

Public Law

2000

"Joining up" the ombudsmen - The Review of the Public Sector Ombudsmen in England

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Subject: Administrative law

Keywords: Ombudsmen

***P.L. 582** The Cabinet Office Review¹ proposal for an integrated service of public sector ombudsmen in England is a welcome development in rationalising the present system. That the various ombudsmen schemes may need "joining up" in the future was recognised some 25 years ago by Sir Alan Marre, the Parliamentary Ombudsman at the time. He considered that, in the long term, consideration would need to be given to how a more co-ordinated total system, more directly related to the interests of the public, could be brought about.² This idea was examined in 1988 by JUSTICE,³ in a report which explored whether there should be an integrated service, under which all the ombudsmen would operate under the same legislation. Their decision however was against recommending the creation of a single scheme. More recently, the Select Committee on Public Administration considered that there was a need for greater coherence to the structure of the public sector complaints system. It recommended a review of the system, with a view to bringing the complaints authorities together.⁴

This present Review was prompted by the three Local Government Ombudsmen and the Health and Parliamentary Ombudsman, who, in October 1998, presented a joint paper to Ministers, suggesting that a comprehensive review was timely, on the basis that the existing boundaries between their work no longer reflected service delivery in the public sector. In March 1999, the Government announced a review by the Cabinet Office. Its terms of reference were to consider whether the present organisational arrangements for the public sector ombudsmen were in the best interests of complainants and others, given the moves towards integrated provision of public services. It was also to consider the interaction between these ombudsmen and other independent complaints authorities. The report was published on April 13, 2000.

The present system

The origins of the present system are normally associated with an inquiry by JUSTICE, which concluded that an ombudsman should be appointed to investigate complaints of maladministration.⁵ The recommendations of this report formed, in large part, the basis of the Parliamentary Commissioner Act ***P.L. 583** 1967, which established the Parliamentary Ombudsman.⁶ The National Health Service and local authorities were excluded from the Parliamentary Ombudsman's jurisdiction. The Health Service Reorganisation Act 1973 partly filled this gap, with the appointment of the Health Service Ombudsman.⁷ The following year, the Local Government Act provided for the appointment of ombudsmen to investigate complaints of maladministration against local authorities.

The public sector ombudsman system in England thus consists of three separate schemes. Each scheme was established under separate legislation, which assumed that any publicly provided service would be the discrete responsibility of central or local government or the National Health Service. This assumption is no longer valid, as the focus for public services is now on partnerships between government departments, local authorities and the health service. A single complaint can thus cross the jurisdictional boundaries of the ombudsmen. Health care services are an obvious area of concern,⁸ but problems can arise in other areas, for example, in relation to special educational needs⁹ and housing benefit.¹⁰ It can be difficult for consumers to decide to which ombudsman to refer their complaint, particularly where the complaint is within the jurisdiction of two or more ombudsmen. The ombudsmen have informal arrangements for ensuring that complaints are routed appropriately, where necessary, and they sometimes conduct composite investigations. But they have little flexibility, and these arrangements have developed in spite of the legislation governing the three schemes.

A further potential source of confusion for consumers is the increasing number of internal complaints adjudicators within the public sector, encouraged in part by the Citizens' Charter.¹¹ This has led to an

intermediate layer of complaint handling, by adjudicators, who are funded by the relevant department or organisation, but who operate independently of them. These schemes include the Adjudicator,¹² and the Child Support Agency Independent Case *P.L. 584 Examiner. Local complaints panels were set up in 1997 to deal with complaints about the Benefits Agency, and an Independent Complaints Panel was set up in 1999 to deal with complaints about the War Pensions Agency. Ombudsmen in the public sector are now only one among many schemes for handling complaints.

Complaints handling and redress systems in the public sector in England are thus complicated and fragmented. This is outmoded in an era of "joined-up" public services. Service delivery is now more fluid, with greater emphasis on partnerships, in order both to assess client needs better, and also to deliver services to meet them. The present jurisdictions of the ombudsmen do not sit easily with this trend. There are jurisdictional issues for the ombudsmen and confusions for consumers.

Towards an integrated service

The Cabinet Office Review recommends a major overhaul of the present system, in order to provide an integrated system of ombudsmen for the public sector in England.¹³ The recommendation is for the establishment of a new Commission, to bring the three ombudsmen together in consolidated legislation.¹⁴ The proposed model is for the present ombudsmen to be combined in a new collegiate structure,¹⁵ with each ombudsman covering the complete jurisdiction, being responsible for his or her own cases, and not subject to any other ombudsman. No ombudsman would have an appellate function in relation to the decisions of others. Functional roles, for example, for local government and the health service could be retained, and would probably predominate in the new structure.¹⁶ However, any division of work among the ombudsmen, whether on a functional or regional basis, would be purely for administrative reasons.¹⁷ There would be one chair of the Commission, who would be responsible for reports to Parliament, management and external representation. The chair would also be responsible for matters relating to the United Kingdom as a whole, and for reserved matters in Scotland, Wales and Northern Ireland. However, the Review emphasises the importance of the *P.L. 585 system having sufficient flexibility, so that it can easily be reshaped, in order to allow for other functional allocations.¹⁸

It is proposed that the new Commission will provide a single gateway for consumers with complaints about all areas of public service. The internal arrangements for the Commission would be a matter for the ombudsmen themselves. The Review proposes that the new Commission will be accountable to Parliament,¹⁹ and that its funding arrangements should be the same as those operating for the Parliamentary and Health Service Ombudsman, where funds are voted by Parliament subject to the approval of the Treasury.²⁰

Access

The Review proposes that the requirement for complaints to the Parliamentary Ombudsmen to be referred by an M.P. be abolished. The original proposal that access to the Parliamentary Ombudsman should be filtered in this way²¹ was seen as experimental, and it was proposed that it should be reviewed after five years. The original argument for restricting access was that without it the ombudsman could be overwhelmed with cases. There was also the feeling that the majority of M.P.s wanted the member filter.²² This restriction on access has attracted much criticism, and JUSTICE recommended its removal in 1977²³ and 1988.²⁴ The Select Committee originally felt that the filter was advantageous, and saw no reason to abolish it.²⁵ More recently, however, it has supported its abolition,²⁶ as did most submissions to the Review,²⁷ where "almost universal dissatisfaction with the arrangement for access" was expressed.²⁸ This restriction is almost unique in the world community of ombudsmen,²⁹ and the fact that the other public sector ombudsmen in England *P.L. 586 operate under direct access³⁰ makes this even more anomalous. The recommendation in the Review is "strongly" in favour of the abolition of the M.P. filter, which "can no longer be sustained in an era of joined up government".³¹ There can be few who will mourn its removal.

At present, complainants to the Health Service Ombudsman must exhaust the NHS internal complaints procedure before they can refer their case to the ombudsman.³² The Local Government Ombudsman makes no such stipulation, although the local authority must have had a reasonable opportunity to respond to the complaint before the Local Government Ombudsman will accept it.³³ There is therefore the question as to where the line should be drawn between completely free access (subject only to the Ombudsman's discretion not to accept a complaint) and some filtering mechanism. The proposal is for a legislative requirement to use the internal complaints system, but with discretion for the ombudsmen to override this if it would be unreasonable for the complainant to

satisfy this requirement.³⁴

The Review makes no detailed proposals about internal complaints systems, recommending that the specific arrangements for these would be left to the new Commission and the respondent bodies. Whatever arrangements are made, the internal procedures must not be seen as impediments to those wishing to complain to the ombudsmen. Moreover, some consistency of approach for the various public bodies would be beneficial.

Other aspects of access include publicity. The Review proposals for this can be implemented with immediate effect. For example, it is acknowledged that public awareness of the public sector ombudsmen needs to be increased.³⁵ In order to facilitate this, a “really first class web site is essential”, together with electronic access.³⁶ Working practices could also improve access by, for example, more use being made of telephone contact and meetings.³⁷

Relationships with other complaints bodies

Many complaints bodies interconnect with the ombudsmen, including other public sector statutory complaints authorities, the ombudsmen in different countries in the United Kingdom, and lower tier complaints handlers, ***P.L. 587** especially independent complaints examiners. The Review suggests that protocols will have to be established with the ombudsmen in the devolved governments, and with the Information Commissioner and the Data Protection Commissioner.

The Review looked in particular at the interaction between the proposed Commission and the independent complaints examiners for central government departments. The Parliamentary Ombudsman has identified problems with some aspects of the complaints handlers' work, for example, the failure to distinguish between those cases that can be resolved quickly, by conciliation or mediation, and those which raise policy issues, or require in-depth investigation. In the former situation, a brief investigation is suited to the techniques of internal examiners, but the latter cases are better left for the Parliamentary Ombudsman.³⁸ He is concerned that some of their work may duplicate or preempt the thorough and independent investigations undertaken by his office.

The Review does not accept the Parliamentary Ombudsman's criticisms. It favours the proliferation of independent complaints examiners in the public sector, believing that they have an important part to play in the complaints process. The problems with them concern publicity and collaboration. The solution is to provide clearer explanations to complainants of the relative roles and status of the complaints mechanisms, and more information about the remit of adjudicators.³⁹ This process has already begun. The Parliamentary Ombudsman and the Adjudicator and Independent Case Examiner are in the process of agreeing working methods, with a view to making it easier for individual complainants to decide which complaints mechanism to use.⁴⁰

The Prisons Ombudsman and other ombudsman-like bodies

The Review opted to leave the Prisons Ombudsman outside the new Commission arrangements, on the basis that this is a “niche” role, is “not established by statute” and is “properly part of the executive”.⁴¹ At present, the Prisons Ombudsman's role is akin to that of an adjudicator, and there are proposals to put the office on a statutory footing.⁴² If this were done, the relationship with the new Commission would need to be addressed. Other “ombudsman-like” bodies in the public sector⁴³ were also excluded from the Review. It is unfortunate that this review was not used as an opportunity to assess their roles, with the aim of integrating them within a system of public sector ombudsmen. Unless this is done, the system will continue to lack coherence, and jurisdictional problems will continue to arise.

***P.L. 588 The functions of ombudsmen**

Ombudsmen have two functions: dispute resolution and improving standards. Most ombudsmen see the dispute resolution function as the primary role,⁴⁴ and the Review did not challenge this view, making it clear that the ombudsmen should retain their “core role of handling complaints”.⁴⁵ It accepted that the primary function of the ombudsman is grievance redress for individuals, and many of the reforms suggested enhance this role.

The procedural reforms are thus designed to make the process more accessible, more flexible, and more able to cope with increased demand, by, for example, the increased use of informal methods of resolving disputes.⁴⁶ The proposals represent a move away from audit-like investigation by

ombudsmen. The focus for the ombudsmen would be on outcomes, assisting complainants, informality, and conciliation. The move will be towards more resolution of disputes, but less thorough investigations, with formal investigations being used as a last resort.⁴⁷ While this approach will help to reduce delay, it does not address the problem of systemic failures. In investigating individual cases, ombudsmen may highlight more generalised weaknesses in practices, rules and attitudes. Uncovering these weaknesses is of advantage to individuals who have not complained, because the resulting improvement in the system is a generalised benefit. The ombudsmen are uniquely positioned in this respect, and this important aspect of their role must not be sacrificed.

Jurisdiction

The Review does not envisage a reduction in jurisdiction, proposing that the present bodies which are subject to the ombudsmen should remain so.⁴⁸ How this should be expressed in future legislation is crucial. The Review rejects the idea that the jurisdictional remit should be expressed in a general term like “public authority”, preferring a list of generic types, together with a list of some organisations which may have doubtful status.⁴⁹ This approach is preferable to the present system, where bodies are specifically named as within jurisdiction.⁵⁰ There is a further question about the line to be drawn between the public and private sector. The existing legislation allows investigation of actions taken by or “on behalf of” public bodies. The ombudsmen have relied on this phrase to enable them to investigate complaints about contracted-out services, for example, although it is unclear how far this can be stretched. The Review proposes that the jurisdictional line should be drawn at the point ***P.L. 589** where a service is “largely publicly funded, provides a service to the public and operates within a detailed specification by a public authority to a demanding performance requirement”.⁵¹

There are no recommendations in the Review about the various jurisdictional exclusions in the three schemes, on the basis that these issues should be decided during the process leading up to legislation.⁵² The Review advises against piecemeal extensions to jurisdiction being made before this.⁵³ Many of the exclusions⁵⁴ have been criticised, particularly those relating to contractual and personnel matters.⁵⁵ Ombudsmen in the United Kingdom do have a large number of jurisdictional exclusions as compared with other countries. For example, in Sweden and Denmark there is a presumption in favour of decisions of public servants being subject to investigation by the ombudsman, unless there is sound reason to the contrary. This approach, which has been endorsed by the Select Committee,⁵⁶ should be considered in any future legislation.

Maladministration

The remit of the public sector ombudsmen is to provide remedies for maladministration, and the Review makes no recommendations in relation to this. Maladministration has never been defined in legislation, but was said to include “bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness”.⁵⁷ In 1977, JUSTICE found that the concept of maladministration was too restrictive.⁵⁸ Other countries do not confine their ombudsmen to maladministration, but allow them to investigate unreasonable action by public authorities, or failures of service. However, the concept has proved to be remarkably flexible, so much so that in 1988 JUSTICE no longer considered it too restrictive.⁵⁹

The flexibility of the concept has allowed successive ombudsmen to interpret its meaning liberally, and to the above list can now be added: “failure to give proper advice, harassment ... discrimination and failure to handle claims to a benefit properly”.⁶⁰ It can also include a “failure to mitigate the effects of rigid adherence to the letter of the law where that produces ***P.L. 590** manifestly inequitable treatment”.⁶¹ Even a departure from good practice has been held to be maladministration.⁶²

Whether the remit of the ombudsmen should be extended beyond maladministration was not discussed in the Review.⁶³ It is worth noting that, while the original JUSTICE report⁶⁴ recommended that the ombudsman should be confined to investigating alleged maladministration, it had also recommended the setting up of a comprehensive system of administrative tribunals. In the absence of this, there is no system for a general appeal on the merits of administrative decisions. This is a serious drawback. If there were a system of administrative courts, confining the ombudsmen to maladministration might be justifiable.

An integrated system of administrative law

Although the Review recommends co-operation, collaboration, and “associate” status within the new Commission for other complaints handlers,⁶⁵ it essentially accepts the ombudsman’s role and function

as they are at present. It makes some reference to the relationship of the ombudsmen to courts and tribunals,⁶⁶ noting that ombudsmen in the public sector were intended to deal with grievances which were not appropriate to be taken to court.⁶⁷ Public sector ombudsmen are not alternative dispute resolution in the accepted sense, nor are they an alternative to tribunals or ministerial appeal.⁶⁸ The Review considers that the courts and the ombudsmen should remain quite separate, with the ombudsman retaining the discretion to investigate cases where there may be a remedy in court, and the courts not insisting on referrals to the ombudsman.

While it is right that the courts and ombudsmen should not be duplicating each others' work, there are issues concerning the appropriate roles of the courts, tribunals and ombudsmen in dealing with citizens' grievances. Some have called for an integrated system of control mechanisms to protect citizens fully from abuse of administrative power.⁶⁹ The functions and jurisdictions of the courts, tribunals and ombudsmen are not immutable, and the "proper *P.L. 591 divide" between their jurisdiction "must be defined and redefined as circumstances change".⁷⁰ The ombudsmen and the courts are often dealing with similar issues, and this is an opportune time to examine the interface between them. Equally, it may be appropriate to ask whether the distinction between ombudsmen and tribunals is appropriate.⁷¹ There has recently been a review of the hearing of administrative cases in the High Court,⁷² and a review is currently being conducted of the tribunal system.⁷³ If the ombudsman Review is taken together with these other two reviews, they could be used as a basis for discussing an integrated system of administrative justice.

Conclusion

The public sector ombudsmen are a success story. They have brought redress to thousands of consumers and citizens, where none may have been available and they have helped to improve administrative procedures. Their unique role has enabled them to oversee administrative practice, and to encourage improvement, for the benefit of citizens. But they have developed piecemeal. The Cabinet Office Review has therefore made some welcome recommendations, which will make the ombudsman system more coherent. It also, quite rightly, warns against too much prescription for the ombudsmen in any future legislation, which should be drafted in general enabling terms. This will allow the schemes to develop to meet new circumstances.

However, this is not a radical review. A radical review would have discussed the role of the public sector ombudsmen, and whether their remit was appropriate within the context of other public law redress systems. This would have placed the ombudsman system within the context of reform of the system of public law, with the relative strengths and weaknesses of ombudsmen, courts, tribunals and other institutions being assessed.⁷⁴ The Review goes some way to airing these issues. It should now be the starting point for debate of the wider issue--the place of ombudsmen in relation to the administrative justice system.

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1. *Review of the Public Sector Ombudsmen in England*, A Report by the Cabinet Office, conducted by P. Collcutt and M. Hourihan, April 2000 ("The Review").
 2. Annual Report of the P.C. for 1975.
 3. *Administrative Justice: Some Necessary Reforms*, Report of the Committee of the JUSTICE-All Souls Review of Administrative Law in the U.K. (1988).
 4. Third Report of the Select Committee on Public Administration (1997-98, H.C. 398), para. 89.
 5. JUSTICE, *The Citizen and the Administration: the Redress of Grievances* (1961), p. 36.
 6. The office is officially the Parliamentary Commissioner for Administration, the term "commissioner" being used in all the legislation establishing the public sector ombudsmen. The term "ombudsman", which is Swedish in origin, has now become the accepted terminology, although it has no legal status.

7. Since its inception, the post holder has combined the two roles of Parliamentary and Health Service Ombudsman.
8. e.g. a recent Local Government Ombudsman investigation involved a complaint about the care an elderly woman received in a private nursing home, where her place had been purchased by a local authority. The complainant (the grandson of the elderly woman, who had died in the nursing home) had to use two ombudsmen, the Health Service Ombudsman and the Local Government Ombudsmen, to deal with what was “essentially, the same complaint”. (*Complaint No. 97/A/4002, London Borough of Bexley*).
9. e.g. where the complaint is about delay by a local authority in issuing a statement of a child's special educational needs, the fault may also lie with the local health authority, which delayed providing reports for the child's assessments.
10. Claims for housing benefit may be delayed, or otherwise subject to maladministration, due to faults on the part of either, or both, the local authority and the Department of Social Security.
11. For a discussion of recent developments in the Citizens' Charter, see Scott, “Regulation inside government: re-badging the Citizens' Charter” [1999] P.L. 589.
12. The Adjudicator considers complaints against the Inland Revenue, Customs and Excise and the Contributions Agency.
13. The Review only examined the position in England. As a result of devolution, the Scottish Parliament and Welsh Assembly have their own ombudsmen for the administration and the health service. (They already had separate local government ombudsmen, before devolution). The U.K. Parliamentary Ombudsman holds these offices on an interim basis, until new ombudsmen are appointed. There are proposals for the three Welsh offices to be merged. In Scotland, there is to be a review, similar to that in England, with the most favoured option being a “one-stop shop”, as in England. Matters reserved for the U.K. Parliament (e.g. taxation, defence and foreign affairs) will still be within the jurisdiction of the U.K. Ombudsman. The Review proposal is that these reserved matters will be for the chair of the proposed new Commission.
14. The Review, para. 2.43.
15. The Review, para. 4.3. This follows the model of the Commission for Local Administration, where the three Local Government Ombudsmen operate as a commission, each with identical powers. They divide the workload on a regional basis, the geographical boundaries changing periodically to secure an equal spread of the workload.
16. The Review, para. 4.4.
17. The Review rejected the model adopted in financial services, where there is a chief ombudsman under whose umbrella ombudsmen act within a particular sector of financial services.
18. This may include, e.g., education.
19. The Review, para. 5.17. At present the Parliamentary and Health Service Ombudsman is answerable to Parliament, and the Select Committee on Public Administration takes evidence from him on his annual and other reports. There is no suggestion in the Review that the Select Committee on Public Administration will be abolished. Although the Review does not refer to the Select Committee's role in the new system, the ombudsmen themselves suggested that a new Commission should be answerable to a Select Committee for the general conduct of its activities, but not for investigation of individual complaints (see the Review, p. 83).
20. The Commission for Local Administration is funded by the Department of the Environment, Transport and the Regions, from resources voted for local authority support.
21. JUSTICE (1961), *op. cit.*, pp. 75-76. It also recommended that peers should be able to refer complaints, although this recommendation was never taken up.
22. When the Bill was being debated in Parliament, stress was laid on the ombudsman's potential to assist backbench M.P.s, and the ombudsman's status as a servant of the House (H.C. Deb., vol. 734). Direct access was seen as undermining the position of MPs in relation to the public.
23. JUSTICE, *Our Fettered Ombudsman* (1977), pp. 17-18.
24. JUSTICE (1988), *op. cit.*, pp. 89-90.
25. *Review of Access and Jurisdiction*, Fourth Report of the Select Committee on the PCA (1977-78, H.C. 615); Fourth Report of the Select Committee on the PCA (1990-91, H.C. 368), para. 10; *The Powers, Work and Jurisdiction of the Ombudsman*, First Report of the Select Committee on the PCA (1993-94, H.C. 33-I), para. 76.

- [26.](#) See the Review, para. 3.19.
- [27.](#) The Review, para. 3.36.
- [28.](#) The Review, para. 3.10.
- [29.](#) France has a similar restriction.
- [30.](#) The British and Irish Ombudsman Association has made special provision in its criteria for the recognition of ombudsman offices to allow for this restriction. Under the heading of "Accessibility", it is provided, *inter alia*, that the office of an Ombudsman "should be directly accessible to complainants *unless otherwise specified by or under statute*" (emphasis added).
- [31.](#) The Review, para. 3.52.
- [32.](#) The Health Service Ombudsman has discretion to accept complaints from people who have not exhausted the procedure if it is considered that in the circumstances it is not reasonable to expect them to do so.
- [33.](#) In 1998/99, the Local Government Ombudsman carried out a pilot study to test the implications of requiring complainants to exhaust councils' complaints procedures before the Ombudsman would consider their complaints. The findings revealed that such a requirement did not save investigative time, nor did it reduce the Ombudsman's costs. In addition, it seemed to increase complainants' dissatisfaction.
- [34.](#) The Review, para. 7.32.
- [35.](#) *ibid.* para. 3.2.
- [36.](#) *ibid.* para. 6.39.
- [37.](#) *ibid.* para. 6.66.
- [38.](#) *ibid.* para. 7.33.
- [39.](#) *ibid.* para. 7.36.
- [40.](#) Annual Report of the PCA for 1999-00 (1999-2000, H.C.593), para. 1.21.
- [41.](#) The Review, para. 4.7.
- [42.](#) The Prisons Ombudsman has been assured that the post will be placed on a statutory basis at the next legislative opportunity. See Seneviratne, "The Prisons Ombudsman--Annual Report 1998/99" (1999) 21(4) J.Soc.Wel. & Fam.L. 389-396.
- [43.](#) These include the Police Complaints Authority, the Independent Housing Ombudsman, the Freedom of Information Commissioner, and the Data Protection Registrar.
- [44.](#) The present Parliamentary Ombudsman has noted that his "primary objective is to obtain a remedy for those who have suffered injustice", with working to ensure good public administration as "another important aim" (Buckley, "The Parliamentary Ombudsman" (1998) 68 *The Advisor* 6 at 7.
- [45.](#) The Review, para. 7.30.
- [46.](#) *ibid.* para. 6.9.
- [47.](#) *ibid.* para. 6.3.
- [48.](#) *ibid.* para. 5.4.
- [49.](#) *ibid.* para. 5.8.

50. This means that there has to be legislative enactment whenever additional bodies need to be brought within the ombudsman's remit.
51. The Review, para. 5.9.
52. *ibid.* para. 5.11.
53. *ibid.* para. 5.13.
54. Parliamentary Commissioner Act 1967, Sched. 3 lists a number of matters excluded from the jurisdiction of the Parliamentary Ombudsman, including contractual and commercial transactions and personnel matters. These exclusions were repeated in the legislation establishing the Health Service and Local Government Ombudsmen.
55. See M. Seneviratne, *Ombudsmen in the Public Sector* (Open University Press, 1994), p. 24.
56. *The Powers, Work and Jurisdiction of the Ombudsman*, First Report of the Select Committee for the PCA (1993-94, H.C. 33-I), para. 50.
57. These were the examples given during the debate on the Bill which established the Parliamentary Ombudsman (*Hansard*, H.C. Vol. 754, col. 51., 1966). They are commonly referred to as the "Crossman catalogue."
58. JUSTICE (1977), *op. cit.*
59. JUSTICE (1988), *op. cit.*
60. Buckley, "The Parliamentary Ombudsman" (1998) 68 *Advisor* 6 at 8.
61. *Maladministration and Redress*, First Report of the Select Committee on the PCA (1994-95), para. 10.
62. The Commission for Local Administration in England, *Report on an Investigation into Complaint No 98/A/4244 against the London Borough of Enfield*.
63. Some issues about maladministration will need to be addressed in any future legislation. Unlike the other two ombudsmen, the Health Service Ombudsman can investigate complaints involving hardship, failures of service and clinical judgment.
64. JUSTICE (1961), *op. cit.*
65. It also recommends that a unit be established to take an overview of all public sector complaints processes and the work of the ombudsmen (The Review, para. 5.19).
66. The Review, paras. 7.19-7.27.
67. Citizens are prevented from using the ombudsman if there is a legal remedy, although the ombudsmen have discretion to investigate where it would not be reasonable for the complainant to go to court.
68. They are subject to the court's supervision through the mechanism of judicial review.
69. Woolf, *The Protection of the Public--a New Challenge* (Stevens, 1990), p. 92.
70. *ibid.*, p. 123.
71. See Farrand, "Courts, tribunals and ombudsmen--I" *Amicus Curiae* (26) April 2000, 3-8.
72. Sir Jeffrey Bowman, *Review of the Crown Office List: a report to the Lord Chancellor* (Lord Chancellor's Department, March 2000).
73. Sir Andrew Leggatt, *Review of Tribunals: Consultation Paper* (June 2000).
74. See generally, Lewis, "The Case for a Standing Administrative Conference" (1989) 60 *Political Quarterly* 421; Lewis and Birkinshaw,

When Citizens Complain (1993).

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