



All-Party Parliamentary Group on Consumer Protection

APPG on Consumer Protection

Report from the Ombudsman Inquiry

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Volume I: Report

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Foreword from Yvonne Fovargue MP

The ombudsman system is seen by many as the ‘gold standard’ of alternative dispute resolution.

Unfortunately, this assumes that there is a ‘system’ at all. The reality is that the ombudsman ‘brand’ covers a multitude of different institutions, with wide variations in visibility, powers and reach.

Not only are no two ombudsman services alike, there are also gaps as well as overlaps in coverage. The result is confusion for the public who are simply looking for a solution to their complaint, but all too often do not know which way to turn.

But, as our inquiry found, at their best an ombudsman can be very effective. The real issue is how we can bring the rest of the ‘system’ up to this best practice standard.

I believe our recommendations will help achieve this. It will take significant political will, but it can be done. Only then will we be able to talk truly about the ombudsman gold standard.

A handwritten signature in black ink that reads "Yvonne Fovargue". The signature is written in a cursive style with a large, sweeping initial 'Y'.

Yvonne Fovargue MP
Chair of the APPG on Consumer Protection

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We would like to express our very warm thanks to those organisations and individuals who responded to our call out notice and especially to those who were able to provide witnesses for the oral sessions.

We would also like to acknowledge the invaluable help of Charlotte Ludlow in preparing the transcripts of evidence and the main text for publication.

Executive summary

The APPG issued a call for evidence on the Ombudsmen landscape in April 2018 amidst long-standing concerns about the wide variation in the standards of complaints handling and reports of consumer confusion.

The deadline for written submissions was 15th June 2018 and all the evidence we received by that date is contained in Volume II of this report.

We also asked a number of respondents to give oral evidence in addition to their written submissions, and these sessions were held in the House of Commons over the summer of 2018. Transcripts of these sessions are also contained in Volume II.

After considering all the evidence, the APPG has recommended referring the matter to the Law Commission. The Commission is tasked with consolidating and simplifying statute law, and we feel it is ideally placed to ensure that the best aspects of the system as it currently exists can be applied consistently across all sectors.

We have also given our view of what we would like to see in a reformed ombudsman system, and many of these changes could be made in the meantime. These include requirements that all ombudsman schemes have mandatory membership, are able to enforce their decisions and are directly answerable to Parliament, via select committees.

A full list of recommendations is given at the end of this report.

Note on spelling: 'Ombudsman' is an indigenous Swedish, Norwegian and Danish term, essentially meaning 'representative' and as such does not strictly take the English-style plural 'ombudsmen'. However, some witnesses have used the term 'ombudsmen' freely, and we have kept that spelling where used for the sake of accurate transcription.

Introduction

In many ways, ombudsman schemes are in an enviable position. Described by various witnesses as sitting at the 'apex' or 'pinnacle' of the complaints-handling system, they are widely seen as the 'final referee'; the last chance to resolve an issue, at least without going to court.

They are also, as widely recognised, deeply embedded into our ADR system, and play an important role in driving wider improvements. Indeed, for Queen Margaret University in Edinburgh, their status is so important that *'they make a significant contribution to democracy'*.

But at the same time, all is not well. The system has also been described as *'fragmented and incoherent'* by the Local Government & Social Care Ombudsman and even as *'broken'* by MoneySavingExpert.

Certainly, consumers are not happy, as MoneySavingExpert found in its earlier report. Queen Margaret University, in their submission, pointed to the *'very low levels of satisfaction among service users'*, which they saw as being *'indicative of a system which does not truly have the confidence of service users'*.

Various issues were highlighted by respondents as the main cause, from the gaps in provision to the variation in powers and scope of individual ombudsman schemes, from unreasonable timescales for complaints referrals and resolution to poor communications and provision of access.

In this report we look at all these issues and make a number of practical and realistic recommendations. Ultimately, we feel, it is about putting the consumer at the heart of the process. Only then will we be able to achieve the 'gold standard' ombudsman service that we all want.

Scope of the inquiry

This inquiry is a follow-on from a report commissioned by the APPG and produced by MoneySavingExpert entitled *Sharper Teeth: The Consumer Need For Ombudsman Reform* (November 2017). That report looked at the effectiveness of ombudsmen from the consumer perspective and its findings were based on desk research as well as primary research in the form of an online survey. It made the following broad recommendations ‘for gold standard ombudsmen’, plus one ‘aspiration’:

MoneySavingExpert’s recommendations and aspiration:

Recommendation 1: All ombudsmen need a statutory basis as a foundation.

- *Ombudsmen should have statutory powers to ensure that firms are co-operative with processes and compliant with decisions that have real legal teeth.*

Recommendation 2: Oversight of ombudsmen must be boosted.

- *Relevant Government departments, the Ombudsman Association and Companies House should work to make sure that the performance of ombudsmen is consistently higher.*
- *Particular focus should be paid to:*
 - *the ease of complaining;*
 - *the speed at which complaints are processed;*
 - *and the perception of fairness among those who complain to ombudsmen.*
- *Ineffective ombudsmen must be stripped of the right to use the word in their title.*
- *There should be a form of ‘fit and proper’ approved-persons test for people in senior roles in ombudsmen. The Department for Business, Energy and Industrial Strategy could approve such persons.*

Recommendation 3: *The eight-week rule should be shortened and needs vital exceptions.*

- *Unless a deadlock letter is received, consumers generally need to wait eight weeks before using an ombudsman (but it can be more).*
- *If the complaint is about debt issues, payday loans, credit brokers or black marks on credit files, then waiting eight weeks could leave consumers in crisis.*
- *The eight-week rule was created in a non-digital age. But in this digital age with instant credit-scoring and decisions, eight weeks is simply too long. That time should be reduced to somewhere between two and four weeks – as a blanket rule across all ombudsmen.*
- *There should also be exceptions so people who are in crisis due to an unresolved complaint can escalate to an ombudsman sooner.*

Aspiration: *Comprehensive ombudsman membership in consumer sectors.*

In an ideal world, all companies in consumer sectors would be members of an ombudsman. This could be delivered through a single ombudsman for all consumer complaints, with every business serving consumers being a member; or having one ombudsman per sector, combined with a single body acting as a portal for all ombudsmen, and filtering complaints to the appropriate ombudsman behind the scenes.

However, this aspiration is far from being implemented; it would require radical, wholesale change. Until that happens, ombudsmen should be reformed to operate at a gold standard, truly distinct from other ADR providers.

Our Inquiry

While our inquiry built on the foundations laid by MoneySavingExpert in its report, we wanted to hear from consumer bodies and from ombudsman organisations in order to gain a fuller picture and to move the debate along.

In our call out notice we set out the scope of the new inquiry:

‘The APPG wishes to explore any problems that consumers experience with ombudsmen. The inquiry will then consider whether ombudsmen have the

powers they need to provide a fair outcome for consumers and what a better system might look like.

When submitting evidence, organisations and individuals may wish to give consideration to one or more of the following questions:

- What is the difference between ombudsmen and other ADR providers?*
- If the system was being designed now, what would be created?*
- What should the role of an ombudsman be?*
- What are the problems with the ombudsman system?*
- Do ombudsmen have the powers they need? Should their powers be based in statute? If so, which powers should come from statute?*
- Is there enough oversight of ombudsmen? How is this different in regulated sectors? Should (and if so, how, could) oversight be strengthened?*
- How long should consumers need to wait before escalating their complaint to an ombudsman? Should there be any exceptions?*
- How long should an ombudsman have to deal with a complaint?*
- What can ombudsmen do themselves to provide better consumer experiences?*
- What other improvements could be made to ombudsmen for consumers?'*

The difference between ombudsmen and other ADR providers

All ADR schemes offer ways of resolving disputes without going to court, and all rely on in-house complaints procedures to be exhausted before they accept cases. But the ombudsman model, although it sits squarely in the ADR landscape, is seen as something of an ideal. As Donal Galligan of the Ombudsman Association put it, *'a well performing ombudsman is a bit of a gold-plated service'*.

In their written submission, Ombudsman Services neatly summarised the role of the ombudsman and why they stand at the pinnacle of the ADR system:

'The ombudsman model combines three key roles – handling complaints, working with businesses in the sector to improve what they do, and working with the sector more widely to improve policy thinking, identify themes and tackle consumer detriment before it happens.'

In other words, the role of the ombudsman is not just to solve the individual's complaint – which can be seen as the *raison d'être* of ADR generally – but to use the evidence gained from the process to drive sectoral improvements.

While ADR is generally seen to cover mediation, conciliation, arbitration and adjudication, for the Ombudsman Association it is essential to take a wholly different approach, something they describe as *'inquisitorial adjudication'*.

With inquisitorial adjudication, time and effort are more concentrated at the *'front end of the consumer journey'*, as Donal Galligan of the Ombudsman Association put it, which includes *'looking for evidence that might be missing'*. The result invariably is a deeper understanding of the causes of the problem.

Others agreed, though interestingly, Queen Margaret University claimed that the inquisitorial approach was more characteristic of public service ombudsmen, whereas private sector bodies were more likely to use an approach more akin to mediation or conciliation.

For James Walker at Resolver, the online consumer complaints tool, the distinction lies more in what he sees as the *'legalistic'* approach of general ADR, with its *'focus on a stricter application of law/policy'*, and which can be contrasted to the ombudsman's greater concern about whether a complaint is *'fair, reasonable and proportionate'*.

Peter Tutton of StepChange agreed, arguing that since they are *'not necessarily held to a precedent'*, ombudsmen *'can go a bit further and look at how participants behave'*.

Lewis Shand Smith of Ombudsman Services warmed to this theme in his oral evidence:

'I think there's kind of a distinction there that the ombudsman can actually look at something and say, 'well, the law says this, but actually is that fair?' and so a judge will look at it from a legal perspective and ensure that the law has been fulfilled or not, but an ombudsman can also say, 'well, we looked at the law, but wait a minute, there's something here that's not working and something that's not fair', so it's more to do with right being done.'

For Donal Galligan of the Ombudsman Association, the ombudsman performs *'almost a judicial role'*, while Lewis Shand Smith stated that *'an ombudsman is kind of part of the justice system'*, while warning that *'we don't cloud the boundaries of what an ombudsman is and what the courts are, because they're very distinctive in roles'*.

This distinction between justice and fairness, though subtle, appears to be vital in that it allows the ombudsman to dig deeper into a particular complaint and pinpoint systemic failures, rather than simply setting out to *'resolve the individual consumer complaint and go no further'*, as Resolver puts it.

Indeed, for many respondents, this systemic role is absolutely key. The Local Government and Social Care Ombudsman stated:

'Our distinctive characteristic is our ability not only to provide redress for the individual who complained, but also to identify and address systemic issues... what stands us apart from others in the ADR landscape is also our ability to provide feedback to bodies within our jurisdiction that can provide service improvements. In 2017-18, we made 730 recommendations aimed at improving services. These recommendations often comprise reviewing policies or procedures, staff training or actions to improve awareness among staff.'

It is not difficult to see the benefits of this systemic role. For the Ombudsman Association, it helps to *'improve public confidence... by feeding back the lessons from their work to help improve service delivery and complaints-management for the future'*.

Others pointed out that this benefits business, too. For Resolver, there is potentially a *'positive impact on the reputation and trustworthiness of the industry'*, where systemic improvements are made which *'assists the business to retain loyal customers'*, resulting in *'better services for consumers and [more] profitable businesses'*.

Lewis Shand Smith agreed:

'It also helps the businesses in the fact that they have the simple route to dispute resolution which means they don't have to go to court, they don't have to go to a tribunal. They actually have access to something that's faster, it's cheaper, and probably less harmful to their reputation.'

For many respondents, this systemic role also required close working with regulators – where they existed – and other stakeholders. As the Ombudsman Association said:

'Ombudsman schemes are most effective in sectors where they work closely with a regulator and other accountability bodies. This can be seen, for example, in the energy sector, where the ombudsman works closely with Ofgem, and in the health sector where the ombudsman works closely with both professional and systems regulators.'

The Local Government and Social Care Ombudsman echoed this, pointing out:

'We have established successful working relationships with regulators across areas of public services which fall within our jurisdiction, such as CQC and Ofsted, which allows us to share relevant trends and issues in order to ensure that systemic issues arising from complaints can be considered by the regulator.'

MoneySavingExpert agreed, arguing that *'as the holders of huge amounts of complaints data'* ombudsman schemes have a *'responsibility'* to work with regulators.

The Local Government and Social Care Ombudsman warned, however, of confusing the purpose of the ombudsman and the regulator since it is the latter's role *'to ensure that systems are operating fairly and effectively'*.

Peter Tutton from StepChange agreed:

'Ombudsmen aren't the same as regulators, they don't proactively produce rights and regulatory interventions, but in setting the terms of what's fair and making that a public and transparent process, it's one of the things that should condition behaviour of firms and get them to think harder about how they treat the customers.'

Problems with the ombudsman system

While the work of the ombudsman was lauded by many respondents, much of the praise seemed more related to theory rather than practice, or else was restricted to a few narrow sectors. As a system there were clearly problems; indeed, some found it difficult to refer to it as a 'system' at all, unless it was to describe it, like Martin Lewis of MoneySavingExpert, as 'broken'.

As the Local Government and Social Care Ombudsman put it:

'The current system is little more than a consumer maze... fragmented and lacking in coherence' caused by the fact that 'the ombudsman sector has tended to be developed in an incremental and ad-hoc fashion, rather than informed by principle'.

The result, as the Ombudsman Association neatly expressed it, is a 'combination of having multiple competing redress schemes whilst at the same time having gaps in coverage'.

It is surely this coincidence of omissions and overlaps which surely leaves the consumer most confused about where to go when they have an unresolved complaint.

For Martin Lewis much of the problem lies in the meaning of 'ombudsman'. Despite being a term protected by Companies House – a fact that undoubtedly gives it 'weight in consumers' minds' – there is a huge variety in the powers of ombudsman schemes:

'Some have statutory powers, compulsory membership in their sector, and statutory powers to enforce their decisions in court. In key markets, such as financial services and energy, there is also a strong regulator in addition to (and alongside) the ombudsman. At the other end of the scale, there are some ombudsmen who can't force companies to be members, nor to comply with processes or decisions. They also can't enforce their decisions in court if and when they are ignored – which consumers tell us is often.'

Put simply, even if the customer has a complaint in an area covered by an ombudsman service – and that is not guaranteed – there is no certainty that

the business they are complaining about is a member of the scheme or that the ombudsman is able to enforce any decision!

There is also evidence that consumers are putting off complaining to an ombudsman in the first place because of the time rules around escalating complaints, as acknowledged by Resolver and the Ombudsman Association.

Complaints cannot go to the ombudsman until they have been first considered by the body being complained about, and currently consumers must generally wait eight weeks before they can escalate their complaints. This timeframe has been standard since the 1990s and many respondents have suggested that it is surely no longer reasonable in the digital age to wait so long, particularly where the complainant could be in crisis, perhaps because of a payday loan debt or home heating problem.

There is also evidence to suggest that consumers are waiting too long for their complaint to be adjudicated by an ombudsman, once it has been referred. The ADR Regulations allow ADR providers 90 days to resolve complaints and while there is recognition that some issues would justify such a timeframe, most surely would not.

There was broad recognition that ombudsman schemes were not good at communicating with complainants, not least about timeframes, and that some of the frustration they felt was due to not being 'kept in the loop' or given the information they needed at the outset.

Part of this issue relates to signposting. As Ombudsman Services pointed out, *'The complaints process needs to be set out clearly to consumers on company websites'*, and there is evidence to suggest that businesses are not making it clear to their customers how they can complain.

But it also relates to how the ombudsman itself communicates. Ombudsman Services in their submission stated that *'Ombudsman schemes should proactively raise awareness of their services'*, while Donal Galligan in his oral evidence added that not only should they *'manage people's expectations to begin with'* and *'explain why things are going to take a certain amount of time'*, but *'if it's going to take longer, [the ombudsman needs to] get in touch with them'*.

Lewis Shand Smith of Ombudsman Services warmed to this theme in his oral evidence:

'I think a lot of it is to do with transparency... that in some ways the explanation can be more important than the decision. And giving it in such a way that it's accessible; it's not just that it's easy to make a complaint, but it's actually the whole process is about making sure it's accessible to you. It's not just about using language that you don't understand and sort of producing a big report; what we've found in terms of customer satisfaction is that perhaps it's not about getting the answer they want as it's about phoning and explaining – often much more helpful – and eventually putting it in writing.'

How can the system be reformed?

Respondents agreed that the present ombudsman system has developed in a piecemeal, ad-hoc fashion over many years and showed little evidence of planning.

As the Local Government and Social Care Ombudsman said:

'If we were designing the ombudsman landscape from scratch, then we would do it differently – probably with fewer points of entry and looking to establish a coherent and comprehensive ombudsman system.'

Martin Lewis broadly agreed:

'It wouldn't even be conceivable if starting from scratch... if we were starting from today, you would have one ombudsman. Now you might internally operate that by breaking it into eight subsections, each that has a head ombudsman who dictates the rulings that go through, but there's one place that you go.'

A single ombudsman

There was strong support for having one ombudsman per sector.

The Ombudsman Association described it as their *'long-standing position... that people should have access to an ombudsman in all areas of consumer and public services'*. Lewis Shand Smith of Ombudsman Services set out the advantages:

'I think, where there's a single ombudsman it is actually much, much easier to collect the data and to get kind of an overall picture in terms of what's happening in customer service and complaints, and be able to work with individual companies where something's gone wrong – to help them improve not just the customer service, but more particularly using that data to also work with the sector, to make sure things are great first time, that regulation is appropriate, that if enforcement is necessary the regulator has got the information that they need to kind of carry out the investigation.'

The Local Government and Social Care Ombudsman, on the other hand, seemed to want to restrict ombudsmen to the public sector, arguing that the ombudsman was most *'appropriate'* where:

'there is an imbalance of power between members of the public and the state. This is certainly the case regarding most of the complaints we handle which concern the provision of statutory entitlements, often to the most vulnerable in society.'

But, while conceding that there are differences between the public and private sectors, it is not clear why this 'imbalance of power' is less evident in the latter. In most consumer disputes, for example, there is a substantial mismatch between the parties, which is why so many consumers would rather not go to law. As Martin Lewis said in his oral evidence, *'Ombudsmen and ADR are there to help the little man [since] it is very difficult for the little man to go to court against the big man.'*

Interestingly, Lewis Shand Smith of Ombudsman Services quoted approvingly of the views of the Northern Ireland Ombudsman that the distinction between private and public schemes is *'artificial'* since *'there are only public interest ombudsmen, whether it's public or private sector'*.

Not surprisingly, consumer bodies were happier to see all sectors covered, as a way to end consumer confusion and uncertainty. James Walker from Resolver said that having a single ombudsman in a sector would not only provide *'independence and stability of decision-making'* but would remove the incentive for companies *'to negotiate better outcomes by threatening to leave'* and causing what others have described as *'a race to the bottom'*.

A number of respondents also pointed to the recent consolidation in the ADR landscape as providing a possible blueprint for the future.

The Local Government and Social Care Ombudsman, for example, referenced the Government's draft Public Service Ombudsman Bill, published in December 2016, designed to bring the Local Government and Social Care Ombudsman and the Parliamentary and Health Service Ombudsman together into a single body, which they claimed *'provides an opportunity to simplify and make the redress system fit for the 21st century'*.

Interestingly, StepChange argued strongly for the inclusion of bailiff complaints in this new body, quoting the Local Government Ombudsman's evidence to the Communities and Local Government Committee in March 2017, where the bill was described as *'an opportunity... to try to address those areas of the public sector where there is no complaints system, no independent right of redress to an ombudsman or... gaps in that system'*.

Other respondents referred approvingly to the recent consultation by Ministry for Housing, Communities and Local Government to strengthen consumer redress in the housing market by reducing the number of ombudsman schemes and ADR-approved redress bodies from four to one.

MoneySavingExpert hoped this would result in a *'statutory, single housing ombudsman with a wide remit [which] would provide the simplest solution for consumers needing to complain'*.

Single portal

The notion of *'fewer points of entry'* – even just one – is something that has gained much support and is seen as an antidote to the fragmentation of the present system.

The Local Government and Social Care Ombudsman, for example, gives its support to *'a single access point for all complaints'* since, it argues, *'simplifying the complaints maze would make the single biggest impact on the accessibility of the complaints system'*.

For MoneySavingExpert *'this would seamlessly filter the complaint to the correct scheme behind the scenes, regardless of the nature of the problem being complained about (housing, financial services, energy or other)'*.

As Peter Tutton of StepChange points out, there are several advantages to a single portal:

'It helps consumers file their complaints, which is a difficult thing to do, perhaps a double benefit there – a sign-posting benefit – but also, there's an opportunity to assist anyone who wants to complain effectively because it's quite hard for people to do.'

Perhaps not surprisingly, since they act as a form of complaints portal themselves, James Walker of Resolver contends that a *'well-publicised single*

point of access to the existing myriad of ADR schemes would be a significant improvement’.

But not only does he see the portal working as a signpost, or as a ‘triage’ to assist in the making of complaints, he regards it as a place *‘where case-related information could be uploaded’.*

For Resolver, an effective portal would involve better use of technology and data, which can also be used to communicate with the complainant, to *‘track progress’* and *‘help manage consumer expectations’.* For James Walker, this would help to achieve his ideal of a *‘data-driven ombudsman’.*

Some respondents looked at international practice for guidance. For example, the Ombudsman Association wondered whether a *‘single portal for all complaints, akin to the e-People system in South Korea, could be the answer’.* As Donal Galligan explained:

‘So, you’ve got this e-People system, where if you’ve got a complaint about a racoon in the bin, or the president is corrupt, you go to one website. One website and put it in, and it could go to several bodies behind it, so it shows that it can work. I would like to see further exploration of how that could be done in the UK, with our members and with other bodies as well because it’s got to be about making it easier for the consumer.’

However, he was concerned that it would require *‘a significant amount of resource’*, since it would have to deal with the *‘complexity of the various jurisdictions’* and would need *‘well-trained, perhaps well-paid staff’* behind it as *‘you always have to have a non-digital option’.*

He also pointed to the Belgian system, which operates as an *‘umbrella over the top’* of their ADR system, but has been *‘starved of resources’.* Despite this, he felt it should be a matter for *‘further exploration’.*

Lewis Shand Smith was more *‘ambivalent’* about the Belgian system, which he said was meant to be used as a central place to make a complaint but *‘nobody actually uses it’*, except as *‘kind of like Google to find the place to go’.*

The Ombudsman Association rightly pointed out that while it *would ‘greatly improve issues around sign posting’*, a portal would not address *‘the problem*

of multiple redress schemes within a sector' nor the inconsistency of standards and decision-making.

Lewis Shand Smith picked up on this in his oral evidence:

'As you know, we're trying to run the Consumer Ombudsman and a lot of that's actually signposting people to other places, and there are one or two organisations, you're not sure entirely what will happen if you signpost. Will anything happen at all? Will they actually have that complaint answered?

'So, with some organisations there's no problem at all, and so we actually get a lot of people come to us who actually want to go to The Property Ombudsman, and that's not a problem because we know what's going to happen when they get there, but there's other kinds of organisations that we've not really heard of and if we pass somebody on to them, do they come back to us and say 'well, you passed us on but it was...'? It kind of affects our reputation as well.'

So, while there is solid support for a portal, providing it is properly resourced and supported, it is clear that such a reform must go in hand with other improvements, including having one ombudsman per sector and consistency of standards.

Statutory powers

For most respondents the only way to achieve such standards in the ombudsman landscape is through statute, though Ombudsman Services believes this should be restricted to the regulated sector.

For MoneySavingExpert, statutory powers were vital:

'As a minimum – to be called an ombudsman – ombudsmen should have statutory powers to require firms within their sectors to be members, to cooperate with investigations, to comply with decisions, and they should also have the power to enforce their decisions in court if necessary... Statutory powers on their own are not the whole answer, but they would serve as a solid foundation for ombudsmen to be effective.'

Martin Lewis agreed that in the short term this would mean reducing the number of ombudsman schemes, *'but who cares, because they're not ombudsmen?'*

Respondents varied in the statutory powers they wanted to emphasise in their submissions, though there was much overlap.

For Resolver, it was essential to have statutory powers to ensure *'enforcement of redress'*, while for Ombudsman Services *'the ability to establish an ombudsman scheme in statute could also ensure that there is one ombudsman scheme per sector'*.

The Ombudsman Association felt that *'one area that could be highlighted in statute is the ability of an ombudsman scheme to share appropriate data with regulators, consumer advocacy bodies and other key stakeholders such as government departments'*.

Ombudsman Services agreed, asserting that:

'More emphasis needs to be placed on data and research-sharing and collaboration between regulators, ombudsmen and consumer groups to ensure consumers have access to the most broad and detailed data sets as possible... Ombudsmen need to do more to invest in digital and support the consumer journey'.

Resolver were also keen that there should be a statutory requirement that organisations respond more quickly to ombudsman requests for information, suggesting three to five days for evidence.

Indeed, there was scope to include other timescales in statute, as there was general agreement that turnaround times needed to be shorter, even if there was less agreement on the figures.

MoneySavingExpert suggested that escalation times to ombudsmen could be reduced from eight weeks to *'somewhere between two and four weeks'*. Ombudsman Services preferred six weeks, *'though if the complaint in question raised issues that made it necessary to try and resolve the complaint quicker, such as debt issues or other vulnerable circumstances, then there should be a quicker time resolution requirement'*.

Resolver suggested that escalation times should be *'based on the severity of the situation'*, with ombudsmen given discretion to take the problem earlier in *'exceptional circumstances'*.

In terms of complaint-resolution times, Resolver contended that 90% of cases should be resolved within three weeks and that even the most complex should be resolved in 90 days. MoneySavingExpert conceded that *'some complaints will naturally take longer to investigate'*, but suggested that *'it seems unreasonable for ombudsmen to take several months to decide a complaint'*.

The Local Government and Social Care Ombudsman rejected a *'one-size-fits-all'* approach in setting timescales for cases since *'some are purely transactional, and others are multi-faceted and complex'*, and suggested investigations should be completed *'in a timely manner'*. Ombudsman Services and the Ombudsman Association both agreed that complaints should be dealt with *'as quickly as possible'*.

Oversight and accountability

When it comes to the question of oversight and accountability there were many differing views, although there was general agreement that there was scope for improvement.

At present, statutory ombudsmen are accountable to Parliament via select committees. For example, the Financial Ombudsman Service regularly gives evidence to Parliament through the Treasury Committee.

In the private regulated sectors that role is often performed by the regulator. So, for example, Ofgem would be scrutinised by the Business, Energy and Industrial Strategy Committee on the work of the Energy Ombudsman.

Where a real gap exists is in non-regulated sectors. Beyond the fact that such schemes need to be members of the Ombudsman Association – which as MoneySavingExpert pointed out is effectively a self-regulatory scheme – there is no formal external scrutiny and a regulator does not exist to fulfil that role.

Lewis Shand Smith of Ombudsman Services acknowledged that while:

'we don't have to create a report for Parliament, we have to create reports through Ofcom and Ofgem... there's a part of me that thinks... if

the relevant Committees, the BEIS Committee, the DCMS Committee want us to give evidence... I kind of feel maybe we should'.

He was less sure about non-statutory 'voluntary' bodies, but felt *'there still needs to be some kind of accountability somewhere'.*

The Ombudsman Association was more supportive, arguing that *'there could be a role for Parliament where there is a gap, where there isn't a regulator [to] call them along to give evidence'.*

As MoneySavingExpert pointed out, *'if there were only statutory ombudsmen – as we strongly believe there should be – these would all have some form of oversight from Parliament.'*

MoneySavingExpert has also argued that there should be a *'fit and proper'* approved-persons test for people in senior roles in ombudsmen, with BEIS approving appointments, an idea which the Ombudsman Association also supports.

In addition, MoneySavingExpert made the case for *'some form of "Office of Investigation" to investigate complaints or specific issues with ombudsmen'.*

There is certainly much scope for improving ombudsman accountability and for this to be directly to Parliament, via select committees, or indirectly via the appropriate regulatory body.

Best practice

A number of respondents singled out current ombudsman schemes as good models for future development of the ombudsman landscape.

The Ombudsman Association pointed to the Energy Ombudsman, which it praised for its close working relationship with the sector regulator, Ofgem, and other stakeholders. This was echoed by Ombudsman Services which praised its role in delivering *'various improvements and enhancements across the energy sector'.*

MoneySavingExpert had similar praise for the Financial Ombudsman. Martin Lewis conceded that, at least from a structural point of view, it provided the gold standard:

'The Financial Ombudsman Service reports well, has oversight from [the] Treasury Select Committee, is set up by statute, every firm must comply with it automatically, the FCA gets to regulate on top and it has a regulatory body that can be put systemic problems to, and interact with, and if you get a Financial Ombudsman ruling, companies pay. Or companies do what they're told to do in 99% of cases.'

Conclusion

There is clearly an appetite for reform. As many respondents were keen to point out, ombudsman schemes have developed in an ad-hoc, unplanned way leaving a system that lacks consistency and coherence.

The best solution would surely be root-and-branch reform, to ensure that there is a powerful and accessible statutory ombudsman in all sectors.

This wouldn't exactly be a clean sheet – it would most likely build upon existing ombudsman models – but it would require substantial legislative reform, affecting many Government departments and existing schemes. It would therefore require concerted political will, however it is not clear whether that support currently exists in Government or whether the issue is even 'on the radar' of most parliamentarians.

As a way forward, the matter should be referred to the Law Commission for consideration. The Law Commission's role is to ensure that statutory law is as fair, modern, simple and as cost-effective as possible, which could make it a perfect fit for ombudsman reform.

However, because this would take some time to come to fruition, even if ministers give the go-ahead, it is important for to recommend simpler changes which could be carried out more quickly. Some respondents referred to this as a 'sticking plaster' rather than a cure. This is certainly true, though such incremental reforms could have a profound effect upon the efficacy of the ombudsman landscape. They are listed under recommendations.

Recommendations

Longer term:

- The Government should refer wholesale reform of the ombudsman sector to the Law Commission, recommending one ombudsman per sector with compulsory membership.

Short and intermediate term:

- Ombudsman schemes that do not have mandatory membership and/or cannot enforce their decisions should be stripped of the right to use the word 'ombudsman' in their title;
- Complainants should only have to wait four weeks before passing their case to an ombudsman;
- All ombudsmen should be required to give evidence to Parliament, via the appropriate select committee;
- All ombudsman schemes should publish annual reports including anonymised examples of complaints;
- There should be commitment to research the viability of a 'single portal' for all consumer complaints;
- Ombudsman schemes should commit greater resources to their websites and communications, with the aim of improving signposting and keeping complainants better-informed;
- There should be a form of 'fit and proper' approved-persons test for people in senior roles in ombudsmen, with BEIS approving appointments;
- Ombudsmen should commit to co-operating with all stakeholders to put the needs of consumers first.