



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:  
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you do needs to be supported by other mechanisms that are capable of providing objective and credible information that can then be used for scrutiny purposes. In the context of the ombudsman, one thing that is particularly different or distinctive is that you have individual complainants bringing cases. There is therefore a need to satisfy those individuals that they have been dealt with fairly, that the outcome is fair and that the process used to deal with their complaint has been fair. In addition to considering the overall structure of corporate governance and whether you are satisfied with that, there is probably a need to look at a wider suite of options that can provide public assurance about the quality of the ombudsman's work.

That leads me to the final point. Mechanisms have been developed recently from within the ombudsman sector, and they are largely self-regulatory efforts, if you like, to improve things. For example, there are independent service complaint reviewers, who will look at complaints about the service provided by the ombudsman; consumer panels, where the ombudsman looks at the experiences of former complainants but also at general members of the public and tries to advise the ombudsman on providing a customer-focused and person-centric model; and, finally, peer reviews and independent reviews, which are conducted periodically.

All those are potential ways of enhancing accountability: which will be appropriate for Northern Ireland depends on what you see as the particular problems or issues that arise in the jurisdiction. There is a menu of potential options that you can look at, but a lot depends on what you identify as being the particular problems that have arisen in the past or might arise in the future.

**The Chairperson (Mr McCrossan):** Thank you very much, Dr Gill. That is very helpful. I appreciate your evidence. Before we proceed to questions from members, I have a question. You list in your paper areas in which a reporting duty might be established. One such area is the introduction of peer review. How successful have peer reviews been in holding the ombudsman to account in other jurisdictions?

**Dr Gill:** To date, peer review has not been used extensively in jurisdictions around the world with an ombudsman. It is early days for its use as a technique. I participated — in fact, with Peter Tyndall — in one of the first peer reviews that was conducted in the UK, which was of the Parliamentary and Health Service Ombudsman. The consensus was that it was a good experiment and a worthwhile thing to do. I think that the Public Administration and Constitutional Affairs Committee found it a useful addition to its scrutiny work, and, as such, it was able to take its scrutiny of the Parliamentary and Health Service Ombudsman that little bit further. It is potentially a good model.

Questions lead on from that about how peer review panels should be composed and about exactly what it is that you would like peer review to do. I wrote a short paper that really looked at those issues and at whether, if you want the ombudsman to be a gold standard in accountability terms, you may want to have a purely independent panel rather than a peer review arrangement, where it is effectively ombudsman colleagues reviewing other ombudsman colleagues. The downside of that, however, is that you end up with people who are not experts in the area, and that can lead to generic recommendations or a lack of understanding of the context.

It depends what you want to do. Do you want to improve things and for the ombudsman to be able to learn and reflect on experience, or do you want a kind of stricter scrutiny and accountability model? If the latter is the case, you may want there to be more independence. It is potentially a fruitful approach and something that more and more ombudsman schemes will look to do.

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

**Mr Chambers:** Thank you, Dr Gill, for your attendance. I have a question in the role of devil's advocate. In your conclusion, you state:

*"Independence is a core value for the ombudsman and efforts to enhance accountability must be mindful of the potential for encroaching on the ombudsman's effectiveness."*

Could you not also make the case that, if there were more accountability, it would increase public confidence in the role of that office? That must be equally important.

**Dr Gill:** That is right. It is about getting that balance. In an ideal world, you want to achieve something whereby your focus on accountability supports the ombudsman's independence rather than detracts from it. One of the problems with public accountability and scrutiny processes is that they can

sometimes decrease public confidence by raising some of those issues. There is a fairly large body of academic literature on whether accountability increases or decreases public trust. You would think that it would automatically increase it, because the public can see that people are being held to account, but it can often be difficult to satisfy particularly disappointed complainants, for example, that they have been dealt with fairly. However effective your governance arrangements are and however transparent an organisation is, it can be difficult to turn things around and get people to trust an institution when they have been let down.

The link between enhancing accountability and buttressing an organisation's public reputation and allowing it to be effective in its other work is not automatic. That is why a certain amount of caution needs to be exercised. You really cannot go too far. At the same time, however, some additional accountability arrangements are probably required, because, otherwise, the ombudsman can be left exposed when people criticise and say that it was not a fair process or that the outcome was not right. It is hard for the ombudsman to say why that is the case, apart from to say "Read the arguments in the report", so I favour some additional accountability arrangements, because they make it easier for the conversation at least to be had with the public about why what the ombudsman does is fair and appropriate.

**Mr Chambers:** Thank you, Dr Gill.

**Mr Allister:** Dr Gill, how do you avoid an advisory board and peer review or anything like that being or appearing to be mere window dressing?

**Dr Gill:** It is tricky, but it is helpful if a parliamentary Committee is involved in the appointment of either the peer review panel or the advisory board. If I have correctly understood how some of the other UK advisory boards have been appointed, one of the potential weaknesses is that the ombudsman makes the appointments. Having a little more independence and transparency in how the appointments are made and in who is ultimately responsible for deciding them or at least having some input from outside the organisation might help avoid that perception. There needs to be some parliamentary accountability in the accountability process. If the Committee is confident that there are good structures in place to hold the ombudsman to account, you can focus more on the slightly bigger part of your role, which is to support the ombudsman to scrutinise public services and hold them to account. The focus on the ombudsman can seem to me to be navel-gazing slightly, when it is really about trying to support the office's work on holding public services to account.

**Mr Allister:** Do we not have particular difficulty in Northern Ireland in being seen to enhance independence for a body that is there to scrutinise Departments if the Government are formed on the basis of a mandatory coalition, where virtually everyone is in government? Those who will appoint the independent scrutineers will be appointing them to scrutinise an ombudsman who is examining that very Government.

**Dr Gill:** That is a difficult question, and it is specific to Northern Ireland. I was trying to get at that in my opening remarks. I can see where the Audit Office was coming from, but I was not really clear from the review's terms of reference about where, you felt, there were gaps in the ombudsman's role or about where, experience had suggested, there were accountability issues. Yes, some of that is about the context, but I am not sure that I can advise on that, except to say, "Here is a menu of potential choices, depending on what you think the issues are".

**Mr Allister:** I speak for myself, but my view is that there are greater and more significant gaps with the Audit Office than there are with the ombudsman's office. If the ombudsman's office is to command public confidence, it must be seen to be fiercely independent. I am therefore a little wary of setting it in a context of supervision by those who have a vested interest in the ones being investigated.

**Dr Gill:** Yes. That certainly makes sense.

**Mr Allister:** To reduce it, does the Welsh advisory board add anything of substance?

**Dr Gill:** I am not 100% sure that it does from a public perception perspective. If the aim of setting up the additional accountability arrangements is to convince prospective complainants or those who have complained and been left disappointed that they will be dealt with fairly, I am not sure that an advisory board appointed by the ombudsman will make a huge difference to how they will feel. It might be

better from a public perception perspective if there were a greater element of independence in how the board was appointed and perhaps if it were put on a statutory footing.

On the other hand, there are things that you might expect that kind of board to do. It sounded as if Peter Tyndall had found that useful, and I can imagine that, if you were leading an ombudsman organisation, an element of external input would be useful and beneficial and might improve the way in which the organisation is run. It comes down to what you are trying to do with the arrangements and whom you are trying to satisfy. It seems to me that an advisory board could be a useful appendage to the organisation and help it run smoothly, but, on the question of whether it would help convince sceptics that the ombudsman was really being held to account, I am not sure.

**Mr Allister:** Of course, disappointed complainants always have, in theory at least, recourse to the courts.

**Dr Gill:** They do, but what they are able to do is relatively limited. Often, what people are disappointed about is not necessarily something for which they are able to get remedy through the courts, and it can be difficult to launch such actions. In theory, there is the option of going to court, but how accessible is that option to people? It is not something that is done often, so many people who are disappointed by the ombudsman's work leave it at that. They will not be happy, but they will not take their case any further.

**Mr Allister:** Thank you.

**The Chairperson (Mr McCrossan):** Thank you, Dr Gill, for being with us today and taking our questions. We appreciate your time.

**Dr Gill:** Thank you, Chair.