Transcript of Radio Ombudsman #15: Peter Tyndall on the value of the international ombudsman community

Peter Tyndall, President of the International Ombudsman Institute, Irish Ombudsman and Information Commissioner, talks to Rob Behrens about the values that underpin his national and international ombudsman roles. They also discuss the importance of own-initiative investigations, and the need for ombudsman reform in the UK.

Rob Behrens: Hello, everyone, and welcome to Radio Ombudsman in lockdown, but the sun is shining outside my window. Our guest today is the first guest who carries the title 'President' in his name, and that is Peter Tyndall, who is the World President of the International Ombudsman Institute.

The introductory music today has been composed, produced and played by Rhys Hamilton, a talented young musician from North London. Thank you, Rhys. I welcome feedback on our introductory music. If any listener wants to use Radio Ombudsman as the showcase for their musical talent, please, let us know.

Peter Tyndall is a big beast of the ombudsman world. He's a Dubliner. He's now Ombudsman for Ireland, having recently been reappointed to serve a second term. He has a long association with Wales, where he occupied a variety of senior positions in housing and social care.

He then became Public Service Ombudsman for Wales between 2008 and 2013. He's been Chairman of the British and Irish Ombudsman Association for two years, and currently he's the President of the World Board of the International

Ombudsman Institute for the last four years. Peter, you're extremely welcome. Thank you for being with us.

Peter Tyndall: Thank you, Rob, very glad to be here.

Rob Behrens: Peter, I'm very interested to hear a bit about your early life. Where were you born? Tell us a bit about the values that were instilled in you when you grew up.

Peter Tyndall: Thank you, Rob. I was born in Dublin. I was born into a fairly ordinary working-class home. My dad was a mechanic with the state transport company. My mother was, as was the case with many in the day, a housewife. We lived a very ordinary family life.

I didn't enjoy school. I was taught by the Christian Brothers, so I had some of my learning to thank them for, but I wouldn't say they contributed to a very happy schooldays, but the rest of my childhood was very enjoyable.

My mother would have been quite religious. It was a very different Ireland at the time. Our house was busy. There were often relatives or neighbours popping in for cups of tea and so it was a pleasant place to grow up.

Rob Behrens: You had a community service background before going to work in local government. That's correct, isn't it?

Peter Tyndall: Yes, I worked for the Welsh Housing Agency when it was set up. That was funding housing associations on special needs

housing, but then I went to work for Cardiff Housing Department. I was responsible for services like homelessness, and sheltered housing for older people and so on, and also managed the gypsy sites in Cardiff, so a very interesting job, but I gradually became more involved in mainstream housing through that.

Rob Behrens: Then, before you became Welsh Ombudsman, you were Chief Executive of the Arts Council of Wales. Was that good fun?

Peter Tyndall: It was very good fun. It was at a time shortly after the creation of the Welsh Assembly. The government in Wales was interested in nation-building, if you like, doing things to bring people together, and they saw the arts as a valuable way of doing that.

From my perspective, obviously, I was also interested in community arts and arts outreach to people who were otherwise excluded, so it fitted very well for me. I never had any expertise in the arts, but I greatly enjoyed it. It was a very good time for the arts in Wales.

Rob Behrens: I think you must be one of the very few people to have occupied national ombudsman jobs in more than one country. I don't know whether there's anyone else like you in that regard, but what was it like moving from being Ombudsman in Wales to Ombudsman in Ireland?

Peter Tyndall: It was interesting. I think the Ombudsman in Wales was a very significant player in the evolution of the devolved

administration in Wales, but particularly the work focused within the health sphere. An awful lot of the complaints that we dealt with were to do with clinical judgements.

So, moving to Ireland, and firstly I found that I don't have jurisdiction over clinical judgement, but also I have jurisdiction over a much broader range of government services and local government, so it was similar in some ways to Wales. But it was a bigger job, if you like, in the context of the whole national government and a different set of issues to deal with.

Rob Behrens: In Ireland you're also… You wear many hats. You're also the Information Commissioner, and you deal with local government standards as well. Is that…? Do you find that an advantage in terms of being Ombudsman?

Peter Tyndall: It's very helpful if you're committed to the same kinds of principles, you're committed to good public services, you're committed to openness, you're committed to transparency. Those values work across all of the different hats I wear. I suppose the biggest difference is, as Ombudsman, you make recommendations, but in Ireland, in the history of the office, they've always been implemented.

As Information Commissioner, you make binding decisions, but those get challenged in the courts. So, despite what many people think to be the case, being an ombudsman, in some ways, is more effective in terms of having outcomes achieved than having binding powers as Information Commissioner.

Rob Behrens: What would you say have been the biggest challenges to you as Irish Ombudsman? You've obviously successfully dealt with

them, because you've been reappointed for a second term, but, looking back on the six years that you've had, what are the biggest challenges?

Peter Tyndall: The biggest challenge we faced was with the investigation into the Magdalene Laundries. As we looked more closely at the issues there, this was about women who had been held against their will – often young women who'd had babies, sometimes schoolchildren – who'd been held against their will and forced to work for many years in laundries.

What I was looking at was a government compensation scheme, and the Department of Justice had chosen to interpret that scheme very narrowly. So, they were excluding young women, people who at the time were young women and had worked in the laundries but been detained in industrial schools which shared the same sites as the laundries, but not technically resident in the laundries.

We looked at that and felt that there was a huge injustice, but the initial response of the department was to reject our findings, so that required a high-publicity campaign, which ultimately led to the government changing its mind. To be fair, I suspect if ministers had been involved from the outset, I don't think that the rejection we initially saw would have happened.

Rob Behrens: Did any of the people who experienced this detriment get in touch with you, or was this the nature of you seeing the unfairness and acting on their behalf?

Peter Tyndall: No, we had a small number of cases, but we investigated the whole scheme, so some of the people who benefited wouldn't even have known of my office.

Rob Behrens: That's the advantage of having the power of own initiative to an ombudsman.

Peter Tyndall: Yes, it is. You can investigate. Even if you get complaints, sometimes you're constrained because you can only investigate on the facts if you can't undertake own-initiative investigations. If something comes up that needs to be looked at, there are no constraints on me looking at that. Particularly, I've found that in the context of excluded groups it's a very powerful tool to use to make sure that people who don't come to you can, nonetheless, have access to justice.

Rob Behrens: Yes. Is that regarded as controversial in Ireland? I wouldn't have thought so.

Peter Tyndall: No, it's just part of the toolkit available to the office. I don't think anybody gives it any second thought.

Rob Behrens: No. You behaved very bravely in this investigation because at one point, when you were being blocked by ministers, you threatened to go to the Taoiseach. Is that right?

Peter Tyndall: When I was being blocked by officials, I went to the Minister for Justice and through him to the Taoiseach, the Prime Minister. I

asked that they personally look to resolve the matter, because it was such a stark injustice and reflected very poorly on the Government of Ireland. The Taoiseach and the Minister for Justice both acted with great expediency, and the matter was resolved almost immediately following their intervention.

Rob Behrens: I don't think you can be an effective ombudsman without having the kind of guts that you've shown throughout this. I hope you will sympathise with those ombudsmen that don't have own-initiative powers, because it seems to me to be a great handicap.

Peter Tyndall: I think it is. Even in a Welsh context, where I didn't have them at the time, you could be investigating something in one health board and see immediately that it was likely that the same problems were arising elsewhere, but technically you couldn't extend your investigation beyond the body you were investigating. That ability to extend an investigation to cover whichever bodies are involved is very powerful.

So a lot of my work, let's say, with asylum seekers and refugees in accommodation provided on behalf of the government, I will be looking at complaints that are to do with healthcare, that are to do with access to benefits, that are to do with all kinds of things – access to housing – other than the services provided by the Department of Justice in providing the accommodation. So, it is just that capacity to broaden out an investigation, as well as the capacity to instigate an investigation where you don't have complaints.

My current own-initiative investigation is looking at the situation of people under 65 living in nursing homes. That's become a much more pressing issue in the coronavirus crisis. One of the

people we've interviewed has already died. Another has contracted the virus.

Although at this point it's not possible – for obvious reasons – to conclude the investigation, what we have done is written to the leaders of all the political parties who are currently involved in talks leading to the formation of a new government, to highlight the issue of people in institutional care so that at least what we've learnt to date in the course of our investigation can, hopefully, help to shape the policies of the incoming government.

Rob Behrens: Can we just move on a little bit? You are the President of the International Ombudsman Institute (IOI), which is a very important and prestigious job which is very valuable to ombudsmen all over the world. What added value do you think the IOI brings to our discussions?

Peter Tyndall: I think one of the very important things is, straightforwardly, learning from each other. Being an ombudsman is necessarily an isolated role. What you can't do is be too close to the people in the services which are within your jurisdiction. Consequently, we have more in common with each other than we do with the people whose services we're looking at, and learning from each other is very important.

The IOI provides structured training opportunities. That's been one of the very valuable things we've done. It provides best practice papers to show how things can best be done. Of course, Rob, you yourself have been responsible for the best practice paper on peer review and the work you've done in that field.

Also, I think the IOI has played a big part in supporting ombudsman organisations under threat. We've seen, for instance, colleagues in many countries around the world who, because they're doing their job, are being threatened or ignored by their governments. We've seen things like budgets being cut, and we've seen people being denounced by government ministers and so on.

So, the solidarity of the international ombudsman community is very important, but we also intervene quite directly. I give an example of Cyprus, where the Auditor-General was looking to interfere in the work of the Ombudsman's office. Following intervention from the IOI and others, with the Government of Cyprus and the Parliament in particular, the threats were withdrawn.

In Poland the Ombudsman was threatened with large cuts to his budget. We sent in a commission of inquiry. We interviewed government ministers. We interviewed the judiciary. We carried out press conferences, we talked to NGOs, and we managed to get a stay of execution. So, we saw major threats to democracy there, but our intervention, along with those of others, has helped to ensure that that office is still there and is continuing to operate effectively.

Rob Behrens: That Polish intervention was crucial. What's one of the remarkable things about it was that you actually went there. You didn't just talk about it, but you put the political institutions under pressure by asking them to give an account of what they were doing.

Peter Tyndall: Absolutely so. We did that in person and we did it through the media so that it had a very high profile within Poland. I think it's

no good. I did the same in Cyprus: media interviews, talking to people on the ground.

I think it's really important that solidarity is not something that comes just in the form of a letter – though sometimes a letter can be effective enough in itself – but that you actually scale the intervention to the nature of the challenge.

Rob Behrens: We've talked about this quite a lot when we've not been on the radio, but how important do you think it is that we, as ombuds, do not get involved in political matters? Or do you think this is a cultural relic of British Imperialism? (Laughter)

Peter Tyndall: Whatever about British Imperialism! No, I think it's a very complex question. I think that for an ombudsman not to be involved in politics is scarcely possible because what we're actually doing is overseeing the services provided by the state. So, therefore, any comment we make on those services has the potential to be political. What we can't be is party political, and what we can't do is speak beyond the evidence of our casebook.

So I talked earlier on about seeking to effect the formation of the government in Ireland to promote particular policies to favour disadvantaged groups of people, but I'm doing that on the basis of investigations I'm carrying out. I'm not doing it as Peter Tyndall, citizen. I'm doing it as Ombudsman of Ireland, based on the evidence from my casebook. Under those circumstances, I think it's entirely appropriate to intervene.

I think it becomes problematic if people are seen to be intervening on issues which go beyond their own work as ombudsmen. I think that's where it would become problematic,

but I do think that, if you've got evidence, then it's important that you use that evidence where it can be most effective in securing justice for the people who've come to you.

Rob Behrens: We're moving towards the end, but I wanted to ask you about how you're coping with the coronavirus. What sort of impact has it had, short term and longer term, on the way you operate?

Peter Tyndall: Yes, it's an interesting one. The first thing was that we surprised ourselves by being able to get ourselves in a position to work remotely, much quicker than we might have done otherwise. I suppose if it's proved anything, it's that, when there is a crisis, it's surprising how long-term problems can be solved in a hurry.

We've been able to operate all of our services, more or less without change, throughout the crisis. We've had some changes in volumes of work coming to us. We've put a bit more emphasis on project work, but, by and large, people are able to make their complaints to us. They can ring us. They can email us. They can contact us on the web. We're even able to collect our post, though we're discouraging people from using the post at the moment, but the effect of that is that we can keep going.

The difficulties we face are probably more to do with the difficulties being faced by the services we're dealing with. We've told the health service, we've told nursing homes, and we've told the Department of Social Protection, which deals with benefits and pensions, that we understand that it will take them longer to respond to us and that in some instances they

won't be able to. We understand that, but in general we've been able to keep going.

Just to give an example of the kind of things we've been dealing with, we had one gentleman stuck in Poland who couldn't get back to Ireland, who'd been denied benefits in Ireland, even though his wife and children were in Ireland and he normally lived and worked. We were able to intervene successfully so that he got his benefits. We're able to deal with issues as they arise.

I think in the longer term there'll be two things, really. One of them is just practical. We now know that it's possible for more of our people to work effectively from home, and I can't see us going back to the situation before, where only a very small number of people did that. I think more people will work from home as a consequence of what we've learnt during the crisis.

The second issue for me has been the appalling death toll among people in institutional care, many of whom shouldn't be there. I think we have to redouble our efforts in working on their behalf after the crisis, to make sure that, should there be a resurgence or should something else like this come along, that they're not as exposed and as vulnerable as they are at the moment.

Rob Behrens: It makes complete sense for the Ombudsman to be looking at both health and social care matters, and not, as in this country, to have a separation where one Ombudsman looks at social care and the other looks at health.

Peter Tyndall: Just if I may, Rob, just add something, one of the things that's noticeably different between Ireland and the UK – and England

in particular – is that there is a single national ombudsman in Ireland so that issues of health and social care can both come into my jurisdiction.

The reality is these are complex, interlinked issues. Trying to deal with them with two separate ombudsman offices is complicated enough as it is. Trying to do so in the context where you have MP filters, where you have different systems applying in different parts of the UK, is impossibly difficult for yourselves, but you manage it very well, along with the Local Government Ombudsman. I have to say, you've managed in practice to overcome the difficulties, but it's also an impossibly complex scenario for complainants.

In Ireland, if somebody wants to complain about public services, they come to my office. In your case it's much more complicated. I do hope that the proposals for ombudsman reform that we've seen in the UK over recent years are not entirely lost, and that we do come to a much more satisfactory situation where there's a proper national Ombudsman and where people can bring their complaints, regardless of what particular public service they're complaining about.

Rob Behrens: I do hope that happens before I die, which I'm increasingly becoming doubtful about, but we'll have to wait and see. Peter, you conducted the peer review of my organisation, and then you appeared before the Select Committee in Parliament. That was not an expected development. What was it like being the peer reviewer who had to go before the UK Parliament?

Peter Tyndall: It was an interesting experience, Rob. I think it would have been much more challenging if I hadn't been quite so impressed by the quality of the service your office provides. It

wasn’t as though, when we looked at the service, we used a lot of objective criteria.

Obviously, with any office there is room for improvement, but in general I was able to give reassurance to the committee as to the quality of service that complainants were receiving, but also to highlight some of the deficiencies in powers and in jurisdiction that are causing you difficulties in practice.

But I suppose what I’d want to say, I was very impressed by the quality of the people in your office. It was a very good experience. They were very open with us. We talked to your staff without talking to yourself and the managers, so we were able for people to express a view as they saw fit, and I think people were very complementary.

I think, as I say, it was an interesting experience. It’s always challenging to go before parliamentary committees, and the session was quite searching. I think the committee wanted to reassure itself that this wasn’t some kind of hagiography, but we were satisfied in the end that we were able to say, “No, we’ve looked in detail at this office. There are areas which can improve, but, by and large, this is an improving service that’s delivering good-quality ombudsman service to the people of England and to the UK.”

Rob Behrens: I think the structural point is that, thanks to the IOI, this whole system of peer review looks like it has legs for the wider ombudsman community. It is an effective and inexpensive way of adding to scrutiny of ombudsman schemes, so thank you for the role that you played in pioneering that.

Peter Tyndall: One thing beyond that too, Rob, is that, since the review was undertaken, the IOI, along with other bodies, have worked quite hard which the Venice Commission and the Council of Europe in developing a set of overriding principles for ombudsman offices – the 'Venice Principles', as they've become known. They've now been adopted by the Council of Europe.

That's the first time there's been a proper international standard against which ombuds offices can be judged. So, I'm keen to see them being used, as they are being used now, in the context of peer review, so that there is an objective set of internationally recognised standards against which you're measuring a particular ombudsman office. I think that again marks another step forward and one that I'm very pleased to have seen develop.

Rob Behrens: I think, when I undertook the peer review of the Catalonian Ombudsman with my Belgian counterpart, we used those very same Venice Principles as the benchmark against which to judge the Catalonian Ombudsman. It is very helpful to have that, because it's without prejudice. It applies to everyone, so I think it is an important development. Two final questions: how have you, Peter Tyndall, reacted to working remotely, being at home with your family?

Peter Tyndall: I've enjoyed it, to be honest. It hasn't been too frustrating. The technology can be an issue from time to time, but it hasn't been too difficult. It's been less difficult than I would have expected.

As time goes on, I think the issue of visible leadership comes into it, doesn't it? You actually want to be with your people

again, but it has worked surprisingly well. As I say, I think for the office itself, I think we'll see more remote working in the future.

Rob Behrens: Thank you. Lastly, then, is what I always ask my guests: what advice would you give to young colleagues newly arriving as caseworkers in the embryonic ombudsman profession?

Peter Tyndall: For me, there are a couple of characteristics that have to be embodied by people working in the service or as an Ombudsman. We have to be objective. We have to be fair. We have to be even-handed, so the first advice often is: "Make sure you know the whole story before you reach your conclusion."

But underpinning all of that I would say that, if you haven't got a passionate commitment to justice, then you're in the wrong job because what this fundamentally is about is people who believe in fairness, people who believe in justice, and people who want to use their own efforts to make sure that nobody is denied access to justice. That's what we're here for.

Rob Behrens: Thank you so much, Peter. Your answers were stimulating, and also inspirational. We're all very grateful for the time you've given for this interview. Thanks a lot.

Peter Tyndall: Thank you.

Rob Behrens: My next guest will be the Catalonian Ombudsman, Rafael Ribo. He'll be joining us from Barcelona. In the meantime, this is Rob Behrens on behalf of Radio Ombudsman, saying, "Have a good day and stay safe."