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# OMBUDSMAN ASSOCIATION

(The public name of the British and Irish Ombudsman Association)

## Strategic position statement on ombudsmen

### What ombudsmen do

Ombudsmen serve the public interest. They help to underpin public confidence in the bodies and businesses that they cover – by providing members of the public with accessible and effective redress, and by feeding back the lessons from their work in order to help improve service delivery and complaints-management for the future.

### Fundamental criteria for ombudsmen

The ombudsman members of the Association satisfy its criteria<sup>1</sup> of:

- independence
- fairness
- effectiveness
- openness and transparency
- accountability

### Principles for ombudsmen

The Association promotes high standards. It has adopted and published principles for good governance<sup>2</sup> and good complaint handling.<sup>3</sup> These cover:

- independence
- clarity of purpose
- integrity
- fairness
- openness and transparency
- accountability
- accessibility
- effectiveness
- efficiency
- flexibility
- proportionality
- quality outcomes

The Association's membership criteria and principles are consistent with the requirements of the EU Directive on alternative dispute resolution for consumer disputes which was passed by the European Parliament in March 2013 and is due to be given effect to by Member States by mid 2015.

### Purpose of this document

This document does not repeat those criteria and principles, but builds on them in order to describe the strategic policies that guide the Executive Committee of the Ombudsman Association in:

- responding to consultations
- dealing with governments, the European Commission and other policy-makers
- issuing public communications

These policies reflect the overall views of the Ombudsman Association, and do not necessarily reflect the views of every member on every detail.

References to 'bodies/businesses covered' mean bodies/businesses that are within an ombudsman's jurisdiction or remit.

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<sup>1</sup> [www.ombudsmanassociation.org/docs/BIOA-Rules-New-May2011-Schedule-1.pdf](http://www.ombudsmanassociation.org/docs/BIOA-Rules-New-May2011-Schedule-1.pdf)

<sup>2</sup> [www.ombudsmanassociation.org/docs/BIOAGovernanceGuideOct09.pdf](http://www.ombudsmanassociation.org/docs/BIOAGovernanceGuideOct09.pdf)

<sup>3</sup> [www.ombudsmanassociation.org/docs/BIOAGoodComplaintHandling.pdf](http://www.ombudsmanassociation.org/docs/BIOAGoodComplaintHandling.pdf)

## **Public interest and access to redress**

- The provision of impartial redress through ombudsmen serves the public interest and is an important part of access to justice.
- An ombudsman is likely to be an appropriate model for complaint resolution where there is an imbalance of power between members of the public and bodies/businesses.
- So the public is not misled, the name 'ombudsman' should be protected, preferably by law. It should only be used for bodies that comply with the Association's criteria<sup>4</sup> referred to above.
- To make things clearer and simpler for people and for bodies/businesses, and also to promote efficiency through economies of scale, there should be:
  - clear boundaries between ombudsman bodies, avoiding gaps and overlaps;
  - increased harmonisation of powers and processes; and
  - no proliferation of ombudsman bodies.
- New ombudsman bodies should not be created where the role could be appropriately fulfilled by an existing ombudsman body, and existing ombudsman bodies should be rationalised.
- To ensure consistency of public policy, governments and the European Commission should each have a central point with responsibility for leading and coordinating on ombudsman matters.

## **All ombudsmen**

- Ombudsmen should be: able to appoint their own staff; and free to determine the structure of their organisation.
- Ombudsmen should be provided with sufficient funding for the proper discharge of their role, but remain free-of-charge to people bringing complaints.
- Structures of ombudsman bodies should be clear about where authority lies – for example, in the case of bodies with more than one ombudsman.
- There should be clear requirements for the prompt and effective handling of complaints by bodies/businesses covered, with clear signposting to the ombudsman.
- Members of the public should have direct access to the ombudsman if the body/business covered does not resolve the complaint promptly.
- The success of the ombudsman model depends on: independence, to ensure impartiality; free access for people; informal and flexible process; active investigation; and effective redress.
- Ombudsman decisions should be final and should not be able to be overturned other than by an appeal route provided for by law.

## **Ombudsmen focusing on public services**

- There should be comprehensive ombudsman coverage (not limited to maladministration), including all bodies that provide public services (unless already covered by tribunals).
- Public services include services provided by, or on behalf of, national/devolved/local government and state-funded health services.
- Ombudsmen covering services provided by, or on behalf of, national/devolved/local government and state-funded health services should be appointed by, and accountable to:
  - a democratically elected body (with accountability preferably through a committee); and
  - not a minister, office-holder or official.
- Appointment (which includes reappointment where applicable) should be through an open and transparent process that is consistent with best public appointments practice.

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<sup>4</sup> [www.ombudsmanassociation.org/docs/BIOA-Rules-New-May2011-Schedule-1.pdf](http://www.ombudsmanassociation.org/docs/BIOA-Rules-New-May2011-Schedule-1.pdf)

- Ombudsmen should have power to begin investigations on their own initiative into matters within their jurisdiction.
- An ombudsman's findings of fact, and of maladministration or poor service, should be binding on the body covered.
- If the body is subject to direct/indirect democratic control, an ombudsman's findings on responsibility and redress should be respected.
- If the body is not subject to direct/indirect democratic control, an ombudsman's findings on responsibility and redress should be capable of being binding on the body.
- The ombudsman should be able to provide effective remedies including, where appropriate, providing systemic remedies and the power to follow up or monitor recommendations.
- If public-sector ombudsmen cover complaints against privatised businesses, the costs should be met by the relevant business sector (not from taxation).

### **Ombudsmen focusing on the private sector**

- There should be comprehensive coverage by ombudsmen (established by, or under, statute) of all business sectors where there has been experience of significant consumer detriment.
  - This is likely to include all sectors that are regulated, because it is unlikely they would have been regulated if there had not been experience of significant consumer detriment.
  - This includes all networked services (water, energy, public transport, communications and post), if they are not covered by public-sector ombudsmen.
  - In the interests of efficiency, one ombudsman body may cover a number of sectors, and there should not be more than one ombudsman body within a sector.
  - An ombudsman's findings on liability and redress should be capable of being binding on the business covered.
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