow that from day one. None of it was a surprise and there was plenty of guidance to support that. Our view is that local authorities should understand these processes and should be implementing them and putting sufficient resources into their teams to enable people to do that job properly. It is something that we will return to and we will be keeping a very close eye on trends in homelessness complaints in the coming period. What was the second part of your question?

Q14 **Bob Blackman:** Anecdotally, Shelter have produced evidence to suggest that a lot of people are being turned away by local authorities at the moment. Clearly, people who are homeless find it quite difficult to complain to anyone, let alone put in a complaint to you. I wonder whether you have seen any cases such as that in the recent past.

Michael King: I cannot recall any in the recent past like that, but the scenario is familiar across various parts of our jurisdiction. It goes back to the previous question about the need to have powers to expand our investigations or launch investigations into areas where we know, perhaps through bodies like Shelter, that there are problems, but those people are unlikely to come to us. I think one of the reasons why the Welsh Ombudsman launched this proactive investigation into housing complaints was exactly that reason—that they were aware of concerns but they were also aware that the number of homeless people who were able to come to them and articulate their complaint was very few. That was a classic example of being able to step in proactively and look, and was very much appropriate to the circumstances.



Chair: Moving on now to local authority complaints procedures and resources.

Q15 **Rachel Hopkins:** In your review of local government complaints, you commented that you were concerned about the general erosion to the visibility, capacity and status of complaint functions within councils, and that these concerns are not new and cannot be wholly attributed to the trials of the pandemic. Can I surmise that you were alluding to the fact that it was as a result of significant funding reductions in local authorities? Would that be fair to say?

Michael King: They certainly predate Covid and my concerns are partly that local authority complaints functions in some authorities are under-resourced, for sure, but also I think that in some authorities the status and importance of listening to public concerns has become marginalised. I started working in local government back in the 1980s, and at that time listening to the public and listening to public concerns was absolutely fundamental to the way in which local authorities worked. It was the days of the Citizen's Charter, and that kind of culture carried on all the way through the 1990s.

My concern is that I think there has been an erosion of that culture. I see some authorities where complaint handling is seen as a nice-to-have customer service issue, pushed to the margins. What we have seen through Covid is that those areas of local authorities that were already under pressure, including complaint handling, are the ones that have not fared very well.

In looking at a number of the complaints that we have received during the Covid outbreak, we have seen that in those authorities who have not invested in their complaints systems, who have maybe seconded staff away or simply did not have enough staff in the first place, their complaint systems have not fared well during the crisis.

I can think of one complaint in particular that I am familiar with, where a woman had died of Covid in a residential care home commissioned by the local authority. Her family complained to the council about the standards of care in that home. There were allegations of inappropriate use or failure to use PPE, staff wearing masks around their neck, staff misleading the family about what was going on—so some very serious concerns that should have been addressed in the moment and could have contained important learning. The local authority, after 14 months, still had not provided a response to that complaint.

We have seen that in a number of authorities—other authorities who completely abandoned the children's statutory complaints process when there was no lawful basis to do so, simply because it was just too onerous to administer during the crisis.

These things are not new; they were not created by Covid, but there are some authorities that simply have taken their eye off the ball in terms of



complaint handling. I should say, though, that there are some authorities that do it very well, that are exemplars of learning from complaints. They have put it at the heart of their corporate governance and see it as a way of getting free intelligence to improve their services. So there are some councils that are excellent at complaint handling and embody the kind of culture that I would want to see, but unfortunately there are others that have pushed it to the margins and do not recognise the significance of it.

Q16 Rachel Hopkins: Building on what you have just said, what measures are needed to really address your concerns about complaint handling?

Michael King: Partly what we talked about earlier in the session around the work that we are going to do jointly with the Housing Ombudsman to have a consistent code and to make sure that has some teeth in terms of making sure that local authorities that do not comply with it are held to account publicly. Also, making sure that there is some expectation that councils will self-assess to determine that they are meeting that standard.

In Scotland and other parts of the UK the Ombudsman has what is called a statutory complaints standards function, so there the Ombudsman can set mandatory standards for complaint handling, they can set standards for data reporting, and that has been a hugely successful approach. I suppose what I would be saying about complaint systems is I am very happy to try and work on a voluntary basis with the sector to try and improve complaint handling, but if that does not work and there is not the will in local authorities to try and consistently improve complaint handling then it would be appropriate to consider whether we need to move to a statutory footing. Certainly, in social care we have a much more diverse provider market. We are calling there for a mandatory complaints standards authority, so we can set proper standards for complaint handling across the independent social care sector.

Q17 Rachel Hopkins: Talking about resources, do you think as the Ombudsman your organisation has sufficient resources for both the current functions and any increased role that you want it to have?

Michael King: In terms of any increased role, we would need to have fresh resources for any of the kind of proposals we have got to clarify and extend our role. In terms of whether we have enough resources at the moment, the frank answer is no. Between 2011 and 2019 we lost 41% of our funding. We were already the lowest-cost Ombudsman in the UK at that time and that had a huge effect on our work. We are proud of what we have done to try and address that. We have completely restructured the way we work. We had a 30% increase in our productivity. We moved our head office out of London, to Coventry. We saved lots of money on accommodation. So we have taken huge strides to try and deal with that, but to have that amount of funding taken out is very difficult.

Purely in cash terms we still only have three-quarters of the amount of money that we had a decade ago to try to run the job. We operate with a



HOUSE OF COMMONS

degree of risk because of that. I compliment our staff on the extent to which they work hard to try to make sure that we can keep the process running. For example, only 7% of our money is spent on corporate functions, so things like IT, HR, finance. Where other organisations of our scale would have a team of people dealing with these, we have only one or two people. We cannot afford an in-house legal function, for example.

There are some real risks and pressures from operating on the level of funding we have, and when you compare our resources with those of our sister organisations in other parts of the UK or other ombudsman schemes, we have become a real outlier. We are by far and away the lowest-funded Ombudsman scheme in the UK, and as I say, that comes at a cost. For example, in terms of outreach we have no capacity whatsoever to go to tell people about the work that we do and to try to raise awareness, even though we know that lots of people are not aware of our role.

Under the current Comprehensive Spending Review we have put in a submission to Government to ask for a moderate increase in our funding equivalent to about a 6% increase, which would effectively give us another team of people to deal with some more complaints, but nevertheless the basis upon which we operate is then a very, very thin budget, unfortunately.

Q18 Mary Robinson: A quick follow-up question with regards to complaint handling and the disparities between different local authorities. It could be indicative if a local authority does not want to have an efficient and effective complaints handling procedure in place that they are not doing other things in the right way, and it is in their best interests not to have those complaints properly handled. How do you feed into the local authority audit function and the outside external audit of local authorities and what weight should be or is given to your findings?

Michael King: First, the underlying point that you are making there is a really important one. What we have found is that, exactly as you have said, for those authorities who are not keen to listen to public concerns and who do not learn from mistakes that they have made, there is a very strong triangulation between that and authorities who have had other problems.

For example, I am sure we were all aware of the problems with Northamptonshire County Council a few years ago. Actually, for three years before those problems became manifest in public, we were raising concerns about the authority—not just about individual complaints, but about a culture we could see at that authority where they were not prepared to listen to junior staff who were raising concerns as a result of complaints, and our own findings were not being taken seriously by the authority. Sometimes they would agree to implement a change and then completely fail to do that. So there is a very strong correlation between authorities who fail to take complaints seriously and uphold corporate governance. For me, listening to public concerns in a democratic body is



absolutely central to your corporate governance. If you do not do that then that rings other alarm bells. So I think there is a strong case to be made that this is almost a warning sign for wider concerns about an authority, and we have seen that in a number of cases.

In terms of the link to local audit, we had a meeting last year with the National Audit Office. They were revising the codes for local audit and we picked up exactly this point, to suggest that actually, external auditors should take more account of some of our findings about a local authority, not just because it may have a material, financial or reputational risk to the authority but it could be the canary in the coalmine, signalling wider problems with that authority. I am hoping that in future external audit will take more account of some of the concerns that we have raised.

Chair: Moving on to your jurisdiction over housing matters.

Q19 **Ben Everitt:** Many of the areas that you mentioned in last year's Triennial Review were where you wanted to expand your remit, but they repeat proposals that you made in 2008 and in 2015. Why do you think those proposals when you made them then were rejected, and what makes you think that you will have more success next time?

Michael King: The proposals around gaps in housing have probably not progressed because the gaps that have been created were an inadvertent by-product of changes from the 2011 Localism Act. There are certain types of people who cannot complain either to myself or to the Housing Ombudsman. A good example of that is that if you are an owner-occupier and you live on an estate that is managed through the council's housing management functions and you have a complaint about water ingress from a neighbouring property, or infestation of a neighbouring property, you cannot go to the Housing Ombudsman because you do not have a tenancy relationship with the council and you cannot come to us because complaints about housing management are excluded from our jurisdiction. So what you have is a technical problem that I do not think anybody intended to create, by which there is a small but important group of people who can no longer complain about day-to-day problems.

Every year we get complaints from those people. I can recall one in the not too distant past where somebody complained to us that the council had repeatedly entered their property to observe problems with the tenants next door, without any permission from the person who was the owner-occupier on that estate. They had nowhere to turn; they cannot complain to me and they cannot complain to the Housing Ombudsman.

Although this was a technical gap, our proposals around that are that it would be relatively straightforward, if there was some other legislation about housing changes, to just put a couple of clauses in the back of that Bill to rectify the lacuna that has developed, which, as I say, there was no political intent to create, but which has inadvertently caused some people to lose out. Hopefully that could be picked up relatively quickly and relatively straightforwardly in another piece of legislation.



HOUSE OF COMMONS

Q20 **Ben Everitt:** Are you saying that it is not necessarily that there have been policy changes or regulatory changes since those other two attempts, but that there is a better opportunity this time, given what is on the agenda?

Michael King: I think it is simply a case of finding the appropriate parliamentary time and opportunity to make that change. I am optimistic and hopeful that we can do that at some point.

Chair: Moving on to education and the potential gaps there in your remit.

Q21 **Ian Byrne:** It has been an excellent session so far, Michael. In your 2018 and 2021 Triennial Reviews, you called for your powers to be extended to cover admissions and expulsions to academies and free schools. However, since 1988 the Government have repeatedly rejected your oversight of directly funded schools. Can you explain why you think you should have oversight of such schools, and why your request for these additional powers is consistently refused by the Government of the day?

Michael King: There are three areas that we are proposing would be useful to be renewed and refreshed in terms of our education remit. I will briefly set out what those three are.

The first two are areas where we used to have jurisdiction but we don't any more. In terms of schools complaints as a whole, it is interesting that schools are one of the only significant services in this country where you don't have a right to go to an independent body to make a complaint. In this country you have an ombudsman for everything, from funerals to furniture, but you cannot go to an ombudsman about what goes on in your child's education, which seems to me to be one of the main gaps in public accountability in this country.

Back in 2009 we ran a pilot jurisdiction with the Department for Education, where in 14 local authority areas of the country we had the power to look at complaints about day-to-day matters within schools. That was a hugely successful pilot and we could have expanded it. We demonstrated that it is possible to run a scheme where parents and pupils would have the ability to complain about matters that had not been resolved by heads and governors and they could come to us for everything from bullying to other kinds of issues that were going on in schools. Unfortunately, due to political changes subsequently, that never progressed and that pilot scheme finished. It was evaluated, seemed to be a success but it was never progressed.

The first thing we are saying about education is that that pilot should be resurrected, and that we should be able to look at complaints from parents of pupils about what goes on in school. That is already the case in Northern Ireland. My opposite number in Northern Ireland routinely now looks at complaints about schools. She does that entirely successfully and she has had some huge success looking at some particular problem areas. She recently did a major report around unlawful restraint of pupils in schools. I know that was widely welcomed by



HOUSE OF COMMONS

politicians in Northern Ireland as an important diversification. This is a tried-and-tested thing, both in terms of what we have done previously in England and with our colleagues in Northern Ireland.

That is the big picture that we would like to see changed. Secondly, when we look at complaints about special educational needs we can look at every part of that process other than what goes on in the school. We can look at the delays in the development of a plan for a child with special educational needs, we can look at the delivery of that plan and whether it is done properly, we can look at the council's oversight of that entire process, but what we cannot look at is whether the school has done its bit, whether the school is providing appropriate support. That just seems perverse. Often a parent will come to us and we will say that we can look at the whole of this story about their child's support, but not that bit—we must stop at the school gate and we cannot look at that part. Quite rightly, parents say to us, "This is madness. Why can't you look at those parts of the process?" So that is the second part: we think we should be able to look at special educational needs support by schools within the school gate.

I know one of the concerns that has been expressed in some quarters is the number of pupils who end up with education, health and care plans. I think if we were able to look at the general special educational needs support that was given in schools upstream of those plans we might be able to help explore why so many of those support services are failing and resulting in the parents having to go for a plan. It might save resources in the system if we were able to do that.

The third area is that we used to be able to look at school admissions and school expulsions decisions. Every spring we would look at thousands of complaints from parents about the process by which their children could get allocated a school place. That was a hugely successful piece of our work and often resolved all sorts of problems and malpractice around school admissions. What has happened subsequently is that, with the growth of academies and free schools, they are excluded from our jurisdiction, so we now have parents coming to us to say that they would like to complain about the process about their child applying for a school place and we have to say to them that we can look at the maintained school they applied for, but we cannot look at the academy that they applied for. Again, understandably, parents are left scratching their heads, wondering why we are so bureaucratic and why we cannot look at both. Our argument there is that we should be able to look at any type of school, so that we can give parents a joined-up service.

In terms of the final part of your question, about why this has not progressed, I think partly there may be a misunderstanding that we are saying that we should be able to look at these education matters because we are associated with local government and we want to look at these through the lens of local government. We are not saying that at all. We are not trying to artificially create a link between our local government



HOUSE OF COMMONS

jurisdiction and education. What we are saying is that education in its own right should be subject to the same kind of independent scrutiny as health, social care and local government, and that that process should be available to parents in the same way as it is for almost every other public service in this country. Perhaps there has been confusion that we are trying to roll back reforms in education and reassert some sort of local government control, but this has nothing to do with local government. This is to do with parents and pupils being able to speak up about problems that they have with education provision.

Q22 Ian Byrne: Those are very comprehensive answers. I want to touch on one thing. You talked about the growth of multi-academy trusts, and I am sure you are aware that many of them do not have a governing body and there is a lack of accountability and a deficit of accountability. Could the Ombudsman help with that deficit of accountability on a local level?

Michael King: Absolutely. That is one of our key arguments. We think that in terms of having public trust in those academies, one of the best ways to do that is to enable people. When they have a complaint that they have not satisfactorily been able to resolve with the body itself, in almost every other walk of life you can raise that with an independent body so that you can get a final answer that has been looked at impartially from that body. We think we can help those academies by giving that level of independent scrutiny. It would help increase parents' trust, pupil trust and public trust in that system. It also would help learning. One of the main things I am committed to do in our work is learn from complaints to improve services. Academies are missing out on that by not being part of that culture.

Q23 Ian Byrne: A very good answer. Going to the second part of the question, the Chair of this Committee wrote to the Department for Education in April 2019 about this issue and was told by the then Minister for School Standards, Nick Gibb, that there are other bodies that can handle the areas of education that you wish to oversee, namely the school complaints unit and the Education and Skills Funding Agency. You have touched on it, but just to outline a little bit and to go into it, why would the Ombudsman be a better organisation to handle complaints than those organisations?

Michael King: I think there are a couple of problems with the current landscape. One is that when you look at the role of the Education and Skills Funding Agency in relation to school admissions, if you are a parent who has applied to have their child go to a normal state-maintained school, perhaps a faith school, and an academy, you can come to us about the faith school and the maintained school but you cannot come about the academy. It is not necessarily a criticism of the Education and Skills Funding Agency; it is just, why do you need two bodies doing exactly the same job? It is totally confusing to the public.

The other problem, though, with that agency, but also with the school complaints function that sits within DfE, is they are not independent of



government. The whole essence of an ombudsman scheme is that it is independent and impartial, and for people to have trust in that and to respect our decisions they need to know that it is not being done by a Government Department that might be perceived to have skin in the game. It must be done by somebody who is absolutely impartial and separate from the delivery of that function. For me it is all about independence, it is about impartiality and it is about having that sense of public confidence in the system that people can turn to and get an independent view of what is going on.

Chair: Moving on now to the issues of adult social care.

Q24 **Andrew Lewer:** You have called for the Local Government and Social Care Ombudsman to be given jurisdiction over private adult social care providers who are not registered with the Care Quality Commission. What is your reasoning for seeking that?

Michael King: About 10 years ago we were given jurisdiction. For most of our 50 years we have been able to look at social care delivered by local authorities or commissioned by local authorities. Ten years-plus ago it was realised that lots of people who self-funded their own care did not have the same rights to complain, so a very enlightened piece of legislation was brought forward that enabled us to look at any complaint about social care in the public or private sector. It is one of the most important parts of our jurisdiction, but there is this completely seamless, joined-up process where if you start off as self-funded and then maybe the local authority steps in to pay for your care, it doesn't matter; you can come to us and we can look at any aspect of that care.

There are some gaps in that system, though, such as day centres, which do not have to be registered with the CQC but are an important part of people's experience of care. Part of what we are proposing is that we should be able to look at those parts of the care system that are important to people but lie outside of CQC registration, as well as looking at everything else in care. We can already look at 99% of what is within both the public and private care system; there are just some gaps that it does not make sense for them to be outside our remit.

Q25 **Andrew Lewer:** You have already said in the earlier evidence that you have given that your resources are very stretched, so given that it is likely that your resources will continue to be stretched, and let us say that the quite substantial funding increase that you are seeking is not forthcoming, would you still seek to extend your remit that way, or would you worry that if you extend your remit without funding some of the things that you currently cover would not be covered properly?

Michael King: It is a great point. I don't think there is any scope for us to be able to significantly increase the matters we deal with on our current funding basis; it simply isn't possible, so any of the changes that we are proposing need to be properly funded. Having said that, if you look at the overall cost of trying to improve aspects of the social care



system, the cost of dealing with complaints is a very small part of that. We think the value added from being able to look at these things far outweighs the cost of delivering them.

Interestingly, I saw a presentation by a local authority recently who were talking about their learning from a complaint—an adult social care complaint where we had upheld the complaint. They had then used that as a learning tool within the organisation. One of the key conclusions that they came to is that they could have saved a substantial amount of money had they dealt with that complaint upstream properly. They could have saved a huge amount of staff time and money that was incurred by the problems that came out subsequently.

I genuinely believe that you can invest to save by dealing with complaints properly, certainly in the social care sector. Not only is this a public service but it is also a private market. I used to work in consumer protection in the private sector, and one of the ways to increase the competitiveness and the health of any market is to make sure that you have empowered, knowledgeable consumers. So this is not just simply about a regulatory lens on social care; I think we can invigorate and improve social care competitiveness and care markets through making sure that you have that public transparency and public accountability.

Q26 Andrew Lewer: Picking up the theme of accountability and budget pressures, in your written evidence to the inquiry that we are doing on adult social care you acknowledge that adult social care providers are under huge financial pressures at the moment, but, to quote you directly, “We cannot make concessions for failures attributed to budget pressures; we must continue to judge authorities in line with relevant legislation, standards, guidance and their own policies.” Would you have any concerns that not matching budgetary realities with the regulatory expectations may make you look detached from the realities at the present time?

Michael King: My view on this is very straightforward: it is for Parliament to decide what the legislative expectations are of local authorities. It is not for me to set those aside because a local authority says that it doesn’t have enough money. I am a bureaucrat who has been appointed to do a particular job; I work within the framework that is set by Parliament and by Government, and for me to arbitrarily disapply Parliament’s intention, say in relation to the Care Act, I think would be massively overstepping my role. I am hugely sympathetic and aware of the kind of pressures that local authorities work under, but I have said to them absolutely clearly, I will continue to hold them to account against the standards that have been set by Parliament and the guidance that has been given to them by Government, and also by the policies that they have agreed themselves through their own democratic processes. It is not for me to trample on the sovereignty of Parliament or the sovereignty of local democracy. My role is to hold them to account



against those standards, which have been set through proper democratic processes.

- Q27 **Andrew Lewer:** To round off the different sorts of provision and different sorts of adult care that people receive, in your Triennial Review you argued that the reason that you have fewer complains from self-funders within adult care is that private providers do not sufficiently publicise the Ombudsman's services. I am interested to know what evidence you have that this alleged lack of awareness about the Ombudsman among self-funders is the cause of that, rather than a difference in the experiences that they receive as a result of being self-funders.

Michael King: There is a clear statistical basis for that conclusion, which is that if you look at the proportion of people who are funded by local authorities and if you look at the proportion of people who are funded by self-funders, the proportion that come to us from local authority services, where they are signposted to us by the council, is significantly higher proportionally than the number of people who are using self-funded services. I guess the counter-argument could be that maybe self-funded services are so much better that people don't want to complain about them, but the flaw in that argument is a huge number of the people who are using self-funded services are in exactly the same establishments as people who are funded by the council. Often you have got self-funded care users sitting in a chair alongside somebody who is funded by the council. So I just do not get that it could be about a different level of care being provided, in that lots of the care is being provided by exactly the same care providers.

We talk a lot to the sector. We talk to sector leaders in the social care market, and we know that many social care providers take this very seriously and they do it very well, but those same people who are taking the complaints seriously tell us there are lots of people in the market who don't. That is why we are calling for mandatory signposting by care providers. We think it creates a competitive disadvantage for those people who are doing this properly. We have responsible care providers who are taking complaints seriously, who are holding themselves up to scrutiny and trying to learn from that, and we have other people who are completely ignoring that and potentially undermining the work being done by the more responsible care providers. There is something here about equity in the marketplace, that if some people are allowed to ignore complaints, that creates an unfair competitive advantage and a perverse incentive not to listen to the public. It is important that we should have much clearer expectations around complaint handling that apply statutorily across the social care sector.

- Q28 **Andrew Lewer:** A final question on the overall budget point. If you do not get the budget increase that you want—and that's life for all of us, really—would your preference be to focus in on fewer areas of remit and do it at a higher degree of excellence, or seek to broaden out your remit



HOUSE OF COMMONS

so that at least there is some coverage of the areas that you have underlined, that you have concerns about?

Michael King: It is a very timely question, because we are already facing that challenge. I spoke earlier about the measures we have had to put in place in order to deal with current backlogs and current pressures with our work coming in. What we have had to do recently, and what we had to do 10 years ago when we first had significant cuts in our budget, is to introduce assessment codes, and that code sets out the criteria we will apply in deciding which complaints we will investigate and which we won't. So we already have to make those decisions day-to-day, and one of the things we decided to do over the summer was to tighten that up further and focus more on those complaints that had the greatest public value. This means that unfortunately there are some complaints that we perhaps would have looked at 10 years ago that we cannot now.

The answer to your question is, we would rather make sure that we focus on those complaints that have the greatest power to improve services, those complaints that have the greatest public interest and have the greatest ability to perhaps lead to wider changes for more people, rather than just trying to do huge volumes of low-level transactional complaints. But yes, it is a day-to-day reality for us and for most ombudsman schemes, that we must make those tough decisions at the start about what we will and will not look at.

Chair: Moving on to your remit with regard to councils and councillors.

Q29 **Florence Eshalomi:** Good afternoon. In your evidence to our devolution inquiry and in your 2018 and 2021 Triennial Reviews, you called for the LGSCO to have oversight over large and parish councils and you have touched on some of this in terms of devolution earlier, particularly where those devolved powers were exercised by unitary authorities. How would you envisage that oversight?

Michael King: The issue with town and parish councils—interestingly, back in 2015 the Government launched a consultation to take views on whether we should have jurisdiction for larger town and parish councils. Since then some of the larger town and parish councils have taken on even more duties, either working on behalf of principal authorities or delivering services in their own right. As we have seen the unitarisation of some areas, we have seen new large town and parish councils created.

Our view is that probably there are somewhere around 100 town and parish councils in this country that, in terms of the scale of their operations, have budgets and numbers of staff that are comparable to some of the smaller district councils that were already in our jurisdiction. We also think that actually, town and parish councils are a really important part of service delivery; they are a really important part of local democracy. Sometimes they are the part of local governments that is most familiar to people on the ground. We respect the professionalism and the importance of that tier of local government.



We have a proposal, which is supported by the National Association of Local Councils. We would like to establish a pilot exercise—perhaps this would need to be funded—working with the National Association of Local Councils and some of the larger town councils who would like to test this model. In that pilot we would explore how it would be practical to bring some of those larger bodies within our jurisdiction, in the same way as smaller district councils who do a similar role are already within our remit. It is something that has wide support among town and parish councils, so I am very optimistic that is something that could be done, both on a practical and pragmatic level, to make that work.

Q30 Florence Eshalomi: You cite that wide support from the National Association of Local Councils. In your submission you advocated including in your role investigating complaints about public transport bodies such as Merseytravel. Is there a slight danger that you might be encroaching on areas and remits that do not have any connection with local government, and would you be overstretching?

Michael King: It is a good point. In relation to issues around safe strategic transport, that touches on a wider issue that is in our training review. Local government was a very different beast back in 1974, when we were first set up. The local authority was very easily recognisable. It delivered most things itself. It had its name on the side of the van that was outside your house. Local government was a much simpler structure.

In the subsequent 50 years we have seen all sorts of developments in the way in which local authorities work. Our concern is not that we want to overreach and overstretch into new areas; our concern is that over the years there have been piecemeal amendments of our legislation, and legislation has not reflected and kept up with the realities of how local government has changed. So this is not so much about us trying to expand; it is about us trying to do the job we were always intended to do.

Using your example around transport. If you look at combined authorities in this country, combined authorities are absolutely within our jurisdiction already and some combined authorities don't realise that. That is entirely forgivable because the way they have been brought into our jurisdiction is by a minor amendment in a piece of 1974 legislation that I am sure most people don't get out of bed and read every morning.

We did a piece of research back in 2020 to see whether combined authorities understood that they were in our jurisdiction. We found that a whole range of combined authorities had absolutely no public complaints process on their website and failed to mention at all that you could raise your complaint with us. A colleague of mine checked last week and found that that is still the case. There is a very patchy understanding among combined authorities about where they sit.

Take two combined authorities that are right next to each other—Greater Manchester and Liverpool. If you look on Greater Manchester's website



they have a very good, very clear complaints process that tells you how you can complain about the combined authority's functions. If you are not satisfied, that then refers you to come to LGSCO. Greater Manchester is doing it correctly.

Over the road in Liverpool, looking at their website there is no obvious complaints process for the public to follow if they have a concern about the combined authority. Despite their being in our jurisdiction, legally there is no reference to us. The upshot of that is that we get complaints about Greater Manchester services but we get no complaints whatsoever of combined authority services in Liverpool because there is no process for people to follow. People are being disenfranchised by a lack of understanding and a lack of direction in the process.

That applies equally to things like transport. Transport for London is very clearly in our jurisdiction; that is written into our legislation. If you look at transport delivered within Greater Manchester you would have to get a lawyer to try to decipher whether or not their trams and buses are within our jurisdiction or not. This is not about us trying to expand; this is about us trying to clarify a set of jurisdictions that have been in place for a long time.

Our proposal is very simple. We need to wipe away 50 years of piecemeal amendments and simply replace it with a universal statement to say that all forms of local government and everything delivered by local government is within our jurisdiction, and that people can raise a complaint about that unless it is specifically excluded. Simplifying the entire process would be better for us to do our job, it would be much clearer for the public to know what their rights are, and it would be better for local government in all its forms because they would not have to get a lawyer every time they wanted to know where they sat in terms of the complaints process. Our argument is one for simplification, not for expansion in that area.

- Q31 **Florence Eshalomi:** In that respect, it sounds clear and you have touched on it a bit. One of the things that come up from time to time in the news is the Committee on Standards in Public Life's proposals regarding elected representatives. You have made an appeal about the decision-making against councillors and sanctions of local councils who have breached a code of conduct. This would also see an extension of that power that you are seeking and would deal with the process of decision-making that councillors have. Can you outline why you think it is important for you to have those additional powers and if there would be any consequences if you did not have that?

Michael King: Absolutely. In this regard, we are responding to an agenda that has been set by the Committee on Standards in Public Life, as you say. Two years ago they published a report that said that there should be reforms to the ethical standards regime for local councillors. That is in response to concerns that have been raised by several different bodies in the sector. What the Committee on Standards in Public Life



recommended was that we should have a role, that where a local process has decided that a councillor was at fault and they were suspended or had some sanction imposed on them, the councillor would be able to come to us so that we could review whether the local process happened properly. That is a role that we absolutely stand ready to deliver, should the Government wish to implement those recommendations.

We have gone one step further. In conversation with people in the sector, people have said, "Is that not a bit one-sided?" Where somebody has made a complaint about a councillor, the councillor has a right of appeal to the ombudsman but the person who has made the complaint hasn't, if they have got a concern about the way the local process is run.

We are saying that absolutely we do not want to recreate the standards board, absolutely we do not want to usurp the role of the monitoring officer and local standards committees when dealing locally with standards issues. We think absolutely they should be dealt with at first instance by local processes. What we are saying is, where those local processes have failed to get the satisfactory resolution, we think we could perhaps provide a helpful role in giving that independent assessment of those complaints to make sure that the local processes happen properly, but also to give some finality to what we all know can be quite toxic, long-running disputes sometimes. If a local authority, or the complainant or the councillor was able to take that outside the local process and bring it to us, we think we could probably give closure to some very long-running and damaging issues that are occurring in that standards phase.

Effectively, we are saying we think we could help. Whatever we do, we are not trying to do something separate from the Committee on Standards in Public Life recommendations. What we are trying to do is advise on how we think we could help if there are changes to be made around councillor conduct and complaints.

Chair: Moving on to the whole issue and possibilities of a public service ombudsman.

Q32 **Bob Blackman:** You have called for the introduction of a single ombudsman and in your Triennial Review foreword you confirmed that view. Later on in the Triennial Review, you welcomed the fact that the Government have given clarity that they are not going to do that, which is somewhat confusing. If you were a betting man, what do you think the chances are of a single ombudsman being introduced?

Michael King: I should, first of all, clarify what appears to be a contradiction. For a long time we have been on the record as saying that we think that, in common with Scotland, Wales and Northern Ireland, there should probably be a single public service ombudsman in England, and that is particularly around health and social care. We work very closely with our colleagues in the Parliamentary and Health Service Ombudsman to try and join up complaints about that. There is a myriad of examples where people's complaints cross over the jurisdiction of



HOUSE OF COMMONS

different Ombudsmen. In principle we still believe it would be better to have a single public service ombudsman, and certainly that model has been tested and proven to work well in the rest of the UK.

The Government brought forward a draft Bill in 2016 to propose exactly those kinds of changes. It did not progress, due to a whole range of other pressures in Parliament in the intervening period. We were left in limbo, wondering whether that was going to progress. We welcome the fact that the Government have now confirmed that it is not going ahead, not because we don't want it to go ahead but because if it is not we would rather know, and then we can proceed as we are. That is the reason why you have got those two positions. We still stand ready to engage in a debate about the creation of a single public service ombudsman.

What we have tried to do in our Triennial Review this time is be realistic and ask, if that is not going to happen in the near future, what sensible, pragmatic, deliverable changes could be made in our existing jurisdiction to try bring that up to date, so that as long as we carry on as a separate entity we can meet contemporary expectations and modern standards? Our Triennial Review is not a replacement for the idea of a public service ombudsman; what it is saying is that it appears that in the next three years that is not going to happen, so let us make the pragmatic and deliverable changes we need to make in the meantime.

Q33 Bob Blackman: One of the arguments that are given about keeping the various Ombudsmen separate is, of course, that allows the Ombudsmen to have expertise in particular areas. You have already alluded to the fact that you have staff getting a lot of work coming in and you do not have as much resource as you would like. One argument is that it is better to keep those centres of expertise, so that you can investigate the items that are relevant to your particular area of speciality. Do you agree with that view, or do you think it would be better to combine all these three Ombudsmen and then specialise within the one operation?

Michael King: I think there are respectable arguments to be made in both directions. There is a model that has developed in Scotland, Wales, and Northern Ireland where there is a single Ombudsman, and that has been proven to work. The challenge to that would be the scale of our operations—the size of the population in Wales, Scotland and Northern Ireland is fundamentally different from that in England. There is a whole range of academics who study the ombudsman sector and these issues are endlessly debated, about whether sector-specific ombudsmen or joined-up ombudsmen are more effective.

Where we have always started in that debate is to try to look at it from the perspective of the everyday citizen. If you have a complaint about social care, that probably is going to stray into a complaint about health, it might stray into a complaint about social housing provision, it might stray into a complaint about benefits. Often when we are looking at a complaint we find that the interconnection between different areas of public life is very strong. People are understandably confused when we



HOUSE OF COMMONS

say to them, "We can look at this part of your complaint but we can't look at that part."

In the meantime, we try to work very closely both with the Housing Ombudsman and the Parliamentary and Health Service Ombudsman to make sure that wherever people come into the system, there is no wrong door. If somebody comes to us and the complaint is really for the Housing Ombudsman, we will make sure that we signpost them to the Housing Ombudsman. If the complaint is around social care and health, we have a joint team that we operate with the Parliamentary and Health Service Ombudsman, so we will look at that as a joint approach. In the meantime, while we have three different Ombudsmen, we all work very hard behind the scenes to try to make sure that the complexity sits behind the screen and we deal with that. We try to make it as simple and as accessible as we can for the public.

Q34 Bob Blackman: The final bit I want to cover is access. One of the issues of concern is that a lot of complaints come via MPs, and an MP will try to look into the complaint as best they can before sending it to the Ombudsman. There had been suggestions of taking that away and doing direct access. Do you think that is a good idea?

Michael King: There are two different schemes in England at the moment. One is, if you want to make a complaint to me you can come direct. When we were first set up in 1974, you had to go via your local councillor through what was called "the councillor filter"; you could only complain via the councillor. That was taken away in the 1980s and it has never caused us any problem. Having said that, I welcome the role of councillors and MPs in acting as advocates and representatives for constituents who have a problem. So I think there is a healthy and important role for elected representatives as part of the complaints process and I welcome that. But there is no statutory requirement to go to your MP or your councillor before you come to us.

That is slightly different for the Parliamentary and Health Service Ombudsman, where you can only make a complaint about a central Government function through your MP. I don't want to speak on behalf of my colleagues in the Parliamentary and Health Service Ombudsman but I know they are on the record for many years as saying that, while respecting the role of MPs in the complaints process, they are concerned that that might act as a barrier for some people to make a complaint because they perceive that to be an additional hurdle. So I think there is a strong argument to say that people should have direct access to an ombudsman scheme without in any way diminishing the importance of the role of MPs and councillors. The general expectation in most ombudsman schemes is you would be able to come direct if you wished to do so.

Chair: Moving on finally to the accountability of your service.

Q35 Mary Robinson: In your 2018 Triennial Review, you expressed a wish to



be directly accountable to Parliament, rather than a Government Department. In 2019, you told us that other Ombudsmen elsewhere in the UK, and the Parliamentary and Health Service Ombudsman, report directly to Parliament, and voiced your concern that the public might perceive that you are not independent of Government. What steps would you want to take to make the Ombudsman more accountable to Parliament?

Michael King: Thank you for the question. First of all, I should preface anything I say by saying that this is not because I have a problem with our relationship with the Department for Levelling Up, Housing and Communities. We actually enjoy a very constructive and positive working relationship, and they are always at pains to respect our independence. We both recognise that the relationship of an independent ombudsman through sponsorship by a Government Department is a slightly odd one for both parties, but we both endeavour to make that work in the most professional and constitutionally correct way possible. We argue, though, that it creates a perception potentially in the minds of the public that we are part of the Department that oversees local government. It is that perception that concerns me.

The other aspect of it that is important is that the funding for an ombudsman scheme, which we have touched on a couple of times in this session, should be determined independently of the pressures on the sector within which you operate. The reality of our funding is, rather than its being determined on the resources needed to run the Ombudsman scheme, it has inevitably reflected the pressures on what used to be the Department of Communities and Local Government. As they have had to make savings in the local government budget, some of those savings have been passported to us. So we have seen a consistent and catastrophic decline in our capacity and our resources, driven largely by our association with local government, rather than having an independent assessment of what resources we need if, for example, we made that submission to Treasury.

If you look at how the Parliamentary and Health Service Ombudsmen are funded, who talk directly to Treasury, they have been given significant resources, and necessary resources, by Treasury to deal with pressures of Covid and in order to deliver the ambitions set out in their next three-year plan. I sit on their board and can absolutely say that those resources are appropriate. We have no way of making that kind of case other than through our sponsor Department, who inevitably have their hands tied because they are delivering their budget associated with the administration of local government. The independence point is an important one, both in terms of public perception but also in terms of how we are resourced and how we are run.

Q36 **Mary Robinson:** Do you have a great expectation that you may receive a bigger budget if you are going directly to Treasury rather than through the Department?



Michael King: Certainly that has been the case in practice, if you look at how the funding between ourselves and the Parliamentary and Health Service Ombudsman has diverged considerably over the last 15 years. It used to be funded on a very similar level; the Parliamentary and Health Service Ombudsman probably gets around three times the budget that we do now. That is not an argument to say that that is inappropriate; it is not. As I say, I sit on their board and wholly endorse the proposals that they have made. The problem is more with us: I think we have become something of an outlier. Because we are anchored to local government budgets, the practical reality has been that our resources have declined accordingly.

Q37 **Mary Robinson:** In 2019 you also voiced concern that the scope of the Ombudsman was far wider than your sponsoring Department, which is now the Department for Levelling Up, Housing and Communities. You also want to, as we have heard today, expand your remit further. How should your relationship with Government change to reflect those concerns and ambitions if you are seeking to work across some quite different areas?

Michael King: Already in our work we cover jurisdictions that are directly relevant not only to the Department for Levelling Up, Housing and Communities but also to the Department of Health and Social Care—a significant part of our work relates to that.

One third of our complaints are about adult social care and children's services. A significant part of our work relates to the Department for Education and the Department for Health and Social Care. Also, we regularly talk to people like the Ministry of Defence around complaints relating to the armed forces covenants. We talk to people like BEIS around the Regulators' Code, so our work truly does extend right across most sectors of Government.

There is another argument why that accountability would more appropriately be direct to Parliament and be independent of any particular sponsor Department. A model already exists for that with our colleagues in the Parliamentary and Health Service Ombudsman, who do not have any sponsor Department; they relate through the Cabinet Office to Government, but in terms of funding and accountability they relate to Parliament through PACAC.

Q38 **Mary Robinson:** Given the changes to the Department of Health and Social Care, have you been given any indication that they may be seeking to take anything from your remit?

Michael King: I am not aware of anything being taken from our remit, but certainly we have been in discussions with the Department to suggest ways that we might be able to support efforts to improve the social care system. We have made about seven proposals in our Triennial Review for practical things that we could contribute to improving how the social care system is accountable to the people who use it.



Q39 **Mary Robinson:** Is that an argument for the integration of the different Ombudsmen dealing with these departmental cost issues?

Michael King: Absolutely. It goes back to the question that was asked earlier about the creation of a single public service ombudsman. The interconnectivity between a lot of these issues is very strong and, as I say, we have been on record for many years as saying that one of the answers to that might be to create a new body, a public services ombudsman that can look at those complaints right across the piece, rather than their being looked at in silos in each different sector.

Chair: That brings us to the end of quite a comprehensive round of questions about your functions as they are and how they might be improved or reformed for the future. Thank you very much indeed for coming and answering those questions today. We are pleased to hear that you have not got Covid after that little scare; nevertheless, thanks very much for coming. I am sure there are a lot of issues there, some of which the Committee has looked at before and come to views about. Others are new on our agenda and we will have a think about those and perhaps come forward with some proposals of our own about how things might be taken forward.