



Northern Ireland
Assembly

**COMMITTEE
FOR THE OFFICE OF THE
FIRST MINISTER AND DEPUTY
FIRST MINISTER**

**OFFICIAL REPORT
(Hansard)**

**Legislation to Reform the Office of the
Northern Ireland Ombudsman**

22 June 2011

NORTHERN IRELAND ASSEMBLY

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FOR THE OFFICE OF THE FIRST MINISTER AND
DEPUTY FIRST MINISTER**

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Northern Ireland Ombudsman

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Members present for all or part of the proceedings:

Mr Tom Elliott (Chairperson)
Mr Chris Lyttle (Deputy Chairperson)
Mr Trevor Clarke
Mr Colum Eastwood
Mr William Humphrey
Mr Francie Molloy
Mr George Robinson

The Committee Clerk:

I will return to the issues and go through the questions as they are grouped. The first group deals with practical arrangements and accountability.

Question 1 asked:

“Would the people of Northern Ireland be more effectively served in the future if a single Ombudsman’s office is established, with powers to investigate complaints about government departments and public bodies in Northern Ireland?”

That was just about the merging of the existing offices, and the Committee agreed to it in principle.

Question 2 asked what the office should be called. The Committee agreed in principle that it should be called the “Northern Ireland Public Services Ombudsman”.

Question 28 asked:

“What do you think about the proposed appointment process?”

Committee members agreed in principle that the appointment process would involve the Assembly and the Committee. Members agreed that the Committee would have specific roles, which will be assigned as those details are worked out in future, but that the process should be very much Assembly- and Committee-owned.

Question 29 was:

“Should the ombudsman be appointed for a single fixed term of seven years or what length of term should it be?”

Members agreed in principle that it should be seven years.

Question 30 asked:

“Should the ombudsman be able to employ staff directly to his Office and also to provide for secondment in his/her Human Resources Strategy?”

Members decided that it would be useful to talk to the ombudsman about how he sees that working. There may well be resource or other implications. Further detail will be required.

Question 31 asked:

“Should the current link with the judicial salary scale be maintained?”

Members agreed to seek further detail on that and look at other models before making any decision.

Question 32 asked:

“Should there be arrangements for the ombudsman to appear before a Committee of the Assembly to give an account in relation to his performance, resources and salary?”

Members agreed that that Committee should be the Committee for the Office of the First Minister and deputy First Minister.

The second group deals with acquisition of cases. Question 11 asked:

“Should the legislation ensure that complaints to the ombudsman would not need to be referred by a MLA but would allow for complainants, if they wish, to ask their MLA to refer a complaint on their behalf and to be involved?”

Members agreed in principle that the MLA route would still be available but that it would be opened up now so that complainants could move directly to contact the ombudsman.

Question 12 asked:

“Do you think that the person making the complaint should be able to choose to submit their complaints either orally or in writing and what means of submission should be available?”

Members were considering the detail on what methods should be used, and there is still some discussion to have on that, but members did agree that, whatever methods of getting a complaint to the ombudsman are used, there should be a caveat attached that the ombudsman must write back to set down what the complaint actually is, which would then be agreed with the complainant, just so that everyone had a clear idea of what was being complained about. It was agreed that that should be done in a timely way, probably within 10 working days.

Question 13 asked:

“Should a definition be written in the legislation to specify that electronic submissions by email and website form and text messages may be used to submit a complaint?”

Members again are still keen to look at detail on that and will discuss the issue with the ombudsman when he comes before the Committee next week.

Question 14 asked:

“Should the definition of a person’s aggrieved representative be amended to match that in the Scottish and Welsh legislation?”

Members agreed in principle that it should.

Question 15 asked:

“Should bodies within jurisdiction be able to refer a complaint to the ombudsman and if so under what circumstances?”

Again, members agreed in principle that they would discuss that with the ombudsman and seek further detail.

Question 16 asked:

“In Scotland the ombudsman legislation allows for a listed authority to refer a case to the ombudsman where there had been a public allegation that injustice had been caused by maladministration on the listed authority’s part to one or more individuals and that the listed authority had unsuccessfully sought to resolve the matter. In Scotland if the ombudsman was not satisfied that both of those conditions were met, the case would not be accepted. Should a similar provision be included in the new Northern Ireland legislation?”

Members agreed in principle that that would be at the discretion of the ombudsman.

The third group deals with reporting and sharing of information. Question 21 asked:

“Do you think the proposals on the arrangements for the making of and publicising of reports are sufficient?”

Members specified that they wished to see an annual report from the ombudsman made directly

to the Committee, and obviously laid before the Assembly; that they also saw special reports being made on a basis that is required by the ombudsman; and that those again should be presented to the Committee, with a briefing given to members. Moreover, the Committee wished to put into the legislation in principle that they would like to be able to call the ombudsman to the Committee to brief it whenever required or whenever members wanted that to happen.

Question 22 asked:

“Do you have any views on the proposals for the alternative arrangements in which there would be no (published) report as in the Welsh model?”

Members agreed in principle that that would not happen. Members did not want to pursue that model.

Question 23 asked:

“Should the ombudsman be able to make annual reports and other reports on the discharge of functions in such manner and in such frequency as he/she thinks fit?”

That question was withdrawn, and the issue effectively is dealt with in question 21.

Question 26 asked:

“Should the ombudsman make and publicise a special report to deal with the situation where the ombudsman is not satisfied with a body’s response to his recommendations on redress following a finding of maladministration that has caused injustice?”

Again, the Committee agreed to that in principle.

Question 27 asked:

“Should the mechanism for allowing a complainant to seek compensation in the County Court where a body had failed to implement a recommendation of the ombudsman be (a) removed completely or (b) retained only in relation to local government bodies?”

Members agreed to defer that question, subject to advice from a variety of sources, and are open to retaining it if the advice suggests that that is the best mode of practice.

The final group deals with powers. Question 3 asked:

“Do you think that the ombudsman should not only have the power to resolve complaints but should also seek to improve public administration as part of his/her work?”

Members want to attach a caveat to that and will provide detail on how the caveat will work, whether there will be specific areas or whether it will be on top of caseload. Members are looking to obtain more detail on that before a decision is made.

Question 4 asked:

“Should the ombudsman have a power to conduct an investigation or systemic review on his/her own initiative given the overlap with other bodies?”

Members agreed in principle, but again there would be a caveat applied to the details of how that would work in practice.

Question 5 asked:

“Do you want the ombudsman to have the power to provide guidance on good administrative practice that public bodies would be required/expected to take into account?”

Again, members considered what was said in ombudsman’s reports should go a long way to indicating what should be best practice, but, again, they have not come to a final consideration on that and will be looking for more detail.

Question 6 asked:

“Do you think that the ombudsman should play a ‘design authority’ role in public sector complaints processes?”

The Committee agreed that that should no longer be under consideration and should be out of the consultation’s set of questions.

Question 7 asked:

“Should the broad principle of ‘following the public pound’ be the basis on which bodies will be included within the ombudsman’s jurisdiction?”

Again, members were seeking further detail on that before further consideration.

That also applies to question 8, which asked:

“Is it necessary to list the bodies within the ombudsman’s jurisdiction on the face of the legislation or could the list be made elsewhere? Should the Office of the First Minister and deputy First Minister have responsibility of maintaining an up to date list? If it is necessary to list the bodies within the ombudsman’s jurisdiction in the legislation should the bodies listed at paragraph 4.6 be added to the list?”

Further detail is required.

Question 9 asked:

“Do you think that public sector employment issues should be excluded from the ombudsman’s jurisdiction?”

Members agreed in principle that those issues should be excluded.

Question 17 asked:

“Should the existing powers in relation to the conduct of an investigation by an Ombudsman be continued? Should

additional power enabling the ombudsman to require the provision of any facility from a person who may be able to provide information or produce a document be included in the legislation?”

Members agreed in principle but very much stressed that the detail on that absolutely needs to worked out.

Question 18 asked:

“Should a person about whom an adverse comment might be made in an Ombudsman’s report have the opportunity to make representations on the proposed comments and if such an adverse comment remains in the Report, that the person’s representations are fairly included?”

Members have agreed to consider the Welsh model and look at any further detail.

Question 19 asked:

“Do you want the ombudsman to have the power to take any action needed to resolve a complaint in addition to, or instead of conducting an investigation?”

In principle, members saw that as a useful thing for the ombudsman to have and agreed with it, subject to further detail.

Question 20 asked:

“Do you think that the ombudsman should be authorised to co-operate with other Ombudsmen in the UK and Ireland in matters which overlap their jurisdictions?”

Members agreed to that in principle and will look at legislation to consider the matter rather than at memoranda of understanding.

Question 24 asked:

”Should the ombudsman be able to share information with other Ombudsman in the UK and ROI and also that the equivalent Welsh provisions relating to cases involving health or safety be adopted?”

Again, in principle, that seems to be OK, but further detail is required, and it is also subject to other law, such as data protection legislation.

Question 25 asked:

“Should the ombudsman have a power to share information for health and safety and that it should be broadened as indicated at 7.8 above?”

Members agreed to that in principle, 7.8 being:

“The ombudsman would seek to co-operate with other public sector Ombudsman in the UK and ROI and with the C&AG in relation to specific investigations or indeed systemic investigations. If these powers were granted in the proposed legislation then it would be necessary to include an information sharing power for the ombudsman similar to that enjoyed with the Information Commissioner.”

That is those so far, Chairperson.

Mr T Clarke:

For recording purposes, I believe that we left out question 10.

The Committee Clerk:

Did we? Sorry. Question 10 asked:

“Do you believe that professional judgement in social care should be included in the ombudsman’s jurisdiction?”

Members agreed that it should be excluded. Thanks for that, Mr Clarke; I appreciate it.

Chairperson, as I said at the outset, that is all in principle and is subject to consideration again by the Committee.

The Chairperson:

OK, members? Thank you very much for your patience.