



Communities and Local Government Committee

Oral evidence: [Further review of the work of the Local Government Ombudsman](#), HC 866

Monday 2 December 2013

Ordered by the House of Commons to be published on 2 December 2013.

Written evidence from witnesses:

- [Local Government Ombudsman](#)

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Members present: Mr Clive Betts (Chair); Simon Danczuk; Mrs Mary Glendon; David Heyes; James Morris; Mark Pawsey; Chris Williamson

Questions 11–68

Witnesses: **Dr Jane Martin**, Chairman of the Commission for Local Administration in England (Local Government Ombudsman), and **Michael King**, Executive Director, Commission for Local Administration in England, gave evidence.

Q11 Chair: We now move into the public session of our inquiry into the work of the Local Government Ombudsman. Once again, for the public record I must go through the formalities and ask members to declare their interests. I am a vice-president of the Local Government Association.

David Heyes: I have two members of staff who are local councillors.

Simon Danczuk: My wife is a local councillor, and I have three members of staff who are local councillors.

Mrs Glendon: My husband is a councillor in North Tyneside, and I have one member of staff who serves on the council.

Chris Williamson: I have a couple of members of staff who are elected members.

Mark Pawsey: I have a member of staff who is a councillor.

Chair: That has put us on the record. I thank our witnesses very much for coming. If you could give your names and tell us who you are for the record, that would be helpful as a start.

Dr Martin: I am Dr Jane Martin, the Local Government Ombudsman.

Michael King: I am Michael King, executive director of the Local Government Ombudsman.

Q12 Mark Pawsey: The LGO arranged for a staff survey to be conducted in November 2012, but I understand that was not made available to the public in its entirety. Can you explain why?

Dr Martin: Our staff are our absolutely greatest asset, and it is important to me that we make sure that the Local Government Ombudsman is a good place to work. We brought forward the timing of that staff survey, which was one of your recommendations, in order to get on with the work earlier than we had originally planned. The publication strategy for the survey was advised by independent facilitators who were running the whole exercise for us, and it was based on accepted practice.

We shared all the findings with the key audience, namely our staff. We had face-to-face meetings with all staff across the organisation and shared the findings in full with them. Indeed, we shared the findings in full with this Committee, because you were interested in it and it was one of your recommendations. We were also, of course, mindful of a duty of care to all staff given the confidential nature of the exercise, and wanted to ensure anonymity. We did not shy away from the challenges put to us and we published a public statement containing four key messages.

One was to reiterate the point about our dedicated staff. The second was that it became clear from the survey that there was some anxiety and a lot of uncertainty about the changes—indeed, this was as we were about to launch into probably one of the biggest changes made in the organisation. We also knew there was a need for greater engagement between management and staff, and much more effective leadership and management, which included reflecting on the working style and approach of the ombudsman. I was very satisfied that the public statement we put out covered the key issues we found in the survey. Clearly, the most important thing now is to focus on what we did as a result of that.

Q13 Mark Pawsey: You mentioned it was accepted practice to publish only part of it, but we live in an era when data are shared around very easily electronically. I understand that a copy was sent to LGO Watch. What steps had you put in place to prevent more wide distribution of the survey, and why were they not successful?

Dr Martin: We were very mindful of our duty of care to all staff to ensure that full confidentiality was assured, but we wanted to be open with our staff. That was the most important thing to us—and we were. We recognised that, having done that, it was probably quite likely that—

Q14 Mark Pawsey: You anticipated that might happen.

Dr Martin: We understood it might have been a possibility. All I can tell you is that we were trying to make sure we published effectively, and that was what we did.

Q15 Mark Pawsey: Have you carried out a similar survey in November 2013?

Dr Martin: We are now in the process of conducting another staff survey.

Q16 Mark Pawsey: How do you intend to handle that? Do you intend to learn from the lessons of last time and accept that it will be in the public domain and publish in full, or do you intend to keep to your original strategy?

Dr Martin: We have not had that discussion yet, but I would anticipate that, in the light of this, it would be stupid of us not to learn from lessons, so we will definitely consider how we might publish more widely.

Q17 Mark Pawsey: Are there any preliminary findings that perhaps you can share with us at the moment?

Dr Martin: No, absolutely not. It is being held again by an independent facilitator, and I am waiting to hear the results.

Michael King: The survey closed on Friday. We know that at the start of the final week, 67% of our staff had already participated, so we expect a similar level of engagement this time.

Q18 Chair: To make it clear for our records as well, on Friday Dr Martin and I had a conversation, and I felt it appropriate that we put the whole of the survey, with one small redaction, on the parliamentary website. To make it clear, that is now available for anyone who wants to see it, and we all feel comfortable with that position.

Dr Martin: That was an agreed position, and I completely understand.

Q19 Simon Danczuk: Only two members have been present at meetings since October last year. Is the commission quorate and operating within the provisions of the Local Government Act 1974?

Dr Martin: It is quorate. You are absolutely right to point that out, and as chair I thought it was important to check that. We are quorate and are operating effectively. In terms of the 1974 Act, the legislation sets out that the Secretary of State should appoint one of the local commissioners, i.e. one of the local ombudsmen, as chair and one as vice-chair of the commission. Anne Seex is currently in post as vice-chair of the commission and has not been able to attend for 12 months, so we are de facto operating without a vice-chair.

Q20 Simon Danczuk: But the meetings are still quorate.

Dr Martin: Yes, indeed.

Q21 Simon Danczuk: The external evaluator recommended that “ways should be urgently explored for the Ombudsman to be more visibly engaged as the leader of the organisation”. Surely, if there is lack of leadership at the head of the organisation those are grounds for concern, are they not?

Dr Martin: You are absolutely right that we should take that seriously. The external evaluation came after the staff survey which has already been referred to. It was quite clear that we were being challenged on the visibility of the ombudsman at that point, so it was something we already wanted to respond to.

Since then, I have done a number of things. First, particularly in response to the external evaluation, under the new leadership arrangements I now meet monthly with the executive team. We have delegated more responsibility down to the executive team to become a more open organisation. I suppose that the best way to describe my role is as executive chair of the organisation, so we have monthly meetings to discuss strategy, performance and risk.

Q22 Simon Danczuk: But anybody observing this will be astonished that you did not previously have monthly meetings with the executive team, will they not?

Dr Martin: Perhaps I can explain that we have been going through a period of change, so until the new arrangements came into place in about April of this year I had been chairing the corporate management team for probably 18 months on a regular monthly basis. It was a revision that was required, and we were very happy to make sure that happened. I stress that we were very much responding to the staff survey, wanting to make sure that the role of the ombudsman was right and that we gave our senior team and our leadership group, which consists of our middle managers, delegated responsibility to work and help to shape the business.

Perhaps I may briefly describe one further arrangement. I now also chair a monthly casework policy forum with my executive directors and legal people. I am very confident that the organisation is getting very strong, clear and consistent leadership from one ombudsman heading up this organisation—not only for the strategy in the commission but also for casework, which is very important. That was one of the concerns raised in the staff survey.

Q23 Simon Danczuk: With regard to your excellent leadership, from 2011-12 to 2012-13 your salary increased from £125,000 to £130,000 to £135,000 to £140,000, so you have had a significant pay increase. Is that not right?

Dr Martin: I had a pay increase of £10,000 on taking on the chairmanship.

Q24 Simon Danczuk: It was an 8% pay increase.

Dr Martin: I have not worked it out, but I will rely on your figures.

Q25 Simon Danczuk: How can you justify that?

Dr Martin: My salary is substantially less than that of the previous chair. I hope that £10,000 for the significantly increased responsibility of chairing the Commission for Local Administration, as well as fulfilling my duties as Local Government Ombudsman, will be seen as proportionate.

Michael King: Beneath the ombudsman's post, salaries are pegged to equivalent posts in the judiciary. That is how they are determined.

Q26 Simon Danczuk: I am curious to know why it has increased. According to my notes, it has increased by 8%. During these exceptionally difficult times it is unusual for anybody's salary to increase. The background is that cases during that time have taken longer to complete; more are going over 12 months than ever before. Staff surveys are a dog's dinner and show absolutely appalling results; and the Select Committee's report stands before us in

terms of how the organisation has been run. Why would a salary increase be taking place? I do not understand it.

Dr Martin: I am not sure your information is quite right. I was appointed in 2010 as the Local Government Ombudsman. Mick is right that the salaries were pegged to judicial rates. I have had no increase since then other than the increase to which I have just referred on being confirmed as chair.

I hope that what you have seen from our submissions to this inquiry and also what you hear today demonstrates that over the past 12 months we have taken huge steps in the right direction. Our productivity is better, we are exceeding all our targets and we have implemented one of the biggest change programmes the organisation has had in over 40 years. While I accept that when I appeared before you last time we were challenged quite substantially, quite rightly, I hope I can now demonstrate that we have really made some changes and are developing and moving in the right direction.

Q27 James Morris: I want to ask about the independence of the external evaluators who were appointed. In written evidence to us, it was suggested that, “in terms of public perception would the claim of being a fully independent external review hold more credence if all ‘auditors’ were drawn from a background of not having had any direct association with an LGO service?” Is it not the case that all people appointed to the external evaluation team had had experience of ombudsmen schemes? In that sense, how do you respond to the point that it really was not independent and you were appointing friends to evaluate yourself?

Dr Martin: I simply do not accept that. The external evaluation team was appointed by the commission, and we also consulted with the chairman of the Ombudsman Association, because your recommendation was to make sure that the external evaluation took due recognition of the Ombudsman Association and its criteria.

We took the view that the external evaluation needed to be led by a team of people, particularly the chair, with considerable experience of and expertise in ombudsmanry, if I may use that word. Richard Thomas, who chaired it for us, was at the time also chair of the Administrative Justice and Tribunals Council. He is experienced and understands very well how the administrative justice landscape works. We also felt it would be helpful to have an academic who knew the territory well, and we are pleased that Dr Richard Kirkham was able to participate.

Q28 James Morris: Dr Martin, do you think they might have been too close to the territory in order to take an independent view?

Dr Martin: That was not the view we took. We understood that it was for the commission to appoint the external evaluation team, and that was what we did. We felt it was important to have a peer review from another colleague ombudsman, hence the Scottish ombudsman joined the team. We had a clear principle as to the kind of team we felt would be most appropriate.

Q29 James Morris: Did you know these individuals personally? Had you had extensive contact with these individuals before they were appointed as independent?

Dr Martin: I do not think I had.

Q30 James Morris: If an ombudsman is to be independent of local government, what do you think their career background needs to be?

Dr Martin: That is a very good question, and the external evaluators themselves made that point. They suggested that in future it would not be appropriate for an ombudsman also to have worked formerly in local government. As it happens, I am the first ombudsman for some time who has not been a chief officer in a local authority, although I have worked with local government, so you will have to judge me on my own performance.

My view, which I know is shared by the Department—because we have put the point to them on behalf of the external evaluation—is that you need the best candidate for the job. In my view, the best candidate for the job is somebody who can bring experience of and expertise in local service delivery, in whatever form it might be, and have an understanding of the administrative justice landscape.

Q31 James Morris: Can I ask about the new framework document signed between you and DCLG? Do you think that has enhanced your independence or autonomy?

Dr Martin: I would not say it has enhanced our independence or autonomy. The background to the framework document is that we were operating under a grant memorandum which was some years out of date and needed to be refreshed. We were advised by the Permanent Secretary of DCLG that the appropriate way to regularise the situation as a sponsor or organisation for DCLG was to agree a framework document based on the standard format for arm's length bodies. As you yourselves have remarked, it took some time to agree that framework document. Part of the reason for that was that we were having a number of discussions and drafts looking at the standard framework document to try to make sure it was fit for purpose for an ombudsman, so some changes were made.

Q32 James Morris: Do you think it has compromised your autonomy?

Dr Martin: I do not. I accept and agree with the view of the external evaluators that it is something that potentially could limit our autonomy, but thus far I cannot say it has.

Q33 James Morris: How might it?

Dr Martin: Inevitably, the framework document includes arrangements which are consistent with the Government's spending and recruitment controls. You would expect that to be the case as they are accountable for public money. We have found that to be an administrative burden, and in some cases it has delayed the way in which we have been able to get on with the transformation plan. I am not sure that is something I should lay at the door of the framework document itself. We are working within a particular context, and I understand that.

Q34 James Morris: Do you think that having your offices co-located with DCLG will help with the perception of your independence and autonomy?

Dr Martin: It may not help, but the negotiations we went into with DCLG were in the context of the current climate where we need to look at government-owned property. I cannot recall the details—I am sure we could get them for you, if you wanted them—but it was one of a number of options we considered.

Michael King: It is also important to recognise that our corporate headquarters are in Coventry. That building is not shared with any Government Departments; it is an entirely stand-alone building in which our corporate headquarters staff and senior management are based. The only building we share with central Government is the one we share with the Home Office, Audit Commission and a variety of other organisations. That is our satellite office in London. There is absolutely no question that our corporate headquarters are shared with DCLG.

Q35 Mrs Glindon: I note that the second criterion of the Ombudsman Association is fairness, so how do you respond to the concern that the LGO might be more willing to risk judicial review with small organisations rather than large ones with large budgets—for example, local authorities?

Dr Martin: I might ask Mick to comment in a moment because he looks after our legal team. Clearly, if there is any public concern about fairness that is also a concern to us, but judicial reviews form a very small part of our work. I think there were 19 last year, which is about 1.1% of our cases. The important point is that we run a process whereby all parties, whether it is an individual complainant or a local authority, can be clear about the evidence we are presenting and can challenge it. We have a process which allows for that.

Michael King: I think this arose from a submission from a member of the public. There was a concern that perhaps the potential cost of judicial review might lead us to pull our punches. I can give you an absolute assurance that that is not the case. To stick with judicial review, to challenge one of our decisions is very much the final step anybody would take. We recognise that that is not a realistic proposition, not least because the courts have made clear that the scope for challenging an ombudsman's decision is very small.

Our focus is on making sure that people have the opportunity to engage with, are consulted on and have the opportunity to challenge our decision all the way through the process. During an investigation, we will share any key documents with both parties to make sure they have sight of the evidence on which we are relying. Before we make a decision, both parties will be consulted on what we call a provisional view. That sets out the decision we are minded to make, and both parties at the same time will have the opportunity to comment on that view. We will take those comments on board before making a final decision.

Once we have made a final decision, if the complainant or council comes back to raise new issues, or to challenge a fault in the decision, we have an internal process where a different team manager who has not been involved in that case will review it and, if necessary, reopen that decision. Therefore, long before anybody gets anywhere near judicial review there are multiple steps by which they can be involved in shaping the decision and challenging it, if necessary.

Where somebody does issue proceedings for judicial review, there is a process called the pre-action protocol. That enables them to set out in advance the issues in our decision which they think are flawed. We take that very seriously. Every pre-action protocol letter goes across my desk. We have a case conference about it; we consider whether or not it raises serious doubts about the decision we have made. If it does, we will reopen that case. So far this year, we have had 13 pre-action protocol letters. We have considered

every one of those in detail, and in two of those cases we have made the decision to reopen the case and look at it again, and that is exactly what has happened. Judicial review is by no means the only way in which people can make sure they are involved in our decision making.

Q36 Mrs Glindon: Thank you for explaining the process. One of the issues is about the wide-ranging discretion and powers that ombudsmen have. What impact do you think codification of the ombudsman's discretion would have on the work?

Dr Martin: It is the case that the courts support the wide discretion of the ombudsman, and that is the framework within which we work. It is important that we do not fetter our discretion, although we do consider each case on its merits. We would always make sure we do that. You will be aware that, as part of our new business model, we now have a new assessment process and code which gives greater clarity about how we exercise our discretion.

Michael King: One of the things we have introduced as part of the new assessment process is a very clear code, which sets out the way in which we will make decisions and about which investigations we will and will not undertake. I hasten to add that that is not a new barrier we have put in place for the public. These are decisions we have always made.

We are trying to be much clearer and more consistent about how we make those decisions, and much more transparent with the public about the criteria on which we base those decisions. That code has been sent to every MP in the country. It has also been published on our website, so there is absolute transparency around how we will go about that process. The code sets out two different types of test we use. The first is that there are legal restrictions on what we can and cannot look at. For example, if somebody has already been to court, we are prohibited from looking at that case, so they are all set out in the codes.

There is also a series of choices we have to make about the proper use of public money and about which matters should be looked at by the ombudsman. They are more to do with the discretionary matters you are talking about. We have tried to set out in much clearer terms than we have ever done before how we will make those decisions and consider things—for example, what amounts to significant injustice in a case. The upshot is that I believe we are making more decisions more clearly and consistently than we have ever done in the past.

Q37 Mrs Glindon: Do you think there is any risk that by publishing decisions based on what some claim is a misunderstanding of their case—if they think it has been interpreted or decided incorrectly—it could be seen that the LGO is misinforming the public?

Michael King: Is this in relation to the publication of all our decision outcomes?

Q38 Mrs Glindon: If someone believes that the decision in their case is not correct and you publicise those findings, where do you get the confidence to counteract the perception that it is the wrong decision, and wrong information is being put forward to uphold that decision?

Dr Martin: Perhaps it would help if I first explained that we publish decisions only after we have given time for our internal review process. We will continue, as we always have,

to give all bodies the opportunity. The provisional view stage is the most important stage when all parties can challenge the evidence and findings. That is the key point in the process. Having done that, when we issue our final statement, which I think is what you are referring to, we will always allow a three-month time span for a complainant to come back and have an internal review before we publish it, so we are not ruling out people coming to challenge any decision we have made. That continues to be the case. Having gone through any review process, we will publish.

Michael King: We are the first ombudsman in the UK to publish every single decision outcome on the website. People can search that by local authority so they can see what decisions are made in their area. They can also search it by complaint category. We had a long discussion about whether we should publish every single outcome or just the ones that have been upheld. We felt it very important, in order to give local councillors and the public a rounded view of what we do, to publish every decision. That is fair to local authorities as well, in that it shows the ones that we do not uphold as well as the ones we do.

Of fundamental importance was that we wanted to try to give the public information about what was likely to happen to their complaint if they came to us. They would be able to look at our website in advance, look up a complaint that might be like the one they were going to bring to us and have a reasonable expectation of how the ombudsman might deal with that. That was a decision to publish absolutely everything. At the moment, there are 1,800 decisions on our website. We will probably be publishing about 12,000 decisions a year. That is the first ombudsman's scheme in the UK to do that.

Q39 David Heyes: I will try and establish a bit more understanding of what you have just been talking about. Dr Martin, I think you referred earlier to a casework policy forum. Is that where I would find the criteria being established for this new assessment code?

Dr Martin: It would be, yes; that is the locus for our decision making around any changes to our casework.

Q40 David Heyes: If a very clear code has been published and it is much more transparent and locked in, what is the need for a monthly casework policy forum?

Dr Martin: We have to make sure that the framework within which all of our investigators are working under delegated authority is constantly updated, relevant and taking account of changes that may have happened, both legally and in terms of policy. We also want to make sure that we are monitoring casework itself. We look at progress on judicial reviews, so we are looking at casework in the round.

Q41 David Heyes: That seems to me to be contrary to the idea of a very clear code that is more transparent, is locked in and people can identify with. What you describe sounds to me more like a movable feast.

Michael King: Perhaps I can give the example of the assessment code that we have published. If there are any amendments to that, clearly we will publish those. The casework policy forum tends to pick up more of the day-to-day process and practice issues which might be giving our investigators difficulty. To give a recent example, one of our investigators asked whether they could bring an issue to the casework policy forum about

changes in welfare benefits, and what sort of view the ombudsman would take on those cases. She was aware that a number of our investigators had the same type of case. It was a new issue for us to confront, so she wanted to get clarity on the view that the ombudsman would take.

As to what we use the casework policy forum for—this is a significant improvement in the way we worked in the past—rather than investigators having to work their way through these new issues, perhaps coming to slightly different conclusions in different places, they can bring that issue to one place and get a clear view from the two executive directors and the ombudsman. We then put out the clear guidance to our staff: “When you encounter a case like this, this is the view we will generally take.”

We hope that over the years to come we will codify our practice in that way so we are much clearer and more consistent. We have just appointed a new legal team. One of the things I will be looking to them to do is to consider our guidance on jurisdiction, which is where this information would be held, and review it. Once we have got a revised guidance on jurisdiction, I see absolutely no reason why we would not be publishing that for public scrutiny as well.

Q42 David Heyes: Do you plan to have an external review of the investigation process? If you have already agreed to commission an external review of the quality framework and the timeliness of your decisions, would that encompass the new investigation process?

Dr Martin: Absolutely. We will commission our internal auditors next year, as part of their programme, to look at our performance and the quality of our work. That will look at our new quality framework in which we have seven new standards, because we recognise that we have made great progress and our productivity is much better. What is equally important—I am sure you would agree—is that the quality of our work is also to a very high standard and is consistent in the way Mick has just explained.

Q43 David Heyes: Did I hear you just say that you expect the review to happen next year?

Dr Martin: Yes.

Q44 David Heyes: Can you be more precise about when it might happen?

Dr Martin: I hope the internal auditors will finish it by May 2014.

Q45 David Heyes: Your internal auditors are going to do this review.

Dr Martin: Yes.

Q46 David Heyes: Is that the external review which is part of the recommendations you were addressing earlier this year?

Dr Martin: It is. Our auditors are external to the organisation, if I can put it that way.

Q47 David Heyes: Maybe I have misunderstood my notes, but I thought that one of the recommendations was that another body with expertise in the world of ombudsmen would conduct the review.

Dr Martin: There are two things here. One is an external review of our time targets and the timelines we use. We would have those looked at by a peer ombudsman. That is what we are considering at the moment, and I think that will be in place by the end of this year. As to the external evaluation of our performance, our current plan is for it to be conducted by our internal auditors. It is quite consistent with the kind of work they have done for us in the past, and that is what we plan at the moment.

Q48 Mrs Glindon: Last year, the LGO was accused of being “distinctly un-forensic” in validating evidence provided by local authorities, so what have you done to change that?

Dr Martin: While recognising it is critical that the public have confidence in our processes and our impartiality, and want to ensure that the evidence we use is fair and properly validated, an ombudsman scheme is by definition not run in exactly the same way as the courts. Our burden of proof is different, and the way we work is a more informal investigative process.

That said, I recognise that public confidence is absolutely critical. In introducing our new business model this year, we have made sure that we give clear guidance to staff who are investigating so they are clear about the evidence on which they are relying. We also make sure that the statements of reasons in the decisions you were referring to before set out the evidence we have relied on to arrive at our judgment. Our default process is that we make sure the complainant can see any evidence we have relied on in coming to our decision.

Michael King: We have taken a few other steps. All of our process manuals, describing how we will do every step of the process from intake assessment, to investigation and our statements of reasons, are published online, so our staff follow a consistent process, but the public can also see exactly what is expected and they can hold us to account.

We have appointed one of our experienced investigators to be a professional practice co-ordinator. That is somebody who does the job, leading lots of initiatives to try to improve the way in which we do our day-to-day practice. She leads a series of good practice seminars we have held for all staff. One of the recent ones looked at how we handle evidence and customer service. A whole series of steps has been put in place to make sure the quality of the work we are doing is as good as it can be.

To go back to your original point as to whether we are robust in challenging evidence from local authorities, in October this year we published a report against Northumberland County Council. During the course of the investigation, the council provided evidence to us to say that that they had acted on a particular aspect of the complaint. Not only did our investigator not accept that at face value, which was the accusation, but he carried out a thorough and robust investigation into the facts. He found out that the information provided to us by the council was inaccurate, and that led to a report against the county council that was critical not only of the administrative failures in the case but also highlighted the fact that they had effectively supplied misleading information to the ombudsman. No doubt that will feature in the annual letter for that authority at the end of the year.

That is just one case, but I think that is typical of our practice. We do not take things at face value from local authorities; we investigate thoroughly and forensically where that is required.

Q49 Mrs Glindon: You have just gone into depth about how you would probe a local authority for accurate information. You did it in that one instance, and obviously you knew that the information you had was incorrect. Did you, or would you in future, require written transcripts of the interviews from council officers? How would you use those? How can you always ensure that the information provided by the authority is accurate?

Dr Martin: You are quite right. We always have a note of any interview we take. Sometimes it will be a complete transcript while at other times it will be a note, but we will always have a note of any interviews. The job of our investigator is to conduct an investigation and gather the evidence they need in order to come to a view. Sometimes they would interview a number of officials; at other times, they would not because they have got sufficient information from elsewhere. It is done on a case-by-case basis.

The point Mick has made is very important. We now have a professional practice co-ordinator. This is a new post in the organisation. We now have a clear and consistent programme of good practice seminars. Our executive director for investigations is working closely with our assistant ombudsman. So am I. I now meet with assistant ombudsmen on a monthly basis, as well as having a casework surgery with staff. I hope you can see that we have accepted the challenges you put to us last time, and are working hard to make sure that our process has public confidence and is absolutely robust.

Q50 Mrs Glindon: You said you are publishing evidence. Is that full disclosure of all evidence and investigations?

Michael King: It is. In terms of publishing the outcome of a case, we have a template which sets out exactly what the decision is in every case. In that there is a section which shows exactly what the investigators considered, what the legal context is and how they have gone about doing their investigation. That is the same in every case outcome.

In terms of sharing with the complainant the information we have relied on, it is fair to say that in the past we were sometimes reluctant to disclose the content of an investigation file. That came from the particular legal framework within which we were working. We have completely turned that on its head. Our advice to staff now is that, where somebody requests information from their case file, our starting position is that we will disclose every single piece of information we have on that case file, unless it is subject to a Data Protection Act restriction, maybe because it has got confidential third-party information.

Our practice has moved from one which tended to be selective about disclosure of evidence in our case files—traditionally, the ombudsman’s investigations were conducted in private—to a practice where we have absolutely open disclosure of the evidence we have relied on, and that now underpins our whole approach to investigations.

Q51 Mrs Glindon: Are you now satisfied that what you are doing will show the validity of the evidence you have gathered from local authorities?

Dr Martin: I certainly hope so, but we never stand still; we have to continue to ensure we are doing a good job, and we will do that.

Q52 Simon Danczuk: I want to ask about the complaints you receive about yourselves. In the 2012-13 annual report, of the 63 complaints you received that year it was agreed that in 13 cases you had not provided an appropriate level of service. That is quite a high proportion, is it not?

Dr Martin: When you consider that we deal with over 10,000 complaints a year, it is not a huge amount.

Q53 Simon Danczuk: But not everybody is complaining about you, so if more did it would be an even higher proportion.

Dr Martin: I was just making the point that we do deal with a lot of complaints, but I accept the challenge.

Q54 Simon Danczuk: What are you doing to encourage people to complain about you?

Dr Martin: We are making our process absolutely clear. The most important thing is openness and transparency. That has to be our watchword, and we make it clear to people how they can challenge what we have done.

Q55 Simon Danczuk: In that process of challenge, does the complaint go first to the officer who carried out the inquiry? Is that right? We have had complaints. If I come to you because I am not satisfied with the way it has been handled, my complaint goes to the officer who handled my complaint. Is that right?

Dr Martin: All the internal reviews are peer review, so they are conducted by a manager from another team; they are not conducted by the team where a complaint has been raised.

Q56 Simon Danczuk: The external evaluation said that that was not really appropriate and you should have an independent reviewer. Is that right?

Dr Martin: They did. We have not completed that yet, but we are looking at how we can introduce an external evaluator in the way you have described. We are going to make a decision at the next meeting of the commission.

Q57 Simon Danczuk: So you are not satisfied with the way you handle complaints about your organisation.

Dr Martin: We recognise that we can always do better, as all public bodies can, and we take on board what the external evaluation suggested. It is one of the recommendations we are now looking at, and we will make a decision at the next commission meeting. I expect that we will decide to strengthen our processes by having an external person. Many ombudsmen do have external reviews of their service complaints, and so it is right we should look at that.

Q58 Simon Danczuk: When will the public expect to have an external body to look at complaints that they want to make about you?

Dr Martin: I would have thought by the end of this business year. I do not make any promise, but it is a reasonable expectation.

Q59 Simon Danczuk: By the end of March.

Dr Martin: By the end of March we should know.

Q60 Simon Danczuk: Let me ask about the stakeholder advisory forum that has been established. How were participants selected to sit on your stakeholder advisory forum? By the way, it sounds great.

Dr Martin: Thank you. We invited all recent complainants to apply for membership. We wanted one MP and invited all MPs to respond. No one has responded yet, so if anybody is really interested in joining our advisory group, we would be delighted. Coventry is not too far to go, so that invitation is still open. We also invited a councillor and members from advocacy groups to join us.

Q61 Simon Danczuk: All these people wrote in and you decided who should be on your forum.

Dr Martin: Yes, that is right but we had 150 complainants who were interested. Obviously, we could not put all of them on the advisory group, but we retained them on an email network.

Q62 Simon Danczuk: I am trying to establish how you selected them. Did you choose the most difficult ones?

Dr Martin: Mick will tell you about the detail better than I can.

Michael King: We wrote to the last 4,000 people who had complained to us. Of those, 150 came back and expressed an interest. We asked them to tell us, on one side of a piece of paper, why they thought they could contribute something to the forum. Because we were so overwhelmed with interest, we tried to pick people who had some other form of community involvement. For example, one of the people is a street pastor.

We tried to pick people who not only had been complainants but had some other wider civic role so that they could bring something extra. In deciding who should be on the group, I can assure you that we did not look at their complaint outcome. I chaired the first meeting of the group. I can assure you that there is a majority of complainants on it, and there are certainly some very mixed views about their experience of our service. Some people were incredibly positive about the service they had received from us at a difficult time in their lives, which was great to hear. Other people were saying we made them work too hard and we did not explain clearly enough what the process was. Some really valuable material came from that. We are committed to doing it, and it felt like a really valuable experience.

Q63 Mark Pawsey: Perhaps I may look forward rather than back as we have done. What are your views about the future landscape of the Local Government Ombudsman service more generally? Last week, on Wednesday 27 November, the Legal Ombudsman said that “our complaints system is a mess”, and “the cost of maintaining all the myriad complaints schemes is startlingly high and efficiency levels low.” Only two days later, on Friday, there was a ministerial statement saying we should aim to create an integrated public services ombudsman, such as exists currently in Scotland and Wales. Do we have something to learn here from the devolved Administrations?

Dr Martin: We certainly have something to learn from the devolved Administrations. I hope that what you have heard from us in the course of this inquiry has given you some confidence that at least this ombudsman service is offering good value for money, has made considerable cost savings, increased its productivity and taken a much closer look at the quality of what it does. In my view, LGO is certainly fit for purpose to be efficient and effective in future.

We are aware that the Cabinet Office Minister, Oliver Letwin, has announced a review of ombudsmen. We have written to him to say that we want to engage in that review. We believe we have a lot to share with those who want to look at ombudsmen. I am aware of the comments of the Legal Ombudsman and others. We want to share our learning from transformation, because we are proud of what we have achieved over the past 12 months or so and will continue to achieve. We also have 40 years' experience of ombudsmanry—not myself you understand, but the organisation—and supporting local complaints handling.

For us, the important thing to remember is that the ombudsman is always at the apex of a system for local complaints handling, so it is important that any ombudsman in the future continues to amplify those messages. I do not think that any reform is about the exponential growth of ombudsmen; it is not that we should be touting for business, but we should be looking at how we can support local complaints handling better in the future. Any reforms should focus on what is best for the public and how they can access a service. We ourselves have a great slide to show how difficult it is for people to navigate the complaints maze, as we have called it. It is difficult at the moment, so we absolutely want to engage in any process which looks at simplifying that.

Q64 Mark Pawsey: To look backwards for a moment, what do you think these calls for reform tell us about the current structure of the ombudsman service generally?

Dr Martin: In one sense, you have to ask them, but I would summarise it as the system being too complex. We know best about the local landscape. You will be aware as we are that the local landscape is changing dramatically. With a multi-agency environment, I imagine that for complainants it is increasingly complicated for them to understand how they can make a complaint, at a time when it is increasingly important for people to be able to make a complaint. I would use the term “consumer democracy” to describe what we have at the moment, which is more and more reliance on local people to hold local services to account in a post-Audit Commission world.

Q65 Mark Pawsey: Do you think there are some benefits for a single point of contact for a member of the public wishing to complain?

Dr Martin: Yes, I do—anything that is better, simpler and clearer for the public. We can learn from the Welsh ombudsman in that regard. You talked about our UK colleagues.

Q66 Mark Pawsey: How do you think your organisation and the people currently working it would fit into such an organisation? How would they respond to that kind of change, given the change you told us you have already gone through?

Dr Martin: You are quite right. Change has to be managed very carefully and with absolute consideration. I, for one, will not be rushing into anything, but, if a debate is

about to happen, I want LGO to be part of it. We have led the way with our intake service, for which Mick has responsibility. Although we have mirrored a lot of good practice with our new model, we are leading the way with the codification of assessments. We have a lot to offer.

You asked about staff. The experience and expertise of our staff is a valuable commodity, and it is essential for LGO business continuity and anything that comes in the future.

Q67 Chair: You have started producing thematic reports, which members of the Committee have received, covering a number of different areas where you have been looking at particular complaints. Could you say briefly why you think they are beneficial to complainants, members of the public and local authorities, and what you hope to achieve by them?

Dr Martin: There are two kinds. We now regularly produce what we call *Adult Social Care Matters*, which is a themed report looking at those issues. We also now produce one on children and young people's complaints.

Q68 Chair: You did one on homelessness.

Dr Martin: Yes, we produced one recently on homelessness, and in particular the inappropriate use of bed and breakfast accommodation for families and young people. Only last week, we were looking at family foster carers and the way they were being unfairly treated by some local authorities. This is an important part of our work. Our founding legislation sets out that the ombudsman should not only deal with complaints but provide advice back to the sector, and not only about complaints handling but the improvement of local public administration and service delivery.

If I take the focus report that we published last week, we felt it really important to highlight the issues about family foster carers to increase public information and awareness, particularly at a time when increasingly we will be relying on the users of services to challenge the service providers and service deliverers. Public information is increasingly important, and we hope to be able, through these focus reports, to add to that.

We also want to share good practice and remind local authorities of the statutory framework within which they work. What we are adding to those focus reports now are key questions that councillors might wish to ask in scrutiny sessions, so that councillors and local authorities are holding all providers to account for the quality of the services being offered. Last week we were in a meeting with the Care Quality Commission about the way we feed back our learning from complaints so we can also help to enrich their process and the quality of their intelligence. We are very keen to continue doing this. We feel we have a lot to offer so we can amplify and learn lessons from the complaints that come to us.

Michael King: The report on family values that we launched on Friday was about the lack of support that is sometimes given to friends and family who step in at short notice to look after children. One of the things we are trying to achieve is to tell the human stories that lie behind the headlines, as we did with our report on bed and breakfast. In that most recent report, we highlighted the case of a grandmother who had stepped in to look after her six-year-old grandson and ended up bankrupt because of the lack of financial support

she got over a nine-year period. Another case involved a man who stepped in to look after an unrelated child of his partner after she had committed suicide. He lost his home, job and car while looking after that child.

We are trying to make sure that when people are holding local authorities to account, whether it be local authority members or the public, and people are making policy and legislation, they are informed by real experience people have of public services, and of when things go wrong. We are not a regulator; we cannot see the whole picture, but we know we have some really valuable lessons from people's human experience of service failure. We just want to make sure we are sharing them, and that those voices are heard and inform public policy debates.

Chair: On that very positive point—that there are lessons to be learned—it is probably an appropriate moment to conclude this evidence session. Dr Martin and Mr King, thank you very much for coming to give evidence to us.