

**Statement of Responsibilities between
the Parliamentary and Health Service Ombudsman
and the
Cabinet Office,
HM Treasury,
Department of Health,
and Ministry of Justice**

1. Purpose

The purpose of this document is twofold:

- to set out the responsibilities of the Cabinet Office, the Treasury, the Department of Health and the Ministry of Justice in providing the necessary resources and support to the Parliamentary Commissioner for Administration and the Health Service Commissioner for England (known as the Parliamentary and Health Service Ombudsman (PHSO)) to ensure the effective operation of her office in accordance with the intentions of Parliament;
- to set out the responsibilities of the PHSO in demonstrating proper accountability for the public monies provided to her.

2. Effective date and arrangements for review

The effective date of this document is 1 August 2009. It will be reviewed at two-year intervals thereafter. The Cabinet Office will co-ordinate reviews, taking the lead in discussions with the PHSO, and liaising with the other Departments as necessary.

3. Statutory framework

The relevant statutory provisions governing the work of the Parliamentary and Health Service Ombudsman are as follows:

- The Parliamentary Commissioner Act 1967
- Health Service Commissioners Act 1993

The Ombudsman's jurisdiction is amended and/or updated by way of Orders in Council or by other legislative means.

4. Status of PHSO

The Ombudsman is a Crown servant, appointed by Her Majesty by Letters Patent on the recommendation of the Prime Minister. She holds office during good behaviour, and may only be removed if incapacitated, or following a resolution of both Houses of Parliament.

5. Role and purpose

The role of PHSO is to provide a service to the public by undertaking independent investigations into complaints that government departments, a range of other public bodies in the UK, and the National Health Service in England have not acted properly or fairly or have provided a poor service.

The aim and vision of PHSO is to provide an independent, high quality complaint handling service that rights individual wrongs, drives improvements in public services, and informs public policy.

6. Responsibilities of PHSO to Parliament

The Ombudsman has the following responsibilities to Parliament:

- To report annually to Parliament on the general discharge of her functions, on the standards of service provided to complainants, and the use of public money.
- To draw Parliament's attention to examples of injustice:
 - where no remedy, or insufficient remedy, for the injustice is proposed by government or the NHS; and/or
 - where the individual case (or cases) raise wider systemic issues.
- To contribute to Parliament's deliberations on matters related to public administration by feeding back lessons learned from casework into those deliberations and by drawing themes identified within complaints to the attention of policy makers and legislators.
- To engage in constructive dialogue on these matters with the Public Administration Select Committee, which Parliament has chosen (through its Standing Orders) to be its principal liaison mechanism with the Ombudsman. The Ombudsman appears before the Committee at least annually to give evidence on the work of her office.

7. Public accountability of PHSO

In addition to its responsibilities to Parliament, PHSO is committed to openness and transparency in its operations and its use of public money. The Ombudsman will publish an Annual Report and Summary Financial Statement and PHSO's audited accounts will be publicly available as well as being laid before Parliament. In accordance with the Freedom of Information Act 2000, PHSO operates a Publication Scheme which is broadly consistent with the Information Commissioner's model publication scheme for non-departmental

public bodies, but which also meets PHSO's responsibilities under its statutory legislation.

8. The Ombudsman and the Cabinet Office

Policy and liaison

The Cabinet Office has an overarching policy responsibility across government in relation to Ombudsman issues in general and a specific 'sponsorship' role for PHSO. It acts as the Ombudsman's principal point of contact with government. It also acts as the principal liaison point with the Public Administration Select Committee on Ombudsman matters.

The Cabinet Office has the following specific policy and liaison responsibilities:

- Managing the process for the selection and appointment of the Ombudsman and authorising payment of the Ombudsman's salary.
- Providing guidance to government departments on working with the Ombudsman.
- Providing guidance to departments on setting up new Ombudsman schemes.
- Maintaining an overview of developments in government departments with implications for the PHSO. The Cabinet Office will ensure that the Ombudsman is consulted in good time by the relevant department on any aspects of policy development that impact on the Ombudsman's jurisdiction or powers.
- Keeping under review the statutory provisions that govern the work of PHSO, ensuring that they are correct, comprehensive and fit for purpose. Specifically, ensuring that the Ombudsman's jurisdiction is kept up to date by way of Orders in Council as required. As a minimum, the Cabinet Office aims to take forward an Order in Council once every twelve months.
- Maintaining a central list of departmental contacts tasked with ensuring that the Ombudsman receives prompt and comprehensive responses to requests for information and documents.
- Maintaining regular liaison arrangements with the Ombudsman. The Cabinet Office and the Ombudsman have agreed that, as a minimum, they will meet once every two months.

- Ensuring that a named Permanent Secretary is designated as the ‘Ombudsman Champion’, and working with the Ombudsman to identify a suitable individual.

Staff

The administrative provisions of the Parliamentary Commissioner Act 1967 and the Health Service Commissioners Act 1993 enable the Ombudsman to appoint such officers as she may determine ‘*with the approval of the Treasury as to numbers and conditions of service*’. As a consequence of the Transfer of Functions (Treasury and Minister for the Civil Service) Order 1995, this responsibility has been transferred from the Treasury to the Cabinet Office.

PHSO staff are Crown servants. They are not, however, members of the Home Civil Service. They do not, therefore, come within the jurisdiction of the Civil Service Commissioners and are not subject to any other requirements laid down for Home civil servants in respect of appointment, terms and conditions, remuneration etc.

The Ombudsman is responsible for:

- putting in place appropriate terms and conditions of employment and pay and reward structures which meet PHSO’s business needs;
- appointing a Pay Committee with independent members to provide advice and assurance on pay systems generally, and for approving pay awards;
- negotiating pay awards and other changes in terms and conditions of employment with the recognised trade unions, ensuring that full account is taken of the need for broad comparability with the Civil Service.

The Cabinet Office is responsible for:

- ensuring that appropriate delegated arrangements are in place and appropriately maintained.

Complaints to the Ombudsman

The Cabinet Office is responsible for maintaining an appropriate separation between casework and ‘sponsorship’ activities when complaints of maladministration by the Cabinet Office are made to PHSO.

9. The Ombudsman and the Treasury

Under the administrative provisions of the Parliamentary Commissioner Act 1967 and the Health Service Commissioners Act 1993, the expenses of the Ombudsman, to such amount as may be

sanctioned by the Treasury, shall be defrayed out of moneys provided by Parliament.

The Ombudsman and the Treasury have agreed their respective responsibilities in relation to these administrative provisions in the following areas:

- Funding
- Expenditure
- Accounting and reporting

They have also agreed to maintain regular contact, meeting as often as is required to discuss the effective delivery of their respective responsibilities.

Funding

PHSO is funded, in accordance with legislation, directly from moneys provided by Parliament.

The Ombudsman is responsible for:

- providing Treasury with a 3 Year Funding Settlement Submission as required;
- providing Treasury with a Main Estimate of resources, capital and cash requirements, including pay, for the following financial year in accordance with the published timetable;
- ensuring that such Estimates are scrutinised and approved by the Executive Board with due regard to the need for economy, efficiency and effectiveness in the request for and use of resources; and, for pay, ensuring that full account is taken of the need for broad comparability with the Civil Service.

The Treasury is responsible for:

- examining the 3 Year Funding Settlement Submission;
- examining the Estimates and clarifying any issues with PHSO as appropriate; and, on the pay element, confirming that this has taken full account of the need for broad comparability with the Civil Service;
- delivering sanction of the 3 Year Funding Settlement and Estimates; Treasury officials will make recommendations to Ministers as necessary, with due regard to the special position of the Ombudsman and independence of PHSO from government, and the need to ensure that decisions on funding do not prevent PHSO from performing its functions;

- confirming to the Ombudsman the Chief Secretary's approval of Estimates, in accordance with the published timetable;
- laying Estimates before Parliament for its approval and provision.

Expenditure

Expenditure of the resources provided by Parliament will be a matter for the Ombudsman, subject to the normal requirements of propriety, regularity, audit and achievement of value for money.

The Ombudsman is responsible for:

- providing returns to the Treasury as required on actual and forecast resources and cash expenditure during the course of the year;
- ensuring that expenditure remains within the resources provided by Parliament each year;
- notifying the Treasury if a Winter or Spring Supplementary Estimate will be required (from End of Year Flexibility or otherwise from the Reserve).

The Treasury is responsible for:

- maintaining appropriate and regular communication and advice to PHSO at appropriate levels on expenditure matters;
- delivering sanction of Supplementary Estimates; Treasury officials will make recommendations to Ministers as necessary, with due regard to the special position of the Ombudsman and independence of PHSO from government, and the need to ensure that decisions on funding do not prevent PHSO from performing its functions;
- ensuring that requests for Supplementary Estimates are put before Parliament for consideration and approval.

Accounting and reporting

The Ombudsman and PHSO are not subject to the Government Resources and Accounts Act 2000, which only applies to government departments. Hence the Treasury has no statutory locus to appoint the Ombudsman as Accounting Officer; nor is it able to issue directions to the Ombudsman on the production or laying of accounts, or on any other matters covered by the Act.

However, in order to recognise the Ombudsman's responsibility properly to account for the resources allocated to her, the Treasury and the Ombudsman have agreed administratively that the

appointment as Ombudsman brings with it the duties of Accounting Officer as set out in *Managing Public Money*¹ as relevant to a Crown Servant independent from government. As such, the Ombudsman is responsible for the production and presentation of the resource accounts and their transmission to the Comptroller & Auditor General². She is also responsible for the use of public money and stewardship of assets.

In discharging these responsibilities, particular regard may be given to:

- taking account of best practice in any accounting and disclosure requirements and applying suitable accounting policies on a consistent basis;
- making judgements and estimates on a reasonable basis;
- following, as appropriate, applicable accounting standards, as set out in the Financial Reporting Manual (FRM) [issued by the Treasury], and explaining any material departures in the accounts; and
- preparing the accounts on a going concern basis.

In addition, the Ombudsman will:

- establish an independently chaired Audit Committee to support the Ombudsman, as Accounting Officer, in ensuring the effectiveness of internal control systems and risk management arrangements;
- ensure that all of PHSO's systems and controls are subject to a comprehensive programme of internal audit; and
- lay Accounts before Parliament using the Ombudsman's powers to lay special reports, and arrange for publication.

The Treasury is responsible for:

- ensuring that the special position and independence of PHSO is recognised, respected and understood throughout the Treasury.

¹ The responsibilities of an Accounting Officer, including responsibility for regularity and propriety of the public finances for which an Accounting Officer is answerable, for keeping proper records and safeguarding assets, are set out in more detail in Chapter 3 of *Managing Public Money*.

² The Parliamentary and Health Service Ombudsman is not a government department and therefore not directly bound by Government Resource and Accounts 2000. But the Ombudsman has chosen to transmit her accounts to the Comptroller & Auditor General.

Complaints to the Ombudsman

The Treasury is responsible for maintaining an appropriate separation between casework and 'sponsorship' activities when complaints of maladministration by the Treasury are made to PHSO.

10. The Ombudsman and the Department of Health

The Department of Health has responsibility for liaison with the Ombudsman in relation to her role as Health Service Commissioner for England (HSCE).

It has the following specific responsibilities:

- In conjunction with the Cabinet Office, keeping under review the statutory provisions that govern the work of HSCE, ensuring that they are correct, comprehensive and fit for purpose. Specifically, liaising with the Cabinet Office to ensure that the Ombudsman's jurisdiction is kept up to date by way of Orders in Council as required.
- Maintaining an overview of departmental developments with implications for HSCE. The Department will ensure that the Ombudsman is consulted in good time on any aspect of policy development or operational changes that impact on HSCE's jurisdiction or powers.
- Maintaining regular liaison arrangements with the Ombudsman. The Department and the Ombudsman have agreed that, as a minimum, they will meet quarterly.
- Maintaining an appropriate separation between casework and 'sponsorship' activities when complaints of maladministration by the Department of Health are made to PHSO.

11. The Ombudsman and the Ministry of Justice

The Ministry of Justice has no specific 'sponsorship' role in relation to the Ombudsman. The Ministry does however recognise the need for an effective working relationship and regular dialogue with the Ombudsman because of the Ombudsman's constitutional position and her role in the wider administrative justice landscape, for which it has policy responsibilities.

Specifically, the Ministry of Justice has agreed to:

- Identify a Principal Contact to liaise with the Ombudsman.
- Maintain regular liaison arrangements with the Ombudsman. In addition to bilateral contacts between the Ministry and PHSO, the Ministry and the Ombudsman have agreed, jointly with the Cabinet Office, that the Ministry will be represented at the

regular meetings between the Cabinet Office and the Ombudsman.

- Maintain an overview of departmental developments with implications for PHSO. The Ministry will ensure that the Ombudsman is consulted in good time on any aspect of policy development or operational changes that impact on the Ombudsman's jurisdiction or powers, or her constitutional role.
- Maintain an appropriate separation between casework and 'sponsorship' activities when complaints of maladministration by the Ministry of Justice or its agencies/sponsored bodies are made to PHSO.

12. Complaints about the Ombudsman

The Ombudsman maintains a complaints procedure which gives guidance on how to complain to her if complainants are dissatisfied with the service provided by her office. The Cabinet Office, the Treasury and the Department of Health have no locus in such complaints which are matters for the Ombudsman herself, and ultimately for the courts and/or Parliament as appropriate.

August 2009

Ann Bickom

Signed by the Parliamentary and Health Service Ombudsman

Date 6 August 2009

Lawrence Donald

Signed on behalf of the Cabinet Office

Date 12 August 2009

Nick Rafter

Signed on behalf of the Treasury

Date 14 September 2009

Hugh Taylor

Signed on behalf of the Department of Health

Date 11 September 2009

S. Chakrabarti

Signed on behalf of the Ministry of Justice

Date 9 September 2009

Annex

Principal contacts

Office of the Parliamentary and Health Service Ombudsman

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|-----------------|------------------------|
| Ann Abraham | Ombudsman |
| Bill Richardson | Deputy Chief Executive |

Cabinet Office

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| Sue Gray | Head of Propriety and Ethics |
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Treasury

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| David Lamberti | Team Leader, Home, Legal and Communities Team |
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Department of Health

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| Tracey Papworth | Deputy Director of Patient and Public Engagement |
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Ministry of Justice

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| Michelle Dyson | Head of Legal Policy, Democracy, Constitution and Law |
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