



Northern Ireland
Assembly

Audit Committee

OFFICIAL REPORT (Hansard)

Governance and Accountability Arrangements for the
Northern Ireland Audit Office and the
Northern Ireland Public Services Ombudsman:
Mr Peter Tyndall, International Ombudsman Institute

14 April 2021

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Members present for all or part of the proceedings:

Mr Daniel McCrossan (Chairperson)

Mr Jim Allister

Mr Alan Chambers

Witnesses:

Mr Peter Tyndall

International Ombudsman Institute

The Chairperson (Mr McCrossan): I welcome to the Committee Mr Tyndall, president of the International Ombudsman Institute (IOI). The session is being reported by Hansard, and the transcript will be published on the Committee's web page. You are very welcome, and we thank you for your time. I invite you to make brief opening remarks.

Mr Peter Tyndall (International Ombudsman Institute): Thank you very much, Chair. I am pleased to have the opportunity to speak with the Committee today. I am only sorry that I cannot be with you in person.

The International Ombudsman Institute is the only global organisation for ombudsman offices. We have more than 200 members in more than 100 countries worldwide. The ombudsman model, as you know, originated in Sweden some 200 years ago and has since spread across the globe.

I am very familiar with the legislation in Northern Ireland. I was in a position to offer advice to the relevant Assembly Committee at the point at which the legislation was drafted. That legislation is highly regarded internationally and is often cited as a model of best practice. There are certain key features to ombudsman legislation issues, such as independence, powers and breadth of jurisdiction, and the legislation here is exemplary in almost all those instances.

The governance of the office of the Northern Ireland Public Services Ombudsman (NIPSO) is typical of that for the 200 or so members of the IOI, all of whom are public services ombudsmen in the same way as the NIPSO is as they work in disparate jurisdictions and legal systems across the globe. The normal governance arrangements for an ombudsman's office are for the ombudsman to be accountable to the parliamentary body. In your case, that is the Northern Ireland Assembly, and that arrangement is allowed for. Since the legislation was developed, a set of standards for ombudsman offices has been developed, and that was most recently adopted at United Nations (UN) level in a motion that was co-sponsored by the UK. Those Venice principles, so called, set out the way in which ombudsman offices should be established, governed and operate. Of all the ombudsman legislation

and services internationally, the Northern Ireland Ombudsman, as it is currently arranged, is one of the closest to being fully compliant with those principles.

In my written evidence, I touched on the independence of decision-making. The ombudsman is a quasi-judicial post, and decisions made by the ombudsman can normally be challenged only by the courts. It is also important to note that the ombudsman makes recommendations: they do not make binding decisions. The consequence of that is that any failure by a public body to implement those recommendations comes before you, as Members of the Northern Ireland Assembly, and you are in a position to address that. The ombudsman also reports to the Assembly via the annual report and any special reports that need to be brought.

As I said, those governance arrangements are typical of the 200 or so members of the IOI and are generally regarded as best practice for ombudsman offices.

Chair, I am open to any questions that members might have.

The Chairperson (Mr McCrossan): Thank you for that, Mr Tyndall. We very much appreciate your remarks. I have a brief question to ask before I invite other members to speak. You said that the NIPSO legislation was often cited as a model to follow elsewhere. What are its particular strengths, and are there any areas that could be improved?

Mr Tyndall: It is important to say that it is strong in most regards, but the process whereby the legislation is drafted and adopted by the Parliament rather than by the Administration is particularly strong. The fact that the ombudsman is appointed in an open and transparent fashion is again compliant with best practice. The legislation ensures that the vast bulk of public services are within the ombudsman's jurisdiction, which is, again, best practice. It provides a range of powers for the ombudsman to obtain evidence and to reach decisions, and, again, that is best practice.

What is slightly unusual in the NIPSO legislation is the element relating to local authority members' compliance with their code of practice. That is less usual, but many ombudsman offices have responsibilities other than the core ones on maladministration. In that sense, it is not entirely unusual to have an additional responsibility beyond that, but, generally, you can point to most aspects of the legislation and say that it is fit for purpose and represents best international practice.

The Chairperson (Mr McCrossan): That is helpful. Thank you.

I will open it up to other members. I will bring in Alan Chambers. Alan, do you have any questions for Mr Tyndall?

Mr Chambers: No, I am fine, Chair, thank you.

Mr Allister: Thank you for your evidence, Mr Tyndall. I want to explore with you the last aspect that you mentioned. You were effusive about the quality of the legislation that sets up the ombudsman's office, but I detected a little less enthusiasm for the matter that deals with local government standards. Is that not, in fact, an absurd situation, whereby the local government standards commissioner office is, under the ombudsman's office, performing the contradictory but dual role of investigator/prosecutor and decision-maker? We then have the questionable position, particularly in regard to article 6 of the European Convention, where the staff of the local government standards commissioner investigate a councillor's behaviour and then the same office provides the judge to determine the outcome. How is that tenable by any international standard?

Mr Tyndall: As I said, there is limited precedent for the role. I share the thoughts about some of the issues that you have raised. My experience from when I was ombudsman in Wales is that, where the investigation was undertaken by the ombudsman's office, hearings were held by the local authorities standards committee for lesser issues and more serious hearings were held by a separate adjudication panel. As the arrangements are particular to each jurisdiction, the jurisdiction concerned needs to make its own. It would be a cleaner arrangement if the investigation were undertaken separately from the adjudication, preferably by separate bodies.

The process of investigation is often similar to that for the investigation of an allegation of maladministration, so the administrative resources of the office are often quite well placed to undertake that kind of role. As you said, the combination of adjudication and investigation provides challenges.

Mr Allister: I welcome your view on that. Hopefully, in due course, that will be attended to.

You mentioned your service in Wales. One of the other witnesses whom we are to hear from today made reference in their paper to the Welsh advisory board. Can you tell us something about that?

Mr Tyndall: Yes, that was a body that I established when I was ombudsman in Wales to provide me with an extended advisory function. It involved people with backgrounds in, for example, public service who were able to offer advice. I used it particularly in the context of the development of a strategic plan and in operational planning so that I had some independent advice in that capacity. It operated as an adjunct to the audit committee.

Mr Allister: Apart from advisory functions, did it have any actual powers?

Mr Tyndall: No, it had no executive functions, because the ombudsman was a corporation sole, but I chose to use it as a means of providing advice.

Mr Allister: Was your experience of that positive?

Mr Tyndall: Yes, it was positive; indeed, Dr Thomas Frawley, a former Northern Ireland Ombudsman ultimately joined that panel. That was after my tenure.

Mr Allister: Might that be a useful tool in our situation?

Mr Tyndall: I think that having an advisory panel can provide a useful additional reference point, if I can put it that way, for the ombudsman. It is important that the ombudsman be fully independent but able to turn to people who are no longer active in particular spheres but can provide professional advice on them. That is helpful.

Mr Allister: Presumably, it operated at quite a high level and did not work on individual cases.

Mr Tyndall: No, it did not work on individual cases. It was, as I said, operating on strategic planning and operational planning.

Mr Allister: Did that include any of the financial spend and needs?

Mr Tyndall: The members of the audit committee were also members of the advisory panel.

Mr Allister: They were also members? I am sorry: did you say that there was duality?

Mr Tyndall: There was an overlap in the membership, yes.

Mr Allister: Just explain how that works. You had an audit committee, as we have here, and then you had an advisory board of the same people wearing a different hat, or were there additional people?

Mr Tyndall: No. It was the audit committee plus additional people. The people who were on the audit committee generally were there because of the expertise that they could contribute to audits. However, some other individuals, such as retired directors of services, would join them to form the advisory board.

Mr Allister: Right, so it was the audit committee-plus.

Mr Tyndall: Yes.

Mr Allister: Was that a suitable overlap?

Mr Tyndall: Yes, I think so. It worked effectively. It was possible to have meetings on the same day, for instance, so it was a practically efficient use of resource, and it provided helpful advice.

Mr Allister: OK. Thank you.

The Chairperson (Mr McCrossan): Thank you, Mr Tyndall, for being with us today and for providing your evidence and taking questions from our members. We are two members down today, and they have offered their apologies. Thank you for your time; it is appreciated.

Mr Tyndall: Thank you. I am pleased to have had the opportunity.