

## **Cabinet Office Consultation: a Public Services Ombudsman**

### **The Housing Ombudsman's Response**

#### **Introduction**

At the Housing Ombudsman we resolve disputes involving tenants and leaseholders of social landlords and our voluntary members. The Housing Ombudsman Service encourages the local resolution of complaints by landlords and tenants. We consider complaints using our dispute resolution principles, and encourage landlords and tenants to use these principles so they can resolve complaints together at the earliest possible opportunity. As a Service we improve by learning from outcomes, and we help individuals and organisations to do so by learning from the best practice we see across the rented housing sector.

In total we have just over 2,500 landlords and around 5 million properties in the Housing Ombudsman's jurisdiction, which accounts for in the region of 12.5 million tenants, leaseholders and other occupiers. While housing associations make up over 83% of member organisations the stock/unit number split is around 61% with 38% belonging to local authorities.

#### **Executive Summary**

THO does not think that there is a strong imperative for THO to be included in the new PSO. There are significant potential risks to our current service which is working well and the majority of our stakeholders are against the proposals.

THO should only join if the new organisation :

- is not entirely "public sector" in nature (e.g. its name reflects the wider range of services covered, avoiding any impact on housing association's private sector status or voluntary members' ability to join)
- retained a separate Housing function with expert sector facing staff led by a statutory Housing Ombudsman to maintain engagement and continuity of service and to provide confidence to the sector
- preserved our existing funding model or replaced it with something as positive and ensured that the funding from landlords does not subsidise other complaints
- enabled THO to continue to develop our innovative approach to dispute resolution and sector development.

**Summary of responses to the Consultation Questions**

<b><u>QUESTION</u></b>	<b><u>RESPONSE</u></b>
<b><u>1.</u></b> Do you agree that these principles should underpin reform of the Ombudsman Service? Are these the right founding principles for any new organisation?	THO suggests that any reforms should be underpinned by the principles of: <ul style="list-style-type: none"> <li>• accessibility and effectiveness for citizens/ <b>customers,</b></li> <li>• accountability , to parliament and <b>to users of the scheme,</b></li> <li>• value for money.</li> </ul>
<b><u>2a)</u></b> Would you welcome the creation of a Single Public Services Ombudsman	It depends on its structure and remit. We think a combined Ombudsman service with sector specific Ombudsman would be a better model. Other sectors e.g. Health may take a similar view.
<b><u>2b)</u></b> Are the proposed services the right services to be included	THO should only be included if the new organisation includes a statutory Housing Ombudsman and sector facing staff, if the new organisation is not entirely public in nature and if our funding model can be accommodated satisfactorily.
<b><u>3</u></b> If so do you agree that these are the right founding principles	Any model should be tested against the principles in 1.
<b><u>4</u></b> Should a single public service ombudsman retain specific sector facing services and staff e.g. Health or Housing	Yes to retain sector expertise, engagement , continuity and quality of service.
<b><u>5</u></b> Should each sector within the organisation be led by a senior Ombudsman (or someone of equivalent status) e.g. a Housing, Local Government or Health Ombudsman.	Yes, including a statutory Housing Ombudsman to retain sector accountability, engagement, expertise and visibility, continuity and quality of service.
<b><u>6</u></b> Is Public Services Ombudsman the appropriate title for the new	No - 83% of THO's members are private organisations involved in a very wide range of

	organisation?	housing related activities. For example, leaseholders and private tenants paying market rents are unlikely to see themselves as in receipt of public services.
<b><u>7</u></b>	Do you agree that there should be the widest route of entry to a Public Service Ombudsman	Yes. This is already an integral part of THO's business model.
<b><u>8</u></b>	In what ways could it be made easier for citizens to access resolution and redress	<p>All Ombudsman services should design their services to focus on the whole customer journey from the point that the complaint first arises (rather than when a complaint reaches the Ombudsman) through to the point of redress.</p> <p>Throughout the process artificial barriers to access, such as requirements that complaints should be put in writing should be avoided and experienced staff should engage with complainants and providers on the telephone or in person wherever possible, using their expertise to facilitate early or local resolution of complaints in real time wherever possible.</p>
<b><u>9</u></b>	Would you support a wider role for a PSO as a champion of effective complaints handling across the public sector	Yes, supporting landlords to improve their approach to dispute resolution is part and parcel of our current role. I would not though support the introduction of a standardised approach to complaint handling.
<b><u>10</u></b>	What range of investigative tools do you think the PSO might need?	In principle own initiative investigation could be a useful tool but any new powers need to be aligned with those of the relevant regulators.

## Our Response

### Do you think these are the right principles to underpin reform? Should THO join a new Single “Public Services” Ombudsman Scheme? ( Questions 1 to 3)

We agree that these are the right principles , save that the language of “Citizens” would for us be replaced by customer. We would add one further principle, the need for any Ombudsman service to retain the confidence of its users, in our case landlords and tenants.

Since 2010 THO have been modelling a new approach to complaint handling having recognised that the traditional Ombudsman approach to dealing with complaints was not driving sector improvement or leading to a reduction in complaints to the service. Year on year increases in volumes required a step change approach if value for money and sustainable performance improvement in complaint handling was to be achieved across the housing sector and by the Housing Ombudsman Service.

Since then we have been engaged in a root and branch change programme, working with landlords and tenants to redesign our service to support the sector and achieve better outcomes for tenants and landlords through more effective dispute resolution. Central to this is a shift to supporting landlord and tenants to resolve disputes effectively themselves wherever possible.

This whole systems approach is in line with the recommended approaches to complaints handling in the Collcutt & Hourihan review (2000), the PASC Committee report “More Complaints please and Time for a People’s Ombudsman Service” (2013-14), the Gordon Review (2014), the Francis report and the PASC Committee report into Clinical Incidents in the NHS (2015).

Other Ombudsman schemes are now also applying these local resolution techniques but our change programme is further advanced and is showing significant dividends. A key question for this review is the extent to which it would be affected by any move to a PSO.

In responding to this issue we have considered the three main drivers for the proposed reform, accessibility and effectiveness, accountability and value for money. In addition we considered a fourth criteria : the need to retain the confidence of complainants.

**Accessibility and effectiveness** : our discussions with stakeholders established very high levels of visibility and support for the service. As a condition of membership of our scheme all landlords must inform tenants/leaseholders of their right to complain to us. Tenants were keen to stress that the roadmap for complaints in the housing sector was clear and that we make sure they receive support to navigate the process if necessary<sup>1</sup>. Some

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<sup>1</sup> The survey “What People think of Complaining” commissioned by the PHSO published on 13 June 2015 showed that 47-61% of people not feel confident about who to complain to about Health or social care services. Housing services and the THO were not included in this service.

stakeholders though could see the value of a single point of contact for housing complaints. Strong support was given for our approach to local resolution and work with landlords to improve their services. Stakeholders expressed strong preferences for retaining a specialist Housing Ombudsman service which would continue to build on this positive work through close engagement with the sector. Concerns were expressed about the potential loss of the THO “brand”. Save for the potential for a single point of contact I do not see accessibility or effectiveness as key drivers for the inclusion of THO in the proposed reform.

**Accountability** : The PSO approach would have clear accountability to Parliament but could impact on our relationship with customers. Although there are no formal governance arrangements reflecting this both landlords and tenants feel a strong sense of ownership in our service and they are empowered by our funding model to challenge me to ensure that THO’s service is as good and efficient as it possibly can be. I welcome this three way accountability. In discussing the consultation many stakeholders stressed the value of the Housing Ombudsman being identifiable and therefore in some measure accountable to landlords and tenants (as well as to Parliament) for the quality of the housing service.

**Value for money** : THO is not funded from general taxation. We are funded by landlords and tenants through a subscription model, on a per unit basis. This model enables sector funding while preserving our impartiality. This complies with the ADR Directive<sup>2</sup> which applies to us as a Consumer Ombudsman . The funding implications of a move to the PSO need to be fully costed and considered to ensure that they are equally cost effective and will not undermine either landlord or tenants’ relationships with THO.

In recent years THO has become increasingly efficient. Since 1 April 2012 casework volumes have increased each year by between 27%-30% but, due to our revised complaint resolution model, our productivity has increased and our subscription costs have reduced from £1.47 per unit in 2012-13 to £0.96 per unit this year. The scope for further efficiencies from this reform is limited. A single point of contact may reduce some double handling of complaints and there may be some marginal efficiencies to be gained from the new organisation e.g. from accommodation and shared corporate services (although our current service teams are already lean).

A new organisation could give the service greater resilience<sup>3</sup> and the opportunity to learn from each other across organisations, particularly in relation to complaints handling and in driving behaviour change across organisations.

**Customer confidence** : Many of our customers contacted us to tell us that they were opposed to this change. People have some very real concerns about the potential impact

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<sup>2</sup> ADR directive: 2013/11/EU Recital 46

<sup>3</sup> Depending on the business model a larger organisation should be more able to accommodate peaks and troughs in demand as staff can be moved between teams more easily in a larger organisation

of the change on our service. In addition Housing Association, Co-operatives and voluntary members (private landlords) expressed some fundamental concerns about THO's inclusion in a "Public Services" Ombudsman. Private landlords are clearly not providing "public services" and the term would also not cover many of our members activities.

Any reform would need to be balanced against the risks to the core business inherent in such a large scale change programme. As the smallest of the three organisations this appears to be a bigger risk for THO than for the other organisations involved. The key to managing this would be timing and the proper management of the transition. The retention of the Housing Ombudsman and team as a separate function within the new organisation would be the most significant potential mitigation.

**Should PSO retain specific sector facing services and staff e.g. Health or Housing Should each sector be led by a senior Ombudsman e.g. a Health, Local Government or Health Ombudsman (Q4,5, 6 )**

The possibility of a separate housing function headed by a Housing Ombudsman within a new organisation was mooted, either as a preferred option or as an alternative to their preference of retaining our current organisation by a number of people.

Stakeholders identified a very strong preference for retaining a statutory Housing Ombudsman who could continue to build on the positive work through close engagement with the sector. Clear leadership, sector expertise and strong relationships with landlords, tenant organisations and other organisations in the sector is recognised as central to the success of our service. Many stakeholders stressed the value of the Housing Ombudsman being identifiable and therefore in some measure accountable to landlords and tenants ( as well as to Parliament ) for the quality of the housing service.

We think a public appointment or a role otherwise protected by statute would be most likely to have the status required to command influence within the sector. We do not agree with Robert Gordon that having Senior Ombudsmen for each sector would detract from the status of any Chief Ombudsman. Similar arrangements work successfully elsewhere ( e,g, Malta) .

If a new organisation is established a combined statutory Ombudsman Service with a Chief Ombudsman and statutory Senior Ombudsmen leading for each sector, but not restricted in terms of their jurisdictional powers would provide the best option for complainants. There could be a single point of access for complainants but specialist sector facing teams to deal with complaints and support sector engagement to help improve service delivery. These teams could work collaboratively across the organisation when necessary on multi-faceted complaints.

This would enable a whole systems approach to complaints management within and across sectors as recommended by the PASC report into Investigating Clinical Incidents in the NHS

(2015). The new organisation would build on the strengths of the existing organisations and help ensure continuity during transition, facilitating existing significant change programmes.

The number and roles of each statutory Ombudsman should be determined by the legislation or a scheme approved by parliament. This provides accountability to Parliament and greater transparency for complainants and providers. The terms of appointment of each sectoral Ombudsman could require them to resolve complaints in accordance with the scheme and the scheme could make provision for any disputes regarding jurisdiction etc.

The sectoral Ombudsmen could be accountable to the Chief Ombudsman or a Board in accordance with the overarching principles of the legislation or a scheme approved by parliament (or a Minister). I would also support giving landlords and tenants a direct role in the governance of the organisation. Arrangements should also be put in place to ensure that the funding from our membership subscriptions go to services linked to the resolution of housing complaints and do not subsidise other aspects of the business.

The public appointments process for Ombudsman roles including scrutiny by a parliamentary committee brings rigour and transparency to the process and provides reassurance to the sector that the person chosen has the necessary knowledge, expertise and ability.

We would also suggest that the name of the Public Services Ombudsman should be changed. It does not reflect many of the services provided by THO members and could impact on their status as private sector bodies. It also appears to exclude our voluntary members, it could also cause confusion with the public service Ombudsmen in Scotland, Wales and Northern Ireland.

#### **Do you agree that there should be the widest route of entry to a Public Service Ombudsman Q7**

There should be the widest possible routes of entry to the new organisation, including by email, telephone and online. This mirrors our current practice.

A 'no wrong door' approach should be adopted to assist citizens to navigate the complaint journey. This approach also ensures savings for bodies in jurisdiction by providing a single clear route for redress.

In seeking to provide an accessible and effective service we take an end to end process approach, the customer journey starts at the point that a complaint first arises. We support access to landlord's complaints processes and signpost to other organisations as necessary. We facilitate the complainant's journey at any stage of the complaint process. Here our engagement with other Ombudsmen is useful but, more significant is our engagement with landlords and other organisations in the sector. e.g., LEASE (the Leasehold Advisory Service) and TPAS (the Tenant Participatory Advisory Service.)

### **How could it be made easier for citizens to access resolution and redress Q8**

Complainants should have direct access to an Ombudsman if they wish. The “democratic filter” should not be mandatory but I note the positive action taken in some areas to support local resolution of complaints by designated persons and tenant panels.

There are also things we could do as Ombudsmen in collaboration now to improve access. Providing a single point of contact would not necessarily need legislation; it could be jointly procured by the different services. THO currently procure our initial enquiry service from a private company. We provide guidance and training to them and they work closely with our dispute resolution advisers to provide a seamless service to complainants. A number of organisations have set up shared access portals for contacts. The DWP Tell Us Once Service is a very positive example. This single point of contact need not be limited to public sector ombudsmen.

It is also important is that Ombudsmen take a whole systems approach to complaints handling from the point that the complaint arises with the provider, through the complainants journey, to resolution and redress and then on to encourage providers to learn lessons from complaints. We need to support complainants through the potential complexity of complaints issues within each sector and as well as across sectors. This support and intervention is a key part of THO’s local resolution approach. For example, THO have built a detailed knowledge of individual landlord’s complaints procedures and strong relationships with landlord’s complaints managers so that they can guide tenants through the complaints process from end to end. As a first step all landlords are required to tell tenants how they can contact us in order to be members of our scheme. This requirement could be imposed on all providers covered by an Ombudsman scheme.

### **Would you support a wider role for a PSO as a champion of effective complaints handling across the public sector Q9**

We see being a champion of effective complaint handling as integral to our role. We have a wide programme of work with landlords to improve their approach to dispute resolution and to drive improvements in service delivery and ensure that tenants have access to effective resolution and redress. (See details in Appendix B) This also reduces dependency on our service. Our sector specific knowledge, expertise and engagement are critical to our success.

However we would caution against introducing standardised complaints procedures for all sectors. The approach required in a large public authority will differ from that in a small housing co-operative though the basic principles and behaviours underpinning good dispute resolution will remain the same. The focus on complaints processes also tends to miss the wider organisational conditions, such as structure and culture that are necessary to support effective dispute resolution in bodies in jurisdiction.

**What range of investigative tools do you think the PSO might need? Q10**

The Housing Ombudsman has wide ranging powers of investigation that should be replicated in any PSO.

I agree that all ombudsmen should have the power to begin investigations on their own initiative into matters within their jurisdiction. It can be an important tool for the proposed new ombudsman to have, as shown by its use by Ombudsmen elsewhere in Europe. However the boundaries between the Ombudsman's role and that of the regulator in each sector need to be properly considered. THO works closely with the social housing regulator; for example where we are considering a potential case of service failure or systemic failure in light of the regulator's role in relation to serious detriment, or by informing the regulator when we make findings of severe maladministration or systemic failings. I would want to ensure that any new "own initiative powers" were considered in light of the regulator's role.

The Localism Act 2011 (s. 180 7D) did introduce a 'sleeping' provision for enforcement of the Housing Ombudsman's decisions by the courts. Even without enactment of that provision The Housing Ombudsman has always had very high rates of compliance with orders.

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For more information or any questions around our response, please send us an email to [info@housing-ombudsman.org.uk](mailto:info@housing-ombudsman.org.uk) quoting '*PSO Consultation*' in the subject line.