



# Parliament's Ombudsman

Information for the staff of MPs



Has your MP received a complaint about benefits, immigration or tax credits?

Has someone been to your MP's constituency surgery to complain about their experience of the NHS in England?

Are you unsure how to advise the constituent?

**The Parliamentary and Health Service Ombudsman may be able to help you.**

This leaflet explains who we are, what we do, and how we might be able to help you deal with complaints.

If you would like to discuss a particular case or would like more information about our work, please call us on our **dedicated MP helpline on 0300 061 4953** or email us at **MP@ombudsman.org.uk**.



## Who we are and what we do

The Parliamentary and Health Service Ombudsman provides a service to the public by investigating complaints that government departments, a range of other public bodies in the UK, and the NHS in England, have not acted properly or fairly or have provided a poor service. All our services are free but, by law, complaints about government departments and other public bodies must be referred to the Ombudsman by an MP. This is known as the 'MP filter'. Complaints about the NHS can come to us directly, without an MP referral.

The Ombudsman is independent of the UK Government and accountable to Parliament through the Public Administration Select Committee. Ann Abraham is the current Ombudsman.

We can lay a report before Parliament to alert MPs to individual and/or systemic examples of maladministration. Because of our relationship with Parliament we can use what we have learnt from individual complaints to drive improvements in public services and inform public policy. Copies of our reports, including case studies, can be found on our website - [www.ombudsman.org.uk](http://www.ombudsman.org.uk) - where you can also find more information about the Ombudsman's legislative framework and governance.



## What we can achieve for complainants

When the Ombudsman upholds a complaint, she will normally make recommendations in her final report as to what the body complained about should do in order to provide an appropriate remedy. The referring MP will receive a copy of this report as, by law, we are required to report the results of our investigation to that MP.

The Ombudsman's recommendations aim to remedy the injustice or hardship suffered, where possible returning the complainant to the position they would have been in if things had not gone wrong. Additionally, we may also make recommendations to put matters right for other people similarly affected and/or to ensure that the same mistakes do not happen again. Our recommendations may include some or all of the following:

- An apology, explanation and/or acknowledgement of responsibility.
- Remedial action, such as reviewing or changing a decision on the service given to the complainant, revising published material, revising procedures or policy to prevent the same thing happening again, or training or supervising staff.
- Financial redress for direct or indirect financial loss, loss of opportunity, inconvenience or distress. This may include a wider compensation scheme if more than one individual is affected by the maladministration or poor service.

The Ombudsman does not have the power to enforce her recommendations. However, bodies complied with her recommendations in 100 per cent of cases in 2009-10.



## What we can look at

The Ombudsman can look at complaints about:

- departments of the UK Government and their agencies;
- the NHS in England;
- a range of other public bodies in the UK; or
- any other person or body acting on behalf of such public or NHS bodies.

It is important that public bodies get the opportunity to put things right before the Ombudsman considers the matter and we will generally decline to investigate a complaint if people have not made full use of the local complaints process.

Not all public bodies are within the Ombudsman's remit. For example, we cannot look at complaints about:

- local councils, the police (except in relation to complaints under the Victims' Code), judges, or nationalised industries;
- public bodies responsible to the Scottish Parliament, to the National Assembly of Wales, or to the Northern Ireland Assembly;
- the NHS outside England;
- MPs or the Parliamentary authorities; or
- private sector bodies (unless they are acting on behalf of a public body within our remit).

A list of individual public bodies within the Ombudsman's remit can be viewed on our website ([www.ombudsman.org.uk/make-a-complaint/how-to-complain/what-can-we-help-with](http://www.ombudsman.org.uk/make-a-complaint/how-to-complain/what-can-we-help-with)), where we also offer an interactive tool to help complainants identify whether their complaint is about a body within our jurisdiction. In addition, we have published on our website a list of organisations that may be able to help where the complaint is about a body that is not within the Ombudsman's remit.

## How we deal with complaints

When we receive a complaint, we will write to acknowledge it within two working days. Every complaint is given a reference number which should be quoted in any future contact with the Ombudsman.

We receive a large number of enquiries from the public and we are not able, and are not required, to accept them all for investigation. There are a number of conditions which the law requires to be met before the Ombudsman can take any action on a complaint. We apply additional conditions in order to enable us to focus our resources most effectively on those we might best be able to help.

If your MP has received a complaint and wants the Ombudsman to look at it, the information which follows should assist you to establish whether it is one that she can help with. This leaflet focuses on complaints about government departments and public bodies other than the NHS, as those complaints must be referred to us by an MP.

While similar considerations relate to complaints about the NHS in England, such complaints do not have to be made through an MP, although MPs sometimes assist people to put their complaints direct to the Ombudsman. If you have such a case about the NHS, we will be happy to discuss it with you. You can call us on our dedicated MP helpline **0300 061 4953** or email us at **[MP@ombudsman.org.uk](mailto:MP@ombudsman.org.uk)**.

## How we decide whether or not to investigate a complaint

We will carry out a series of preliminary checks to ensure that the complaint we receive is one which falls within the terms of our legislation. If it does not, then we aim to explain why and, if possible, help the complainant resolve the complaint by a different route. Our first step will be to look at whether the complaint is one that we can handle, because we can only investigate complaints where we have the legal power to do so.

### **The questions we will ask about any complaint we receive are whether:**

- it is about an action which the Ombudsman can investigate;
- it is an eligible complaint;
- it is properly made by a suitable person;
- it is in time; and
- it is not premature.

These conditions are explained in more detail below. If they are not met, then the Ombudsman may not be able to take any action on the complaint. If these conditions are met, then we will go on to consider whether it is otherwise a complaint on which we can add value and, if we believe that we can, a decision will be made to investigate it.



## Action which the Ombudsman can investigate

Even when taken by bodies within the Ombudsman's remit, there are certain types of action which she may not investigate. The Ombudsman cannot look at complaints which relate to the judicial or legislative functions of bodies within her remit.

There are also certain types of administrative action outside the Ombudsman's remit. The most common types of such excluded action that people complain about concern public service personnel matters, the commercial or contractual transactions of public bodies, administrative action taken on judicial authority, and the conduct or commencement by public bodies of court proceedings.

### Eligible

To be eligible, a complaint must constitute a claim that the person aggrieved has suffered injustice due to maladministration. The Ombudsman cannot look at complaints that the law is wrong or unfair, that a public body has adopted an unpopular or unwelcome policy or has taken action which someone simply disagrees with, or where the complainant has not been adversely affected by the actions complained about.

### Properly made by a suitable person

To be properly made, a complaint about government departments and public bodies other than the NHS must have been made in writing to an MP who, with the consent of the complainant, has referred it to the Ombudsman and asked her to investigate it. There is no statutory requirement for an MP referral to be made in writing, although most such referrals are made in this way as this ensures that the MP and the Ombudsman both have an adequate record of their actions on any complaint. We offer standard complaint forms on our website which may help your MP and the complainant present their case.

In addition, the law does not require an individual to go through their own constituency MP. Any MP is able to refer any complaint, although as a matter of practice MPs generally only become involved in complaints from people in their own constituency. Whether or not to refer a complaint is a matter solely for the MP concerned.

Complaints about the NHS must be made to the Ombudsman in writing. We accept complaints made by email as having been made in writing. If a complainant contacts the Ombudsman by telephone, we will advise them on how they can follow the correct procedure.

In general terms, complaints must also be made by the person directly affected by the action complained about – although, where that person has died or is unable to act for themselves, other suitable people can act on their behalf.

### In time

To be in time, a complaint about government departments and public bodies other than the NHS must have been made to the MP within twelve months of the complainant first becoming aware of the matters complained about. A complaint about the NHS must have been made to the Ombudsman within one year from the day on which the complainant first became aware of the matters complained about. The Ombudsman has discretion to waive these requirements, but normally does so only where good reasons for the delay in making a complaint have been provided.

### Not premature

A complaint is generally treated as premature if it has not already been put to the body or person complained about, or if that body or person has not had a proper opportunity to respond to the complaint or, where appropriate, to put matters right. Where a public body has established a second-tier complaint handling body, the Ombudsman normally expects people to seek to resolve their complaints by contacting that body before coming to her. For example, we would expect people who want to complain about Jobcentre Plus and certain other agencies of the Department for Work and Pensions to have put the complaint to the Independent Case Examiner before coming to us. Similarly, complaints about HM Revenue & Customs should have gone to the Adjudicator before coming to the Ombudsman.

We will, however, sometimes look at otherwise premature complaints if the complainant provides good reasons for us to do so.

## Adding value

In order to focus our resources on those cases where we might best be able to help people, we ask three further questions before taking on any complaint within our remit:

- whether there is sufficient indication within the material provided to the Ombudsman by the complainant that the body complained about has acted improperly or unfairly;
- whether there is evidence that insufficient remedy for any injustice or hardship claimed by the complainant has been provided; and
- whether any intervention by the Ombudsman is likely to produce the result sought by the complainant or another worthwhile outcome.

Where we decline to carry out an investigation we will explain the reasons for this. Sometimes we may decide that the evidence of maladministration by the body concerned leading to an unremedied injustice is so clear that we do not need to launch a full investigation to find out what happened. Instead we can work with the relevant parties to achieve a satisfactory resolution by adopting a more informal and flexible approach than a full investigation. We call this an intervention. Interventions involve asking the body in question to provide an appropriate remedy, such as an apology and/or explanation, or compensation for clear or admitted errors. Not all complaints are suitable for interventions of this type, but those which are generally present a clear, simple and achievable remedy.

It is only when we have completed the steps above and are not able to settle things quickly by an intervention that we may conduct a thorough and in-depth investigation.



## If complainants are unhappy about our service

Complainants may complain about any aspect of our service at any stage, including about our decision on a case. Once we have considered a complaint about our service and sent a response, the decision is final. However, the Ombudsman's decisions can be the subject of judicial review proceedings. Complainants may wish to seek legal advice on that matter as applications for judicial review have to be made promptly. More information about how to complain about the Ombudsman is available on our website.

## How you can contact us

If you would like to discuss a particular case or would like more information about the work of the Ombudsman, please contact us. You can call us on our dedicated MP helpline **0300 061 4953** or email us at **MP@ombudsman.org.uk**. You can also find more information on our website at **www.ombudsman.org.uk/mp**.

You can also write to us at:

**Millbank Tower**  
**Millbank**  
**London**  
**SW1P 4QP**

or fax us at **0300 061 4000**





Helpline 0345 015 4033  
[phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)  
[www.ombudsman.org.uk](http://www.ombudsman.org.uk)

**The Parliamentary and Health Service Ombudsman**

Millbank Tower  
Millbank  
London  
SW1P 4QP



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