



Northern Ireland  
Assembly

Audit Committee

# OFFICIAL REPORT (Hansard)

Public Services Ombudsman Act  
(Northern Ireland) 2016 (Part 3):  
Northern Ireland Public  
Services Ombudsman

10 February 2021

# NORTHERN IRELAND ASSEMBLY

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Public Services Ombudsman Act (Northern Ireland) 2016 (Part 3):  
Northern Ireland Public Services Ombudsman

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**Members present for all or part of the proceedings:**

Mr Daniel McCrossan (Chairperson)  
Ms Joanne Bunting (Deputy Chairperson)  
Mr Jim Allister  
Mr Alan Chambers  
Ms Emma Rogan

**Witnesses:**

Ms Margaret Kelly	Northern Ireland Public Services Ombudsman
Mr Sean Martin	Office of the Northern Ireland Public Services Ombudsman
Mr John McGinnity	Office of the Northern Ireland Public Services Ombudsman

**The Chairperson (Mr McCrossan):** We welcome Ms Margaret Kelly, ombudsman, Mr Sean Martin, acting deputy ombudsman and Mr John McGinnity, director of finance and corporate services. This session and the next session are being recorded by Hansard, and the transcripts will be published on the Committee web page.

I invite the ombudsman to brief the Committee. Margaret, you are welcome. Thanks again for joining us. For the first time, the meeting is being held entirely remotely. Hopefully, it will run smoothly.

**Ms Margaret Kelly (Northern Ireland Public Services Ombudsman):** Thank you very much, Chairman. My apologies: I had some difficulty connecting.

Thank you for the opportunity to talk to the Committee about the complaints standards authority and, in the next session, the business plan. We have provided you with two papers, but I will just say a few words about the complaints standards authority. The complaints standards authority provisions are in sections 34 to 42 of Part 3 of our Public Services Ombudsman Act (Northern Ireland) 2016. They were tabled by the then Committee for the Office of the First Minister and deputy First Minister as the Bill was going through, with a view to future commencement and as part of that scrutiny. The vision for the complaints standards authority was very much about developing a value and complaints culture across public services: a focus on learning and improvement, which, as the Committee knows, is a personal focus for me; all public bodies to have standardised and streamlined complaints procedures; a focus on early resolution; information on complaints activity across the public sector; and an opportunity for benchmarking.

In order to prepare for the eventuality and without prejudice to the decision of the Assembly, we have undertaken a substantial amount of work. We have done significant research, and we have included a little bit of information about that. We hope to publish that research in April or May. It shows significant

differences across public bodies in the number of stages of complaints and in the approaches to them. It found that public bodies and complainants are often unclear about formal and informal aspects of complaints. The research also found that, for complainants, complaining often has a significant impact on them and their families. As well as complaining being complex and confusing, there is often a lack of support and guidance. When we talked to complaint handlers and managers, they said that they felt that their role was crucial but, because it was complex and challenging, they required more support and training.

There is a comparative function in many of the other jurisdictions. In Scotland and Wales, the function has been implemented on a statutory basis. Scotland, in particular, having had such an authority for quite a long time, has quite a lot of learning. The current Scottish Public Services Ombudsman, Rosemary Agnew, said that she would be happy to speak to any of the Committees about her experience of a complaints standards authority in her jurisdiction.

Even the ombudsman offices that do not have statutory powers have been moving to this approach on a voluntary basis, with many introducing a framework and standards for complaint handling. That, I think, is because they all see it as a mechanism to resolve complaints and provide clarity for complainants. We have reviewed and taken account of some of the most significant recent reports in which complaint handling has been an issue: for example, reports such as 'Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home', 'A Review of Leadership and Governance at Muckamore Abbey Hospital' and the O'Hara report. We have established quite a level of engagement with public bodies, and we have established some informal complaint networks to support complaint handlers and public bodies in their role.

We have done some drafting of a statement of principles and a model complaints-handling procedure, both of which would be required if this is commenced. They will be in a shape such that we will be able to go out to consultation on them.

Our overall approach to this is that we want to take a supportive approach and one that supports best practice. We are preparing a project plan to show the different stages of consultation, co-development and training that would be necessary. We have developed criteria that would allow us to look at the different public body sectors and begin to make some decisions about whom to engage with first. It would not be possible to engage with all public bodies. On the basis of our work, it would be a matter of taking one or two sectors to begin with, followed by a phased roll-out across the sectors. We would be looking at a highly consultative process and one of co-development and learning. We have put a lot of that work in place in preparation. I am happy to engage with the Committee on questions and details about that work.

**The Chairperson (Mr McCrossan):** Thank you very much, Margaret. I appreciate your presentation. As the implementation of a complaints standards authority function will be phased, what is likely to happen in 2021-22, and what level of resource is attached to each element?

**Ms Kelly:** I will say a little about 2021-22 and ask John whether he is willing to come in on the resources.

As it stands, I am due to have a meeting with the Assembly Commission. We have written, with the support of the Committee, to the Assembly Commission to ask for commencement. I have that meeting with the Assembly Commission next week, and I also have a meeting planned later this month with the Committee for the Executive Office to look at the scrutiny role. Once that happens, and if there is a decision to commence, from my understanding of some of the processes — I think that the Audit Committee has also been given a role in taking a more detailed look at it — commencement could happen by May or June, which would allow us to begin to use the resources. As things stand, until it is commenced, we cannot use those dedicated resources for a CSA. Once commencement happens, we have six months to work on and consult on a statement of principles and a model complaints-handling scheme. The statement of principles then needs to go to the Floor of the Assembly for support by resolution. John, do you want to say a little about where we are on resources?

**Mr John McGinnity (Office of the Northern Ireland Public Services Ombudsman):** Sure, Margaret. Can I be heard?

**The Chairperson (Mr McCrossan):** Yes, John.

**Mr McGinnity:** Thank you. I was not certain. On resourcing, as part our budget proposals for 2021-22, we built in, for planning purposes, provision for a team to be in operation from the start of the financial year. The total amount of funding is just over £200,000. That comprises a staffing component of around £160,000 and around £50,000 for non-staff costs associated with training materials and other resources to get the function off the ground. Those planning assumptions assumed commencement from as early as April. In the event that we are not in a position to commence the function fully by the start of April, we will avail ourselves of the opportunities through in-year monitoring rounds, the first of which is in June, to adjust our requirement as necessary. As is stands, we have the resources to be in a position to commence from 1 April, but, in the event that that does not prove to be possible, we will adjust our requirements in-year.

**The Chairperson (Mr McCrossan):** Thank you, John.

**Ms Bunting:** My questions about resources and what has been scheduled in the time frame have been covered in the briefing. Those were the questions that I had. With regard to the strategic plan, will you clarify to whom you are accountable for your risk?

**Ms Kelly:** I will explain that, and then John can come in, if there is anything that he needs to add. Obviously, as an officer of the Assembly, I am accountable via the Audit Committee and accountable to the Assembly. I also have an independently appointed audit and risk committee. The committee has three members, two of whom are about to go, so we have just had a recruitment exercise. The committee meets four times a year. We have a full risk register with the committee, which reviews that on each occasion. I do not know whether the register is publicly available. It is certainly available to the audit and risk committee, and it is reviewed. John, is there anything else on that?

**Mr McGinnity:** I can add a little to that, Margaret. We have a risk register in place that is drawn from the fundamental risks, as we see them, to the delivery, at any point, of our key strategic objectives. In the next session, we will discuss our business plan and strategic objectives. There are five strategic objectives, and, at any given time, we maintain a detailed account of the risks to the achievement of each of those, the measures that we have in place to manage the risks and any further measures that we should consider. You asked about accountability. As Margaret explained, we present and are interrogated on our risk register quarterly at the audit and risk committee. We also refer in some detail in our annual report and accounts to the maintenance of our risk register, and, in the annual report and accounts, there is an invitation for the risk register to be shared with anybody, on request. We keep in place a regular review process of our key risks.

**Ms Bunting:** Thank you, Chairman. Apologies for jumping ahead, but we can come back to it when the time comes.

**Ms Rogan:** I have a couple of questions. Your strategic plan talks about better learning from mistakes etc. Will you give some details of how the strategy aims to achieve better learning? Can you hear me OK?

**Ms Kelly:** Apologies, Emma, I should have been on mute. There are two elements to that. An element of the complaints standards authority's work will allow for that improvement in learning. That is part of its focus because, at the moment, it is not always clear what is a complaint and what is not, and how public bodies use their complaints system is unclear. Sometimes, people have to go through one stage, and, sometimes, they have to go through two, three or more stages before, if still unhappy, they can come through to the ombudsman. Trying to benchmark or compare the number of complaints and their outcomes across public bodies becomes very difficult, which makes it difficult to build a culture of improvement in learning. We hope that some of the work that is undertaken in the complaints standards authority will assist that and enable public representatives to look across the public bodies and see the number of complaints there have been, how they were dealt with and the outcomes. When I spoke to Scotland's ombudsman, Rosemary Agnew, she told me that those things are beginning to change the culture and build more of a focus on improvement in learning.

The other part of that work probably comes under the business plan priorities. The Committee supported the appointment of two staff to support some of that improvement in learning. They will look outside the framework of the complaints standards authority at the number of complaints that we get, the number of complaints that various public bodies get and at the themes in those complaints. Recently, we took a thematic approach to three reports on continuing healthcare, which is when an adult in social care has a primary healthcare need, as opposed to a social care need, and should be able to access funding for their care place. We have had at least seven people, with a few more cases

coming in, who have not been able to access that and for whom the process was unclear. Recently, therefore, we made it known that, across three trusts, we had three complaints from people who thought that they were entitled to have their care paid for under health needs. There was no clear process in place for assessing that. We have been awaiting the outcome of a Department of Health consultation since 2017 to put a new process for that in place. It is clear to us that it is difficult for families. We have done that within our current resource. I hope that, once we have new learning and development staff in place, they will be able to pull together more of those thematic reports and share them with the public and elected representatives, and that we will be able to share more of the learning from that with the Department, for example, and say that we can see that this is a growing problem and that work needs to be done. One of my plans for this year is to appoint those staff, as set out in the budget. We are working on job descriptions and getting ready to do that. I also want to devise a plan that can look at how we can pull together more thematic information and see the trends in complaints. For me, a real bit of that is about valuing complaints, but it is also about starting to spot problems before they become enormous and lead to things such as the 'Home Truths' report. That is how I see the plan being put in place over the coming year. Once we have that plan in place, I will be happy to come and talk about it a bit more with the Committee.

**Ms Rogan:** Part of your paper is on the operation of own-initiatives. Do you want to see policy changes in the areas that those will highlight? Do you intend to expand the operation of own-initiatives? Do you want to see changes coming into place after that?

**Ms Kelly:** Our current own-initiative report is on the personal independence payment (PIP). We are looking at the response to and comments on that from the Department for Communities and Capital. I hope that the report will be published at the end of March. Those own-initiatives entail an in-depth level of investigation that highlight a need for change. We chose to focus that on further evidence. If you look at the second independent review of PIP, you see that further evidence came up showing that there was clearly an issue and that change was needed. The opportunity with own-initiative is that we can look at something in a bit more depth or investigate where we can see an issue but have not yet had a complaint. We want to pull out the lessons from that and share them with this and other Assembly Committees so that we can say that those are the things that need to change. If we find maladministration or systemic maladministration, which, for us, means that the same mistakes are being repeated, that is an indicator that something needs to change.

**The Chairperson (Mr McCrossan):** Members, I have nothing against asking questions, but I remind you that this session is supposed to be focused on determining whether the resource plans are appropriate. Any questions beyond that are for the next session. Margaret and her colleagues will be with us for quite a while, so I ask members to leave the more general questions until the next part of the session and focus specifically on the resource plans.

Do you have any questions, Alan?

**Mr Chambers:** I do not have any questions, Chairperson.

**Mr Allister:** I want to ask about the activation of Part 3, which is a very good idea. What changes do you expect my constituents who make complaints to public bodies to see as a consequence of that? My reason for asking is this: in so many cases where people make complaints, be it to their council or whatever, they have a three-stage process. It all reads impressively, but the practicality of it is that you do not get satisfaction at stage 1. Someone reviews it, allegedly, at stage 2, but you get the same answer. It goes to stage 3, and you still get the same answer. Some seem to have the unbending mindset that their purpose is to rubber-stamp and never to concede that they have done anything wrong. Will that change?

**Ms Kelly:** I will answer that, Jim, and then ask Sean to come in because he has done quite a lot of the work. I like to think that that would change. We want a streamlined process. Complainants tell us that they feel that they go through three or four stages and get the same response. So, first, we need a streamlined process, and, secondly, we need to be very clear about the different elements of those stages and why they are different. We will aim for early resolution, which is in everybody's interest, but, if a complaint goes beyond the first stage, complainants need to know that the second stage is not just a repetition. We will do some work on a model complaints handling scheme, which I hope will support that. Obviously, after that, there is the opportunity for complainants to come through to the ombudsman.

Part of complaints standards is trying to get as many complaints appropriately resolved as early as possible. That will not happen overnight. From speaking to Rosemary Agnew, the Scottish Public Services Ombudsman, I know that it has taken five years to begin to shift in Scotland. It is not an overnight response, but we are working on the detail. We will consult on the statement of principles and the model scheme, so there will be an opportunity for people to feed in and use their experience and that of their constituents. Sean, would you like to add anything to that?

**Mr Sean Martin (Office of the Northern Ireland Public Services Ombudsman):** Yes, certainly. Apologies to the Committee that my camera is facing backwards and will not turn around for me. The settings will not let me turn it around.

Our current thinking is, as Margaret outlined, that there will be a two-stage process. The first stage focuses primarily on local resolution: is there a way to resolve the issues that the person has raised? Then, there is a single investigation stage: a detailed, focused investigation of the issues. In that way, people are not put through a number of stages throughout which the answer to their complaint, in essence, does not really change. We do not think that that is a particularly good use of resources, and it takes a lot of time and energy on the complainant's part to pursue their complaint. That is not beneficial. We are looking for a way for the organisation to try to resolve the complaint, and, if it cannot, it needs to investigate it thoroughly. At the end of that process, there is signposting to the ombudsman.

We see training as a really important part of bringing about that change. Training provides people with the skills to investigate properly complaints that an organisation has not been possible to resolve. As we roll out the model complaints-handling procedure, we will also roll out substantial training with each of the sectors to support that. It is about changing the culture to one where complaints are valued as an insight into the way that people perceive and receive services so that people value that and can make changes on foot of it. For us, it is a project that will take some time. There is the introduction of the model complaints-handling procedures and the training that goes with that. Then, there is the cultural change in organisations to value complaints, to report openly on complaints, to learn from complaints and to build that learning back in to the organisation for improvement. That is how we see the process improving: reducing the number of stages, having clear timescales for those and, if the organisation is unable to deal with a complaint, signposting to the ombudsman.

**Mr Allister:** It can only get better, so I hope that it works out.

**The Chairperson (Mr McCrossan):** Thanks very much, Margaret and officials, for that first session.