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Joint Committee on Human
Rights

Human Rights Ombudsperson

Eleventh Report of Session 2022–23

*Report, together with formal minutes relating
to the report*

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Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

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Publication

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1 Summary

When a person suffers a breach of their human rights it is crucial that they can enforce those rights and that they have access to a remedy. However, there is a tendency for any discussion about human rights and enforcing them to focus on the role of the courts. This inquiry has sought to consider how people may raise complaints, including those that engage human rights, outside of court, specifically looking at the role of ombuds. An ombud is an official appointed to investigate complaints against public bodies or companies.

We asked the question: Should there be a new Human Rights Ombudsperson? In answering it, we surveyed the current ombuds landscape focusing on those ombuds whose role most closely resembled that which a human rights ombudsperson might hold: the Parliamentary and Health Service Ombudsman (the PHSO) and the Local Government and Social Care Ombudsman (the LGSCO). Both the PHSO and LGSCO consider complaints of maladministration in the provision of public services. Maladministration can be defined as the public body not having acted properly or fairly, or having given a poor service and not put things right.

We found that the current ombuds already considered human rights during their investigations, and so creating a new role would likely create jurisdictional overlap, add to what was already at times a confusing and complex landscape, and risk duplication of work. We therefore do not recommend that a new Human Rights Ombudsperson be created.

Instead, we recommend ways in which the current framework could be altered to make it easier for people to bring complaints, including those involving their human rights. Whilst we welcome attempts by the current ombuds to improve public awareness of their role we call on them to do more in this regard, with a particular focus on those groups who are traditionally harder to reach and are perhaps more likely to be in situations where their human rights are engaged by the actions of public authorities. In order to do so, we recommend more joint working between the existing schemes, with other relevant bodies such as the Equality and Human Rights Commission, and with relevant NGOs who may already have good existing community contacts through casework and local groups.

We also call on the Government to consider legislative change. Whilst the existing ombuds can and do consider human rights issues and frame complaints in human rights terms, we believe there may be a case for looking at making this mandate clearer by amending the relevant legislation to make reference to human rights. The fact that people cannot complain directly to the PHSO but instead must do so through their MP (the ‘MP filter’) is potentially a barrier to people seeking to bring complaints, including about their human rights. The Government should review the operation of the MP filter.

At present the LGSCO, PHSO and the Scottish Public Services Ombudsman (SPSO) are not able to initiate their own inquiries, unlike the public services ombuds in Northern Ireland and Wales. Own initiative powers would allow the ombuds to launch an investigation when they have identified potential systemic failings in public bodies, including failings that may have impacted on people’s human rights. We recommend

that the Government consider whether the LGSCO and PHSO should have own initiative powers. We do not make recommendations relating to the SPSO as any reforms are a matter for the Scottish Government.

Finally, we note that the Government, in 2016, published a draft Bill which would have merged existing ombuds to create one Public Service Ombudsman for England, and the whole of the UK for reserved matters. We have heard that simplifying the current ombuds landscape would make it significantly easier for individuals to make complaints, including those where human rights are engaged. Given the potentially significant benefits that a public service ombudsman could have for people making complaints, we are disappointed that the Government has not brought forward ombuds reform and urge them to do so.

2 Introduction

Background

1. When a person suffers a breach of their human rights it is crucial that they can enforce those rights and that they have access to a remedy. However, there is a tendency for any discussion about enforcing rights to focus on the role of the courts. This overlooks the importance of what has been referred to as “soft enforcement”, which is “the ability of people to enforce their rights without going to court.”¹ As Eleanor Roosevelt, who played a crucial role in the drafting of the Universal Declaration on Human Rights, said, human rights begin:

In small places, close to home ... they are the world of the individual person; the neighbourhood he lives in ... Unless these rights have meaning there, they have little meaning anywhere.²

2. One of the ways in which a person can seek to uphold their rights or challenge the decision-making of a public body without having recourse to the courts is by making a complaint to an ombud (where one exists). An ombud is an official appointed to investigate complaints against public bodies or companies. They usually have the power to investigate relevant complaints, recommend corrective action, and issue a report outlining their findings. They generally offer their services free of charge and, therefore, may be accessible to individuals who would not be able to afford to pursue their complaints through the courts. As recognised by the Council of Europe’s Venice Commission, ombuds not only handle individual grievances but can also play a unique systemic role by supporting public bodies to create appropriate administrative structures and make initial decisions which respect human rights.³

3. Across the nations of the UK there is already a patchwork of ombuds who can handle individual complaints and investigate systemic failures. These include the Parliamentary and Health Services Ombudsman (PHSO), the Local Government and Social Care Ombudsman (LGSCO), the Scottish Public Services Ombudsman (SPSO), the Northern Ireland Public Services Ombudsman (NIPSO) and the Ombwdsmon Gwasanaethau Cyhoeddus Cymru/Public Services Ombudsman for Wales (PSOW). In this inquiry, we set out to consider whether a new Human Rights Ombudsperson should be created to assist individuals seeking to vindicate their human rights in those “small places, close to home”.

4. Since we launched our inquiry, the Government has introduced the Bill of Rights Bill, which had its first reading in the House of Commons on 22 June 2022.⁴ As we noted in our report *Legislative Scrutiny: Bill of Rights Bill*, some of the provisions in the Bill may limit the ability of individuals to pursue their human rights claims in court.⁵ Whilst we recognise that “soft enforcement” cannot act as a substitute for courts, the Government’s clear focus

1 Oral Evidence taken on 9 February 2022, HC (2021–22) 1033, [Q31](#) [Elizabeth Prochaska]

2 United Nations, ‘[Human Rights](#)’, accessed 25 January 2023.

3 Venice Commission, ‘[Ombudsman Institutions](#)’, accessed 2 February 2023.

4 Bill of Rights Bill ([Bill 117 2022–23](#)).

5 Joint Committee on Human Rights, Ninth Report of Session 2022–23, [Legislative Scrutiny: Bill of Rights Bill](#), HC 611/HL Paper 132.

in the Bill is on Parliamentary oversight of human rights rather than judicial oversight. Given that focus, we think now is an opportune time to consider how to strengthen the “soft enforcement” of human rights.

Our inquiry

5. We launched this inquiry on 12 May 2022. Our call for evidence asked if there should be there be a Human Rights Ombudsperson, and if so, what powers and resources they would need to address the challenges people face in bringing complaints about their rights out of court. We received 20 written responses and held one oral evidence session, in which we heard from the PHSO, LGSCO the Equality and Human Rights Commission (EHRC) and two academics. We are grateful to everyone who took time to respond to our inquiry.

Joint Committee on Human Rights’ previous work

Enforcing Human Rights

6. This Committee and our predecessor Committees have taken a keen interest in the issue of human rights enforcement. In its 2018 *Enforcing Human Rights Report*, a previous iteration of the Committee highlighted the difficulties people face in vindicating their rights both in and out of court. The Committee concluded that there was a “pressing need” for an “evaluation of the broader landscape of advice, support and means of resolution for legal problems to assess how they can collectively better serve individuals faced with a breach of their human rights.”⁶

7. The Committee also expressed the view that public authorities should improve their decision-making to ensure they uphold human rights. In particular, the Committee noted that although some public authorities had embedded human rights in their work, knowledge about human rights across public authorities was “patchy” and “depends on awareness and training of public officials, which can vary according to the public authority.”⁷

Human Rights Act Reform

8. We also considered out of court enforcement in our inquiry on *Human Rights Act Reform*.⁸ Our report responded to the proposals in the Government’s consultation paper *Human Rights Act Reform: A Modern Bill of Rights*.⁹ The Committee heard from several witnesses who told us that the “soft-enforcement” of rights needed improvement. Elizabeth Prochaska, barrister at 11KBW and former Legal Director at the EHRC, told us that there had been a “serious failure” to ensure people could vindicate their rights out of court and to “embed human rights in public understanding”.¹⁰

6 Joint Committee on Human Rights, Tenth Report of Session 2017–19, [Enforcing Human Rights](#), HC 669/HL Paper 171, para 22.

7 Joint Committee on Human Rights, Tenth Report of Session 2017–19, [Enforcing Human Rights](#), HC 669/HL Paper 171, para 155.

8 Joint Committee on Human Rights, Thirteenth Report of Session 2021–22, [Human Rights Act Reform](#), HC 1033/HL Paper 191.

9 Ministry of Justice, *Human Rights Act Reform: A Modern Bill of Rights*, [CP 588](#), December 2021.

10 Oral Evidence taken on 9 February 2022, HC (2021–22) 1033, [Q31](#) [Elizabeth Prochaska]

9. In our report, published in April 2022, the Committee expressed disappointment that the Government’s consultation failed to consider how the soft enforcement of human rights could be strengthened. We recommended that the “Government must look at ways to spread best practice in human rights compliance across the public sector including through training and information programmes.”¹¹

10. This inquiry set out to build on this previous work by seeking views on whether a new Human Rights Ombudsperson could strengthen how people vindicate their human rights out of court.

11 Joint Committee on Human Rights, Thirteenth Report of Session 2021–22, [Human Rights Act Reform](#), HC 1033/HL Paper 191, para 19.

3 The current landscape

Ombuds in the UK

11. At present there is a patchwork of ombuds in the UK. The existing structure of around 30 UK ombuds is sectoral, with the institutions designed to deal with complaints arising within a particular setting.¹² Some of the ombuds, such as the Financial Ombudsman Service and the Legal Ombudsman, consider private disputes. Other ombuds, such as the PHSO and the LGSCO, consider whether there has been maladministration by public bodies. In Scotland, Wales and Northern Ireland there are also specific devolved ombuds, the SPSO, the PSOW and the NIPSO respectively, who investigate maladministration by certain listed public authorities in the devolved nations.

12. In this report we will focus on the “UK public services ombuds” which consider maladministration by public bodies, and we use the term as shorthand for the PHSO, LGSCO, SPSO, PSOW and NIPSO. However, we do not make any recommendations regarding the SPSO, PSOW or NIPSO, as reforms to those ombuds would be for the Scottish, Welsh and Northern Ireland Governments respectively.

13. The statutes setting out the role of the UK public services ombuds all provide they can consider complaints where there is “maladministration”. However, that term is not defined in legislation. In 1967, when the office of Parliamentary Ombudsman was established, Richard Crossman, the then Leader of the House of Commons, defined maladministration as including “bias, neglect, inattention, delay, incompetence, inaptitude, perversity, turpitude, arbitrariness and so on”.¹³ A lack of regard for human rights can be maladministration; and human rights can be used to express the injustice suffered by an individual, as a consequence of maladministration.¹⁴

The Parliamentary and Health Services Ombudsman

14. The PHSO encompasses two separate offices—the Parliamentary Commissioner for Administration, known as the Parliamentary Ombudsman, and the Health Service Ombudsman. By convention, those two posts are held by the same person and that person is referred to as the Parliamentary and Health Services Ombudsman.

15. The Parliamentary Ombudsman’s powers and responsibilities are set out in the Parliamentary Commissioner Act 1967. The Parliamentary Ombudsman can investigate complaints from members of the public who believe that they have suffered injustice because of maladministration by UK Government departments and public bodies (including in relation to reserved matters in Scotland, Wales and Northern Ireland).¹⁵ Complaints to the Parliamentary Ombudsman must be directed through a Member of Parliament, the so-called ‘MP filter’. A complainant must first have put their grievance to the department concerned.

12 For a list of the existing ombuds in the UK, see Ombudsman Association, [‘Find an Ombudsman’](#), accessed 20 February 2023.

13 HC Deb, 18 October 1966, [vol 734](#), c51

14 Northern Ireland Public Services Ombudsman, [‘Human Rights Manual’](#) (2017), para 3

15 [The Parliamentary Ombudsman: role and proposals for reform](#), Briefing Paper CBP7496, House of Commons Library, June 2018

16. The office of the Health Service Ombudsman was created by the NHS Reorganisation Act 1973. The majority of the Health Service Ombudsman's powers are now governed by the Health Service Commissioners Act 1993 (as amended). The Ombudsman is empowered to investigate NHS care and treatment in England where an individual complains they have suffered injustice or hardship as a result of: a failure in a service provided by a health service body; a failure of a health service body to provide a service which it was its function to provide; or maladministration connected with any other action taken by or on behalf of a health service body.¹⁶ Complainants can refer their case directly to the Health Service Ombudsman and do not have to go through their MP.¹⁷ In his evidence, Professor Robert Thomas, Professor of Public Law at the University of Manchester, noted that approximately 80% of the PHSO's work relates to its healthcare function.¹⁸

PHSO Powers

17. At present the PHSO does not have 'own initiative' powers, meaning they must receive a complaint before they can open a case. However, once a complaint has been made, the Parliamentary Ombudsman has the right to summon persons and papers, (i.e. to require the attendance of witnesses and to have access to information), and has absolute privilege to protect their reports.¹⁹

18. If the PHSO finds in favour of the complainant they have the power to recommend an appropriate remedy, which can include a financial remedy. However, the PHSO's recommendations are neither binding on the receiving organisation nor enforceable. The PHSO will determine financial awards with reference to their "severity of injustice scale". The scale contains six different levels of injustice and awards range from £0 (level 1) where a person may experience "low impact injustice such as annoyance, frustration, worry or inconvenience" to in excess of £10,000 (level 6) where an individual has suffered a "marked and damaging effect on their ability to live a relatively normal life".²⁰

The Local Government and Social Care Ombudsman

19. The LGSCO was set up by the Local Government Act 1974. The LGSCO looks at complaints about maladministration relating to councils and some other authorities and organisations, including education admissions appeal panels and adult social care providers (such as care homes and home care providers).²¹

LGSCO Powers

20. At present, like the PHSO, the LGSCO does not have their 'own initiative' powers. They must receive a complaint before opening a case. Once the LGSCO has completed an investigation, they may prepare a report on the matter and send it to the persons concerned. Where the LGSCO reports that there has been maladministration or service failure, the report is sent to the authority concerned for follow-up action.

16 Health Service Commissioners Act 1993, section 3.

17 NHS Complaints Procedures in England, Briefing Paper CBP7168, House of Commons Library, October 2019

18 [Q6](#)

19 Parliamentary Commissioner Act 1967, s10.

20 [Parliamentary and Health Services Ombudsman, 'Financial remedy'](#), accessed 2 February 2023

21 [The Local Government Ombudsman](#), Briefing Paper 04117, House of Commons Library, July 2017

21. Where the LGSCO has found that a complainant has suffered injustice through maladministration, they will recommend action to put things right. Remedies can include asking the council to apologise, provide a service an individual should have had, reconsider a decision it did not take properly, improve its procedures so similar problems do not happen again or make a payment.²² The recommendations of the LGSCO, like those of the PHSO, are neither binding nor enforceable.

The devolved ombuds

22. The devolved ombuds deal with complaints related to matters which are not reserved to the UK Government under the devolution settlements. The powers of the SPSO, PSOW and the NIPSO are similar to the powers of the LGSCO and PHSO, with all of the ombuds being empowered to consider complaints regarding maladministration by public bodies.

23. Both the PSOW and NIPSO have the power to initiate their own investigations. This enables the PSOW and NIPSO to investigate systemic failures or maladministration, regardless of whether they have received a complaint or not. The box below provides an example of an own initiative investigation conducted by the PSOW.²³

22 [The Local Government Ombudsman](#), Briefing Paper 04117, House of Commons Library, July 2017

23 Ombwdsmon Gwasanaethau Cyhoeddus Cymru/Public Services Ombudsman for Wales, [‘Homelessness Reviewed: an open door to positive change’](#) (October 2021)

Box 1: The PSOW's investigation into the homelessness review process in Wales**Background**

In November 2020 the then PSOW, Nick Bennett, launched his first own initiative investigation under the Public Services Ombudsman (Wales) Act 2019. The investigation set out to consider whether there had been systemic maladministration in the homelessness review process in Wales. It focused on three local authorities—Cardiff, Carmarthenshire and Wrexham—and considered evidence provided by the Welsh Government and third sector organisations such as Shelter Cymru.

Conclusions of the investigation

The PSOW published a report setting out his findings in 2021. In the report the PSOW concluded that many thousands of people facing homelessness were being let down by “systemic maladministration” as a result of unacceptable delays, inadequate processes and poor communication. The PSOW also expressed serious concern that vulnerable people were being offered unsuitable accommodation.²⁴

Recommendations

The report made various recommendations to improve the homelessness review process. These included recommendations that within 6 months the investigated local authorities should create Easy Read versions of homelessness factsheets, and ensure there was a plan to provide regular training on equality and human rights to all decision makers and reviewing officers.

The report also recommended actions for the Welsh Government. For example, the PSOW recommended the Welsh Government review the relevant Code of Guidance to ensure it was explicit that human rights and equality must be taken into account when assessing homelessness applications, reviewing decisions and allocating housing.

Source: PSOW, [Homelessness Reviewed: an open door for positive change](#)

The ombuds, maladministration and human rights

24. The role of an ombud was described to us by the Ombudsman Association as “more a doctor than a police officer, diagnosing what is wrong and making recommendations to improve.”²⁵ As we noted above, in fulfilling their role the UK public services ombuds are empowered to investigate complaints of maladministration, and this can include considering human rights. Therefore, Ombuds have an important role to play in upholding human rights. As the Council of Europe’s Commission for Democracy through Law (the Venice Commission) has recognised:

Contributing to the dissemination of an administrative culture that encourages the protection of human rights is another key function of the Ombudsman. He [she] is well placed to identify situations in which the implementation of laws, at an individual level as well as at the level of the

24 Ombwdsmon Gwasanaethau Cyhoeddus Cymru/Public Services Ombudsman for Wales, ‘[Ombudsman publishes his first-ever own initiative investigation into the homelessness review process in Wales, finding evidence of “systemic maladministration” by local authorities](#)’, accessed 2 February 2023.

25 Ombudsman Association ([HRO0020](#)), para 9

administration as a whole, is problematic in terms of human rights. In order to address these structural deficiencies, the Ombudsman can recommend changes in the administrative structures and staff's behavior, as well as raising staff awareness.²⁶

25. In the statutes that create the UK ombuds, however, human rights breaches are not specifically defined as a form of maladministration. In their evidence, Margaret Doyle, Visiting Research Fellow at the University of Essex School of Law, and Nick O'Brien, Honorary Research Fellow at the University of Liverpool School of Law, noted this means there is

[S]ome lack of clarity ... about the ombuds' role in relation to human rights issues. For public services ombuds, it is not always clear to what extent the concept of maladministration allows ombuds to go beyond criticising procedural failures.²⁷

26. However, we were pleased to hear from the PHSO and LGSCO that they do consider human rights when determining complaints. The PHSO told us:

[H]uman rights are an integral part of the relationship between citizen and state and are therefore necessarily within our remit. We currently treat human rights failings as part of our consideration of maladministration.²⁸

27. Similarly, the LGSCO told us:

... [T]he LGSCO already has a remit to assess whether organisations have taken account of human rights as part of their policies, decision making, service delivery, and complaint handling. Where our investigations find individuals' rights have been neglected, we will say so explicitly in our decisions, almost all of which are published online.²⁹

28. We also heard that the UK ombuds play a role in identifying systemic human rights breaches across public authorities. Margaret Doyle and Nick O'Brien highlighted one way in which ombuds do this is by producing "thematic reports that consider systemic concerns about human rights issues arising in complaints."³⁰ They referred us to the 2009 *Six Lives Report* produced jointly by the Health Service Ombudsman and the Local Government Ombudsman, which responded to complaints brought by the charity Mencap on behalf of the families of six people with learning disabilities who died in NHS or local authority care between 2003 and 2005.³¹

29. Although the PHSO and LGSCO consider human rights in their decisions, they cannot make a determinative finding that an individual has had their human rights breached. This point was made clearly by Evan Lerwill, Assistant Ombudsman at the LGSCO, in his evidence. He said: "If someone comes to us seeking a binding judgment on whether

26 Venice Commission, '[Ombudsman Institutions](#)', accessed 2 February . In December 2020 the UK Government co-sponsored a United Nations General Assembly Resolution to adopt the Venice Principles for Ombudsman Institutions.

27 Ms Margaret Doyle; Mr Nick O'Brien ([HRO0009](#))

28 Parliamentary and Health Service Ombudsman ([HRO0012](#)), para 2.2

29 Local Government and Social Care Ombudsman (LGSCO) ([HRO0002](#))

30 Ms Margaret Doyle; Mr Nick O'Brien ([HRO0009](#))

31 Ms Margaret Doyle; Mr Nick O'Brien ([HRO0009](#)) referring to Local Government Ombudsman and Parliamentary Health Services Ombudsman, *Six lives: the provision of public services to people with learning disabilities* (2009).

their rights have been breached and is very focused on wanting financial compensation, it is quite possible that we will decide that the courts are better suited to considering the matter and we will signpost people in that direction.”³² For that reason, ombuds are not a substitute or surrogate court.³³

Examples of good practice

30. During our inquiry we were pleased to hear that the UK public services ombuds take a proactive approach to integrating human rights in their work. In their evidence, the LGSCO noted that in 2021/2022 they published decisions on 158 detailed investigations which touched on rights-based issues. They referred to three illustrative cases in which they concluded public authorities had not had sufficient regard to the complainants’ private or family life, as enshrined in Article 8 of the European Convention on Human Rights (and incorporated in domestic law by the Human Rights Act 1998). These complaints concerned: a husband and wife who had been separated after the wife was moved into a care home against her wishes; a stepdaughter who had been stopped from visiting her dying father; and a family of seven who had been placed in unsuitable accommodation.³⁴

31. The PSOW publishes an annual Equality and Human Rights Casebook setting out cases where they believe human rights have been engaged. In the 2022/2023 Casebook the PSOW sets out cases which engaged Article 2 (right to life), Article 6 (right to a fair trial), Article 8 (right to private and family life) and Article 14 (freedom from discrimination) of the ECHR.³⁵

32. We also saw evidence of the UK ombuds taking proactive steps to embed human rights into their organisations through staff training and internal reflection. For example, in 2016 NIPSO and the Northern Ireland Human Rights Commission (NIHRC) produced a *Human Rights Manual* to assist staff in making decisions that take account of complainants’ human rights. This work was subsequently adapted by the Equality and Human Rights Commission to create a *Human Rights Guide for the Ombudsman Community*.³⁶

33. Ombuds play an important role in upholding human rights and identifying where there may be systemic issues affecting individuals’ rights. We were pleased to hear that the PHSO and LGSCO take seriously their role in relation to human rights. We encourage the PHSO and LGSCO to continue to embed human rights in their work. To this end, it would be helpful for them to refer to human rights standards and principles in their decisions whenever possible. The PHSO and LGSCO should continue to monitor and collect data on the number of decisions they make that engage human rights issues and make that data publicly available online.

32 Q5

33 [A Public Services Ombudsman for the UK](#), Briefing Paper 07587, House of Commons Library, August 2016

34 Northern Ireland Public Services Ombudsman, [‘Human Rights Manual’](#) (2017)

35 Ombudswmon Gwasanaethau Cyhoeddus Cymru/Public Services Ombudsman for Wales, [‘Equality and Human Rights Casebook 2022/23’](#) (November 2022)

36 Northern Ireland Public Services Ombudsman, [‘Human Rights Manual’](#) (2017) and Northern Ireland Public Services Ombudsman ([HRO0017](#)), para 3.3

4 A new Human Rights Ombudsperson?

34. It was clear from the evidence we received that stakeholders thought there was a need to improve how individuals access their human rights out of court. The NIHRC said: “more can be done to deliver an individual’s right to an effective remedy without having to unnecessarily go through the arduous, expensive and intimidating process of going to court.”³⁷ The LGSCO also said it welcomed “the objectives of the Joint Committee on Human Rights to promote the role of human rights in the Ombudsman sector”.³⁸

35. Despite support for the underlying aims of our inquiry, there was limited support for the creation of a Human Rights Ombudsperson. The majority of those who responded to our call for evidence thought creating a new ombuds was an unnecessary step, and highlighted the risks of confusion for the public, duplication of work across the ombuds sector and overlap in jurisdictions.

Support for a Human Rights Ombudsperson

36. Six out of the 20 written responses we received expressly supported the creation of a Human Rights Ombudsperson. Each of those responses emphasised the barriers individuals can face when seeking to bring a case to court.³⁹ Rights and Security International told us they:

[Welcome] the initiative of creating a Human Rights Ombudsperson, as such an institution will increase the ability of vulnerable groups to enforce their rights out of court. This is especially true for those affected by the changes in the Nationality and Borders Bill, who will face extra barriers to access justice mechanisms.⁴⁰

37. Two of the supportive pieces of evidence specifically highlighted the barriers children face when trying to enforce their rights. Dr Roger Morgan, former Children’s Rights Director for England, noted that vulnerable children are “rarely in the position of being able to take rights issues to the level of a court” and that a Human Rights Ombudsperson “holds the potential to have great impact in increasing fulfilment of human rights”.⁴¹ The Independent Provider of Special Education Advice (IPSEA) also told us that children with Special Educational Needs or Disabilities (SEND) and their parents face significant barriers when trying to enforce their rights.⁴²

38. IPSEA also noted that, at present, the LGSCO cannot investigate complaints that are linked to matters being dealt with by the SEND Tribunal.⁴³ However, they went on to highlight that the creation of a Human Rights Ombudsperson could lead to overlapping jurisdiction in the area between the new Ombudsperson, the LGSCO and the SEND

37 Northern Ireland Human Rights Commission ([HRO0005](#))

38 Local Government and Social Care Ombudsman (LGSCO) ([HRO0002](#))

39 Rights & Security International ([HRO0008](#)), IPSEA (Independent Provider of Special Education Advice) ([HRO0011](#)), Dr Roger Morgan (Retired former Children’s Rights Director for England) ([HRO0013](#)), LGB Alliance ([HRO0016](#))

40 Rights & Security International ([HRO0008](#)), para 4

41 Dr Roger Morgan (Retired former Children’s Rights Director for England) ([HRO0013](#)), paras 5 and 6

42 IPSEA (Independent Provider of Special Education Advice) ([HRO0011](#))

43 Local Government and Social Care Ombudsman, ‘[Special educational needs](#)’, accessed 2 February 2023

tribunal. This would, in IPSEA’s view, be “very confusing for parents of children and young people with SEND, and for young people themselves who may be making a complaint or Tribunal appeal in their own right.”⁴⁴

Potential difficulties in creating a Human Rights Ombudsperson

39. Most of the written submissions we received (12 out of 20) highlighted various potential difficulties that creating a new Human Rights Ombudsperson would entail. Those difficulties were well summarised by the Public Law Project and UK Administrative Justice Institute who said a new Ombudsperson would “add complexity and expense and risk unhelpful duplication and jurisdictional conflict.”⁴⁵

Increased complexity

40. A number of those who gave evidence to us said that creating a new ombuds would add to an already complex landscape. The PHSO noted that in recent decades there had been a tendency to create new ombuds without considering how existing institutions could be streamlined. They said:

... a series of incremental changes ... has led to the wide proliferation of territorial and functional Ombudsman schemes, making complaint resolution more complicated and arcane for many UK residents. Access to justice is now fragmented, confusing and overly complex, making it hard for people to know where to turn when they have been let down by public services.⁴⁶

They went on to say that “[i]ntroducing an additional Ombudsman to focus on human rights will further complicate and confuse the justice landscape in the UK for residents.”⁴⁷ The PHSO’s view was shared by the Administrative Justice Council and JUSTICE who expressed concern that “for the lay complainant it is often already unclear which ombuds they should approach with their complaint; adding a Human Rights Ombudsperson is likely to exacerbate this.”⁴⁸

41. The LGSCO also noted that introducing a Human Rights Ombudsperson could create complexity for public bodies, who would “lack clarity about where to signpost complainants following the completion of the local complaints processes.”⁴⁹

42. We agree that creating a Human Rights Ombudsperson would increase complexity for users and public bodies. It would leave people with an even greater array of ombuds to navigate, which would be an undesirable outcome. As Robert Gordon’s 2014 report to the Minister for Government Policy and Chancellor of the Duchy of Lancaster (then Rt Oliver

44 IPSEA (Independent Provider of Special Education Advice) ([HRO0011](#)), para 10

45 Public Law Project (PLP), UK Administrative Justice Institute (UKAJI) ([HRO0007](#))

46 Parliamentary and Health Service Ombudsman ([HRO0012](#)), para 3.2

47 Parliamentary and Health Service Ombudsman ([HRO0012](#)), para 3.2

48 Administrative Justice Council, JUSTICE ([HRO0015](#)), para 6

49 Local Government and Social Care Ombudsman (LGSCO) ([HRO0002](#))

Letwin MP) stated: “The public should not have to make complex determinations about who is accountable for delivering a service and *to whom they should turn for redress if the service deliverer fails to address their complaint to their satisfaction.*”⁵⁰ (Emphasis added)

Duplication of work

43. As we noted above, the public services ombuds in the UK already consider human rights when conducting their investigations. We heard from multiple stakeholders that the creation of a Human Rights Ombudsperson could, therefore, lead to duplication of work. The PHSO said:

[I]ntroducing a human rights Ombudsman would create a significant duplication of effort and resources in the Ombudsman community. This applies not only to duplicating casework and corporate functions resourcing, but also external facing activities, like the work we do with stakeholders to use the learning from complaints to drive improvement in public services.⁵¹

44. We do not think that duplication of efforts across ombuds would be efficient, especially given current resource and funding constraints facing public services. As the NIPSO noted: “In a time of increasingly tight public budgets and a cost of living crisis there is also the issue of reassuring the public that Government funding is providing value for money. Justifying the expense of an additional Ombudsman when a number of bodies already exist would be challenging ...”⁵²

Jurisdictional overlap and conflict

45. Multiple stakeholders also noted that creating a new Human Rights Ombudsperson could lead to an overlap or conflicts about jurisdiction. The Scottish Human Rights Commission (SHRC) noted that human rights violations may occur in any of the settings dealt with by existing ombuds and if a Human Rights Ombudsperson was created “[c]areful consideration would need to be given to the interrelationship between” ombuds.⁵³

46. The Administrative Justice Council and JUSTICE provided an example where there could potentially be an overlap in jurisdiction between a new Human Rights Ombudsperson and the LGSCO. They said:

A complainant would have to potentially decide whether to pursue their complaint at the specialist ombudsperson for the sector (for example, someone complaining about ill-treatment by their care provider could go the Local Government and Social Care Ombudsman) or the new Human Rights Ombudsperson (who could consider the human rights obligations which care providers have under the Human Rights Act (“HRA”)). Alternatively, they would be able to pursue their complaint at two different ombudspersons. In that situation, there would be a real risk of the ombudspersons themselves being unclear who was meant to be dealing with which issue of a complaint. For example, in the above example, the

50 Robert Gordon CB, ‘[Better to Serve the Public: Proposals to restructure, reform, renew and reinvigorate public services ombudsmen](#)’ (October 2014), p12.

51 Parliamentary and Health Service Ombudsman ([HRO0012](#)), para 5.1

52 Northern Ireland Public Services Ombudsman ([HRO0017](#)), para 3.5

53 Scottish Human Rights Commission ([HRO0010](#))

Local Government and Social Care Ombudsman may consider that it is not for them to consider any ‘human rights’ aspects since that is not their remit. This is likely to be unnecessarily bureaucratic, causing unnecessary confusion and potentially distress.⁵⁴

47. The drawbacks of having ombuds with potentially overlapping jurisdictions were also emphasised by the Ombudsman Association. They noted that “stripping out” the human rights “element” from the maladministration element of a complaint and “creating a new ombudsman scheme to investigate that single [human rights] element of a wider complaint would fragment the process and customer journey”.⁵⁵ The LGSCO also referred to this ‘hiving-off’ of human rights aspects of complaints as “impractical, resource intensive, and time-consuming.”⁵⁶

48. Jurisdictional overlap risks exacerbating what Dr Richard Kirkham, Senior Lecturer at the University of Sheffield, referred to as “claimant fatigue”. Dr Kirkham explained that when people make complaints, they “can get a bit lost and disillusioned” and may “feel like [they] complain at one level, get rejected, so go up to the next level and eventually get to an ombuds. This can increasingly become a trap for a complainant, which leads to all sorts of challenges.”⁵⁷ If people were required to make two separate complaints, one to a Human Rights Ombudsperson and one to another sectoral specific ombuds, or if they felt confused about which ombuds they should complain to, we think this is likely to contribute to “claimant fatigue”. That in turn may lead them to decide not to pursue their complaints. This would be a negative outcome.

Overlap with the devolved ombuds

49. Stakeholders from the devolved nations expressed specific concerns that the creation of a new Human Rights Ombudsperson could lead to jurisdictional confusion between the devolved ombuds and the Human Rights Ombudsperson. For example, the SHRC told us that:

Given that observation and implementation of human rights is devolved under the Scotland Act, as is the administration of justice, the remit within Scotland of a new UK human rights ombudsperson needs careful consideration. Presumably it could cover human rights in relation to reserved matters, whereas including human rights in devolved matters would require the consent of the Scottish Parliament. The existence of the SPSO would need to be reviewed carefully in this context. We note that the remit and powers of the SPSO is considered in relation to the incorporation of a number of international human rights treaties into Scots law. Overall, there is a risk that Scottish rights-holders could be left with a still-more-complex landscape of routes to remedy.⁵⁸

54 Administrative Justice Council, JUSTICE ([HRO0015](#)), para 9

55 Ombudsman Association ([HRO0020](#)), para 15

56 Local Government and Social Care Ombudsman (LGSCO) ([HRO0002](#))

57 [Q10](#)

58 Scottish Human Rights Commission ([HRO0010](#))

50. This was reiterated by NIPSO who said that, given the diverse devolution arrangements in Scotland, Wales and Northern Ireland the “jurisdiction and role of a potential Human Rights Ombudsman will differ according to each nation” and this “would in all likelihood add further complexity and potential confusion for citizens.”⁵⁹

Conclusions

51. Whilst we see some force in the argument that a Human Rights Ombudsperson could fill some of the gaps that currently exist in the ombuds landscape, we do not believe the creation of a Human Rights Ombudsperson would be a proportionate response. The creation of a new Human Rights Ombudsperson would not make it easier for people seeking to bring complaints regarding their human rights.

59 Northern Ireland Public Services Ombudsman ([HRO0017](#)), para 3.4

5 Improving the current framework

52. There was a strong consensus amongst those who submitted evidence that the current ombuds framework could be reformed and strengthened to better uphold and protect human rights. The NIHRC told us that “focus should be on strengthening the existing system in a way that makes the right to an effective remedy as clear and accessible as possible.”⁶⁰ This was reiterated by the PHSO, who appeared to be somewhat frustrated that “often-promised and much-needed strategic Ombudsman reform legislation” had not been forthcoming.⁶¹

53. We think there are several reforms which could improve how the LGSCO and PHSO fulfil their role in protecting human rights, and make them more accessible for people bringing complaints, including about their human rights. Some of these changes could be implemented by the ombuds themselves through their practices and procedures, whilst others may require Government action including legislation.

Non-legislative change

Public awareness of ombuds

54. For an individual to pursue their complaint, they must first know that an ombuds exists and what their role is. As Rights and Security International said: “access to pertinent information about Ombudsperson services is a prerequisite for people to access those services.”⁶² We were concerned, therefore, to hear from both the PHSO and LGSCO that public awareness about their role is limited. In his oral evidence, the PHSO, Rob Behrens said:

The story is not a happy one, but we are on to it. In countries that have a single public service ombudsman, like Austria, public awareness is around 70% ... In the United Kingdom ... the figure is much lower: it is slightly below 20% for all of us. That is a big issue.⁶³

55. Evan Lerwill, Assistant Ombudsman at the LGSCO, said that the LGSCO has “a very similar story to [the PHSO’s] about awareness and the issue that the fragmentation of ombudsman schemes in England causes in terms of public awareness.”⁶⁴

56. Both the PHSO and LGSCO made clear, however, that they were taking proactive steps to try and increase public awareness. The PHSO noted they were seeking to do this by publishing summaries of all their cases online and sending a liaison team out every week to reach vulnerable and marginal communities.⁶⁵ The LGSCO said it was seeking to improve awareness by: publishing their decisions online; producing thematic reports where there are a high number of upheld complaints; and providing training to organisations in their jurisdiction on complaint handling.⁶⁶

60 Northern Ireland Human Rights Commission ([HRO0005](#))

61 Parliamentary and Health Service Ombudsman ([HRO0012](#)), para 3.3

62 Rights & Security International ([HRO0008](#)), para 29.

63 [Q4](#)

64 [Q4](#)

65 [Q4](#)

66 [Q4](#)

Outreach in vulnerable communities

57. We were pleased to hear from the PHSO that they undertake outreach activities to raise awareness about their work in vulnerable and hard to reach communities. People in those communities may face significant barriers in accessing their human rights. The PHSO’s 2022–25 Corporate Strategy makes clear that they will “carry out research to understand what prevents people from bringing their complaint to us, which groups of people are less likely to do so and why” and “develop and implement a programme of engagement in response to findings.”⁶⁷ However, a November 2022 peer review carried out under International Ombudsman Institute (IOI) Guidance concluded:

[T]hat [the] PHSO could do more outreach work to raise its wider public profile. Public recognition of PHSO is low, much lower than it should be for such an important body... We recognise the efforts made by PHSO leadership to make the office as visible as possible, including ‘Radio Ombudsman’. However, we think that PHSO needs to do more in this respect. This could include targeted outreach work with particular stakeholders who represent cohorts of the population that make few complaints to PHSO.⁶⁸

The report also recommended that the PHSO “publish information on its outreach work”.

Raising awareness through collaborative working

58. Better cross-collaboration across public service ombuds, public authorities and the Equality and Human Rights Commission (EHRC) could assist with public understanding. There already appears to be various collaborative working practices in place with the EHRC, PHSO and LGSCO working together to provide guidance on human rights issues and sharing intelligence to identify wider human rights trends. The EHRC also signposts individuals to ombuds services where appropriate.⁶⁹ In her evidence to us, however, Melanie Field, Chief Strategy and Policy Officer at the EHRC, noted that “there is scope for us to work more closely together to make sure that the system is fully joined up.”⁷⁰

59. One suggestion made in written evidence was greater collaboration between ombuds and Non-Governmental Organisations. Rights and Security International told us:

For this engagement with the public, [civil society organisations] are paramount in ensuring efficient human rights Ombudsperson offices ... [Civil society organisations] can play a pivotal role in facilitating victims’ access to the Ombudsperson, especially in case[s] related to vulnerable communities. They have acted as liaisons and the main point of contact, and also challenged the Ombudsperson office in some cases due to their monitoring capacity. Ombudsperson offices should have the power to establish solid and productive dialogues with the plurality of forces within civil society advancing human rights.⁷¹

67 Parliamentary and Health Services Ombudsman, ‘[Corporate Strategy 2022–25](#)’, accessed 2 February 2023

68 International Ombudsman Institute, ‘[Ombudsman Peer Review of The Parliamentary and Health Service Ombudsman](#)’ (November 2022)

69 Equality and Human Rights Commission ([HRO0014](#))

70 [Q6](#)

71 Rights & Security International ([HRO0008](#)), para 20.

60. We welcome the work of the PHSO and LGSCO to improve public awareness about their work. It is important that people are aware that there is a free and independent ombud that can consider their complaints outside the courts, including those concerning their human rights. Outreach work is an important part of building public awareness, as vulnerable and hard to reach communities may be less aware of their human rights and the complaints processes available. Despite the efforts made by the PHSO and LGSCO, it is clear that public awareness could be higher. *To improve public awareness the PHSO and LGSCO should ensure they are effectively conducting outreach work with vulnerable communities and those who do not usually engage with their work. They should also collect and publish data to analyse whether outreach work has been successful in increasing public awareness.*

61. *The PHSO and LGSCO should also seek to work more closely with the EHRC, public bodies, other public services ombuds and NGOs. Where appropriate, they should produce joined-up strategies to increase public awareness and improve accessibility of their services. They should also collect and publish data to show how effective those strategies have been.*

Legislative changes

Making clear Ombuds' human rights mandate in legislation

62. As we noted above, the PHSO and LGSCO are empowered by statute to consider complaints regarding maladministration. Both ombuds have interpreted maladministration to include human rights considerations, and therefore, have integrated human rights into their work. In his evidence, the PHSO, Rob Behrens noted, however, that people do not usually frame their complaints in terms of human rights and the PHSO has to “translate” complaints “into human rights issues.”⁷²

63. Some of those who responded to our call for evidence tentatively suggested amending the relevant legislation to make clear that the PHSO and LGSCO can consider human rights complaints. It was suggested that this additional clarity in the relevant statutes could improve public understanding of the ombuds' functions and powers. Dr Richard Kirkham said “there might be value in making” it “more transparent by amending the legislation to make [it] clearer” that the ombuds can look into human rights issues.⁷³ This point was also made by Professor Robert Thomas.⁷⁴

The MP filter

64. The PHSO can only investigate complaints about public bodies if they are directed through a Member of Parliament (known as the ‘MP filter’). In their evidence, the PHSO stated that the MP filter can dissuade individuals from making a complaint. They said it:

... creates the unacceptable reality that some people's ability to seek remedy for human rights violations is currently limited. This was certainly the case during the Windrush scandal. During Ombudsman investigations, we met a number of distressed complainants, who, having lost their citizenship

72 [Q1](#)
73 [Q13](#)
74 [Q13](#)

rights, declined to approach their MP in fear that the MP held the same views as the Home Office on the administration of the ‘hostile environment’. As a result, far fewer complaints reached PHSO than should have been the case.⁷⁵

This point was also made forcefully by the Ombudsman Association who referred to the MP filter as a “unique and pernicious restriction on access to justice.”⁷⁶

65. The MP filter sets the PHSO apart from the LGSCO, SPSO, PSOW and NIPSO, as no similar filter exists for those ombuds. The filter also does not exist for the health services remit of the PHSO. The Public Administration and Constitutional Affairs Committee (PACAC) has previously recognised the arguments in favour of removing the MP filter, but has also noted the important link between constituents and their Member of Parliament:

On the issue of the removal of the MP filter, the Committee believes that detailed consultation is required to ensure that there aren’t barriers between complainants and the Ombudsman, but also that the link between MPs and their constituents on important matters such as these is not severed.⁷⁷

Own initiative powers

66. At present only the PSOW and NIPSO have the power to initiate their own investigations. In the PSOW’s words their own initiative powers “allow us to investigate where evidence suggests there may be systemic failings, even if service users themselves are not raising complaints.”⁷⁸ The example set out in Chapter One, above, provides an example of how the PSOW has used its own initiative powers to investigate homelessness in Wales.

67. In their evidence, Rights and Security International noted the importance of own initiative powers saying that “the power of the Ombudsperson to undertake actions upon their own initiative is one of the most important competencies of this institution.”⁷⁹ The SHRC has also noted the importance of own initiative powers in enabling ombuds to reach vulnerable individuals:

The most vulnerable in society are often the most dependent on public services ... The ability of an Ombudsman to step in when there is evidence that there may be real problems affecting a group ... is an important part of the key role of an Ombudsman—ensuring fairness in the relationship between the citizen and the state.⁸⁰

68. We highlighted the importance of own initiative powers in our *Protecting Human Rights in Care Settings* report. We recommended that “the Government should consult on giving Ombudsman bodies the power to look proactively at areas of care in which problems

75 Parliamentary and Health Service Ombudsman ([HRO0012](#)), para 3.7

76 Ombudsman Association ([HRO0020](#)), para 25

77 Public Administration and Constitutional Affairs Committee, First Report of Session 2022–23, [Parliamentary and Health Service Ombudsman Scrutiny 2020–21](#), HC 213, para 69

78 Ombudswmon Gwasanaethau Cyhoeddus Cymru/ Public Services Ombudsman for Wales ([HRO0018](#))

79 Rights & Security International ([HRO0008](#))

80 Scottish Public [Services Ombudsman](#), ‘Submission on the Northern Ireland Public Services Ombudsperson (NIPSO) Bill’, accessed 2 February 2023

are perceived, but people might not be able or willing to lodge formal complaints.”⁸¹ We were disappointed when the Government confirmed it “has no immediate plans to amend the LGSCO or PHSO’s remit.”⁸²

69. The evidence we have received in this inquiry, especially relating to the PSOW’s own initiative investigation into homelessness in Wales, has strengthened our view that own initiative powers are pivotal in ensuring ombuds can uphold and protect the rights of vulnerable individuals.

Conclusions

70. **We have been told about a number of barriers people currently face when trying to make complaints to the PHSO and LGSCO. Where possible, those barriers should be removed to make it easier for people trying to assert their human rights out of court.**

71. *The Government should consider amending the statutes which set out the mandate of the PHSO and LGSCO to make it clear that they can consider human rights when determining whether there has been maladministration.*

72. *We have heard that the MP filter can act as a barrier for individuals seeking to bring complaints, including those about their human rights. We are also aware, however, of the importance of the relationship between MPs and their constituents and the role of Members in complaints. The Government should carry out a detailed review of the operation of the MP filter.*

73. *The Government should empower the PHSO and LGSCO to initiate investigations where they think there may be systemic breaches of human rights.*

A Public Services Ombudsman for the UK?

Benefits of an integrated Public Services Ombudsman

74. A number of those who responded to our call for evidence told us that creating an integrated Public Services Ombudsman (PSO) to determine complaints about public bodies would make it easier for people trying to bring complaints, including those relating to human rights. As Dr Robert Kirkham put it, many thought that “the time has definitely come to think more seriously about integrating some of the ombuds schemes.”⁸³

75. The PHSO provided powerful evidence regarding the weaknesses of the current ombuds landscape and the potential benefits of a Public Services Ombudsman. They said:

The UK is at variance with OECD counterparts in having no integrated national Public Service Ombuds institution... Access to justice is now fragmented, confusing and overly complex, making it hard for people to know where to turn when they have been let down by public services ...

81 Joint Committee on Human Rights, Fourth Report of Session 2022–23, [Protecting human rights in care settings](#), HC 216/HL Paper 51, para 105

82 Joint Committee on Human Rights, Third Special Report of Session 2022–23, [Protecting human rights in care settings: Government Response to the Committee’s Fourth Report](#), HC 955, page 23

83 [Q12](#)

We believe that the most appropriate way forward is often-promised and much-needed strategic Ombudsman reform legislation. This would give a human rights mandate to a new national Public Service Ombuds.⁸⁴

76. Similarly, the Administrative Justice Council and JUSTICE told us that “a single public services ombudsperson would be a more efficient and user-friendly way of providing access to justice to complainants by having a stream-lined system for complaints in a similar way to the devolved nations.”⁸⁵

The Government’s current position

77. On 25 March 2015 the Cabinet Office published the consultation paper, *A Public Service Ombudsman*.⁸⁶ The consultation, amongst other things, asked whether there should be a Public Services Ombudsman service in the UK.

78. Following the consultation feedback, the Government announced that they would be publishing a draft Public Service Ombudsman Bill. The Bill, the Government said, would create the role of the Public Services Ombudsman which would “absorb the functions of the Parliamentary Ombudsman, the Health Ombudsman, the Local Government Ombudsman and potentially the Housing Ombudsman.”⁸⁷ The Government also said the PSO would provide “a simplified, improved and more accessible final tier of redress for customers of public services who have complained and do not feel satisfied by how their complaint has been handled”.⁸⁸ The Bill was published in draft form on 5 December 2016, but has not yet been introduced into Parliament.⁸⁹

79. In 2020 the then Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, Rt Hon Michael Gove MP, confirmed there was no active work to pursue legislation to merge the PHSO and the LGSCO.⁹⁰ PACAC has criticised the delay and in May 2022 said:

It is now six years since the publication of the Draft Public Service Ombudsman Bill and we are still no further forward. This situation is as unacceptable as it is untenable in the long term.⁹¹

80. In their response to PACAC the Government confirmed that “it has a number of key priority areas for its legislative programme and... wide-scale Ombudsman reform is not included at the current time.”⁹²

84 Parliamentary and Health Service Ombudsman ([HRO0012](#)), paras 3.2 and 3.3

85 Administrative Justice Council, JUSTICE ([HRO0015](#)), para 8

86 Cabinet Office, [A Public Services Ombudsman: A Consultation](#), March 2015, p11.

87 Cabinet Office, [Queen’s Speech: background briefing notes](#), 27 May 2015, p102

88 Cabinet Office, [Queen’s Speech: background briefing notes](#), 27 May 2015, p102

89 Cabinet Office, [Draft Public Service Ombudsman Bill](#), Cm 9374, 5 Dec 2016

90 [Letter from the Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster, the PHSO merger with the Local Government Ombudsman, dated 9 Sep 2020](#)

91 Public Administration and Constitutional Affairs Committee, First Report of Session 2022–23, [Parliamentary and Health Service Ombudsman Scrutiny 2020–21](#), HC 213, para 70

92 Public Administration and Constitutional Affairs Committee, Third Special Report of Session 2022–23, [Parliamentary and Health Service Ombudsman Scrutiny 2020–21: PHSO and Government responses to the Committee’s first report](#), HC 616, Annex 2

81. We have heard that simplifying the current ombuds landscape would make it significantly easier for individuals to make complaints, including those where human rights are engaged. The Government in 2016 was committed to simplifying the landscape and published a draft Public Services Ombudsman Bill. However, that work has slipped from the legislative agenda. *Given the potentially significant benefits that reforms could have for people making complaints where human rights are engaged, we are disappointed that the Government has not brought forward ombuds reform and urge them to do so.*

Conclusions and recommendations

The current landscape

1. Ombuds play an important role in upholding human rights and identifying where there may be systemic issues affecting individuals' rights. We were pleased to hear that the PHSO and LGSCO take seriously their role in relation to human rights. *We encourage the PHSO and LGSCO to continue to embed human rights in their work. To this end, it would be helpful for them to refer to human rights standards and principles in their decisions whenever possible. The PHSO and LGSCO should continue to monitor and collect data on the number of decisions they make that engage human rights issues and make that data publicly available online.* (Paragraph 33)

A new Human Rights Ombudsperson?

2. Whilst we see some force in the argument that a Human Rights Ombudsperson could fill some of the gaps that currently exist in the ombuds landscape, we do not believe the creation of a Human Rights Ombudsperson would be a proportionate response. The creation of a new Human Rights Ombudsperson would not make it easier for people seeking to bring complaints regarding their human rights. (Paragraph 51)

Improving the current framework

3. We welcome the work of the PHSO and LGSCO to improve public awareness about their work. It is important that people are aware that there is a free and independent ombud that can consider their complaints outside the courts, including those concerning their human rights. Outreach work is an important part of building public awareness, as vulnerable and hard to reach communities may be less aware of their human rights and the complaints processes available. Despite the efforts made by the PHSO and LGSCO, it is clear that public awareness could be higher. *To improve public awareness the PHSO and LGSCO should ensure they are effectively conducting outreach work with vulnerable communities and those who do not usually engage with their work. They should also collect and publish data to analyse whether outreach work has been successful in increasing public awareness.* (Paragraph 60)
4. *The PHSO and LGSCO should also seek to work more closely with the EHRC, public bodies, other public services ombuds and NGOs. Where appropriate, they should produce joined-up strategies to increase public awareness and improve accessibility of their services. They should also collect and publish data to show how effective those strategies have been.* (Paragraph 61)
5. We have been told about a number of barriers people currently face when trying to make complaints to the PHSO and LGSCO. Where possible, those barriers should be removed to make it easier for people trying to assert their human rights out of court. (Paragraph 70)

6. *The Government should consider amending the statutes which set out the mandate of the PHSO and LGSCO to make it clear that they can consider human rights when determining whether there has been maladministration. (Paragraph 71)*
7. *We have heard that the MP filter can act as a barrier for individuals seeking to bring complaints, including those about their human rights. We are also aware, however, of the importance of the relationship between MPs and their constituents and the role of Members in complaints. The Government should carry out a detailed review of the operation of the MP filter. (Paragraph 72)*
8. *The Government should empower the PHSO and LGSCO to initiate investigations where they think there may be systemic breaches of human rights. (Paragraph 73)*
9. *We have heard that simplifying the current ombuds landscape would make it significantly easier for individuals to make complaints, including those where human rights are engaged. The Government in 2016 was committed to simplifying the landscape and published a draft Public Services Ombudsman Bill. However, that work has slipped from the legislative agenda. Given the potentially significant benefits that reforms could have for people making complaints where human rights are engaged, we are disappointed that the Government has not brought forward ombuds reform and urge them to do so. (Paragraph 81)*

Formal minutes

Wednesday 22 March 2023

Hybrid Meeting

Members present:

Joanna Cherry KC MP, in the Chair

Lord Alton of Liverpool

Lord Dholakia

Lord Henley

Dr Caroline Johnson MP

Baroness Kennedy of the Shaws

Baroness Meyer

Baroness Lawrence of Clarendon

Draft Report (*Human Rights Ombudsperson*), proposed by the Chair, brought up and read.

Ordered, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 81 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Eleventh Report of the Committee to both Houses.

Ordered, That the Chair make the Report to the House of Commons and that the Report be made to the House of Lords.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Adjournment

Adjourned till 29 March at 3.30pm

Declaration of interests

Lord Alton of Liverpool (Crossbench)

- Patron or Trustee of a number of charities or NGOs involved in the promotion of human rights domestically and internationally, and officer or vice-chair of a number of APPGs, including that for Public Accountability.

Lord Dholakia (Liberal Democrat)

- No relevant interests to declare

Lord Henley (Conservative)

- No relevant interests to declare

Baroness Kennedy of the Shaws KC (Labour)

- Director, International Bar Association's Institute of Human Rights; Patron, Rights and Security International; practitioner at the English Bar.

Baroness Lawrence of Clarendon (Labour)

- No relevant interests to declare

Baroness Meyer (Conservative)

- No relevant interests to declare

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 29 June 2022

Melanie Field, Chief Strategy and Policy Officer, Equality and Human Rights Commission; **Rob Behrens CBE**, Executive Chair, Parliamentary and Health Service Ombudsman; **Evan Lerwill**, Assistant Ombudsman, Local Government and Social Care Ombudsman

[Q1-9](#)

Dr Richard Kirkham, Senior Lecturer, The University of Sheffield; **Professor Robert Thomas**, Professor of Public Law, The University of Manchester

[Q10-14](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

HRO numbers are generated by the evidence processing system and so may not be complete.

- 1 Administrative Justice Council; and JUSTICE ([HRO0015](#))
- 2 Doyle, Ms Margaret; and O'Brien, Mr Nick ([HRO0009](#))
- 3 Equality and Human Rights Commission ([HRO0014](#))
- 4 IPSEA (Independent Provider of Special Education Advice) ([HRO0011](#))
- 5 LGB Alliance ([HRO0016](#))
- 6 Local Government and Social Care Ombudsman (LGSCO) ([HRO0002](#))
- 7 Morgan, Dr Roger (Retired former Children's Rights Director for England (post held from 2001 to 2014), Formerly Office of the Children's Rights Director (OCD), hosted by successive national statutory regulatory bodies.) ([HRO0013](#))
- 8 Northern Ireland Human Rights Commission ([HRO0005](#))
- 9 Northern Ireland Public Services Ombudsman ([HRO0017](#))
- 10 Ombudsman Association ([HRO0020](#))
- 11 Ombudsmon Gwasanaethau Cyhoeddus Cymru/ Public Services Ombudsman for Wales ([HRO0018](#))
- 12 Parliamentary and Health Service Ombudsman ([HRO0012](#))
- 13 Public Law Project (PLP); and UK Administrative Justice Institute (UKAJI) ([HRO0007](#))
- 14 Rights & Security International ([HRO0008](#))
- 15 Ryan, Dr Mark (Assistant Professor of Law, Coventry University) ([HRO0003](#))
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