

Paper on the impact of Covid-19 lockdown to date – Ombudsman sector

April 2020

1. Executive Summary

- 1.1 This briefing paper focuses on the impact of the Covid-19 lockdown on the wide range of Ombudsman Association scheme members, particularly focusing on the challenges in relation to staff, service users and organisations that fall within the jurisdiction of different schemes (the OA's members include all ombudsman schemes covering public services and the private sector in the UK, Ireland, British Crown Dependencies, and the British Overseas Territories).
- 1.2 There appears to be a lot of commonality of approach to staffing issues between schemes. The approach to the delivery of services is more of a mixed picture, which appears to be heavily influenced by the area of jurisdiction different schemes are operating in.
- 1.3 As well as the immediate challenges ombudsman schemes are going to face over the next one to three months, there are likely to be much longer consequences for schemes to manage both in terms of their own workloads as well as their ability to work with sectors heavily impacted by the current situation to meet the requirement to carry out effective, fair and appropriately challenging investigations.

2. Staff

2.1 Staff Communications

- i) A primary focus of schemes so far during the lockdown has been to ensure that staff are communicated with clearly, on a timely basis and as the situation changed rapidly to provide assurance as well as essential information.
- ii) Amongst members, there has been a general recognition and move towards increased levels of communication with staff at an organisation, team and individual level to ensure that staff are both informed and supported. Examples of this include:
 - Some organisations quickly moved to daily all staff updates (through for example, Frequently Asked Questions briefings) at the start of the lockdown period.
 - Regular work-related engagement with staff seen as even more critical at this time e.g. daily 'huddles' via Zoom, weekly 'all staff' messages, more frequent one to ones.
- iii) As the lockdown continues and organisations move out of the initial crisis phase and into more of a steady state phase, organisations are continuing to assess how frequently and in what format organisation wide communications occur to ensure that individual teams / directorates don't shift to working in silos and that they retain their strategic focus.

2.2 Staff support mechanisms

- i) As well as clear, timely communication, there has also been a recognition by schemes, in the same way that we are recognising as a society that groups and individuals will require greater support at this time, that this is mirrored within our organisations.

ii) in a recent facilitated discussion amongst a range of ombudsman schemes, there was a general consensus among members about managing the current situation that there was a need for schemes to first address their own staff concerns and welfare – the ‘fix your own oxygen mask before helping others’ approach. This approach has already been taught through other programmes in a number of schemes, such as at the Parliamentary & Health Service Ombudsman (PHSO), so it is an approach and language staff are already familiar with.

iii) Schemes have identified the need more than usual to encourage and support staff to develop routines and structure, socialise, stay active and provide support to working parents through for example:

- Regular social activities for staff e.g. 11 am coffee morning via Zoom; sharing recommended podcasts and playlists; a doodle a day; encouraging existing physical groups (natter and knit; choir) to still meet online; Friday night ‘pub’ quiz;
- Giving managers the discretion to authorise and set daily exercise as work time, to support mental wellbeing;
- Supporting working parents by collating resources for kids (home schooling; Lego competitions; colouring sheets).

iv) A number of schemes, including the OIA (the ombudsman for higher education in England and Wales), have identified staff who live alone as potentially requiring additional support and monitoring at this time and therefore have increased the level of contact with these individuals more significantly than to others.

v) Some schemes are beginning to provide training/learning experiences for staff to help them understand their own emotional responses to the current situation (e.g. the Scottish Public Services Ombudsman is providing wellbeing sessions to staff on the ‘Amygdala Hijack’).

2.3 HR policies and practices

As well as increasing communications and support offered, many schemes have looked at and adjusted their HR policies and practice to allow greater flexibility to match the changes in circumstances of their staff. These have primarily focused on home working, flexible working (in particular support for those with caring responsibilities) and the use of special leave where individuals are unable to practically work their hours either because of caring responsibilities or because of the type of work their role involves.

i) *Home working*: - some members (e.g. UK Pensions Ombudsman) already had agile working and have fairly seamlessly moved to all staff working from home, including accessing phone lines etc. The Office of the Ombudsman (Ireland) had already moved to ‘soft phones’ as part of a recent office move, whereby phone calls are routed via VOIP through the computer / laptop that staff are logged into. Others (e.g. Channel Islands Financial Ombudsman, Scottish Public Services Ombudsman), depending on their existing infrastructure, shared services, and the local commercial supply of ICT equipment, have found it to varying degrees more challenging to put in place the ICT/logistics arrangements at the speed required to fully support home working. Importantly, no UK schemes identified not being able to support home working at all as an issue, albeit that there are challenges for some roles in some schemes in identifying relevant work, with the use of special leave where it’s not possible for individuals to work their normal hours of work.

ii) *Those with caring responsibilities*: – many schemes have relaxed HR policies to allow more flexible working for all, especially for working parents and carers, including extending their core working hours, allowing staff to fit in hours as and when suits their own family circumstances.

iii) *Special leave*: - at present, a number of schemes are using special leave for staff to claim the hours of work they are not able to make up either because of their caring responsibilities or because of the type of work their role involves not translating to home working. Only a handful of ombudsman schemes operating in the retail / consumer sector appear to have adopted the UK Government's furloughing scheme for staff, with some other private sector schemes utilising their own reserves rather than furloughing staff.

3. Service users / the public

In terms of the approach of schemes to provide services to the public, we have seen a mixed approach to both advice and signposting and the acceptance and progression of investigations.

i) Access to schemes

There has been a mixed response by schemes to maintaining their routes of access. Some schemes opted to close all points of access to their schemes at the start of the lockdown period. Reasons for this included in order to manage service user expectations, to facilitate the introduction of remote working, and to reduce the burden on the organisations that fall under jurisdiction in order to allow them to prioritise their essential emergency responses to the situation, particularly in terms of the latter in areas such as health and social care. Other schemes have adopted a more mixed approach, with either partial or full services being offered. Other factors influencing this decision have included the logistical and technological abilities of organisations to deliver.

There are particular concerns by a number of schemes around access to schemes and the vulnerability of some groups, e.g. complaints from people within the prison population who potentially may no longer have access to administrative justice and the digitally excluded (as also identified in the Equality & Human Rights Commission's recent [Inclusive Justice report](#))

ii) Routes of access

Routes of access to schemes typically include telephone lines and online complaints. Some organisations are maintaining access to telephone services, but with a reduced (shorter hours) service. Others have closed down phone lines but have been able to maintain online access to their services. There has been a mixed approach in relation to postal complaints. Some schemes have a single member of staff who physically go to the office once a week to collect and log post, while some smaller schemes have re-directed post to the home of a senior manager. Several schemes are actively discouraging postal complaints in favour of online submissions and some schemes do not have access to their post / offices at all because of lockdown. Some schemes have prioritised ensuring that the most vulnerable complainants still have access to services (recognising the concerns that exist about digital services only for vulnerable individuals).

Whichever route is being adopted, schemes are communicating these to both service users and organisations under their jurisdiction through e.g. answerphone messages, social media and website messages.

iii) Accepting complaints

Again, there appears to be a mixed response to what extent schemes are accepting and progressing complaints at this point. Some schemes have implemented a quick reporting tool for Covid-19 complaints (e.g. the Advertising Standards Authority in relation to misleading claims in adverts). Others

are working to complete the initial assessment phase in order to identify either essential Covid-19 complaints or complaints from vulnerable individuals.

iv) **Progressing investigations**

A number of schemes are continuing to progress existing (and in some cases new) investigations to be able to issue decisions. There are a range of factors that are impacting on the ability to do this, including the important aspect of being able to obtain evidence and share findings with organisations under jurisdiction to achieve sound decisions.

Below is a summary of some of the approaches different schemes have adopted at this point in time:

- Housing Ombudsman (England): continuing business as usual
- Local Government & Social Care Ombudsman (for England): put on hold all current investigations and new complaints about local authorities – on basis they are on frontline of response. Keeping an eye on whether any urgent issues arise.
- UK Pensions Ombudsman: stopped taking new complaints for initial 4-week period and reduced telephone services, now accepting new complaints and phone lines fully re-opened (although cannot access physical post).
- Parliamentary & Health Service Ombudsman: Stopped taking new complaints or progressing existing ones about NHS (as they are on frontline of Covid-19 response), still taking forward complaints about central Government but keeping under review re. pressure / workload on civil servants.
- Public Services Ombudsman for Wales: continuing business as usual – in agreement with NHS Wales. May need to be adapted at later stage.
- Scottish Public Services Ombudsman: continuing to accept all complaints (written and electronic) and prioritise and progress Covid-19 related complaints and those from vulnerable individuals.
- Office of the Independent Adjudicator (OIA): continuing to provide full service investigating higher education complaints.
- Property Ombudsman: continuing to provide full investigation service
- Office of the Ombudsman (Ireland): continuing to provide full investigation service (whilst discouraging postal complaints) and publishing reports about government departments.
- Garda Ombudsman: continuing to provide full service regarding complaints about police in Ireland, carrying out interviews via videoconferencing software.
- Bermuda Ombudsman: reminding Government officials not to assume that all citizens can get update information through the internet.

4. Organisations in jurisdiction

The approach schemes have taken to continuing to progress complaints has been heavily influenced by the sectors they are operating in and that sector's ability at this time to respond at all stages of the process from the enquiry stage, to the consideration of the investigation findings and the expectation that recommendations will be implemented on a timely basis.

As highlighted above, some schemes covering public services took the decision to suspend the progression of complaints to allow organisations within their jurisdiction to focus their efforts on delivering essential services at this time. Other schemes have opted for a mixed approach, working with organisations within their jurisdiction to identify areas where complaints can continue to be progressed,

ensuring that organisations continue to have a fair and reasonable opportunity to provide evidence and to consider provisional findings.

Another complicating factor, particularly in the areas of health and social care, has been the need to gain access to professional advisers in order to progress investigations and, again, there is a mixed picture of the arrangements schemes across the UK have been able to put in place to be able to continue to secure this advice.

In the private sector many ombudsman schemes are engaging with their sector and taking into account where usual timescales on responses to complaints are currently difficult to meet – for example, several energy and communications companies who had outsourced their front end to an overseas organisation have lost the entire first tier of their customer service / complaint handling process as a result of the lockdown in those countries.

The impact on some sectors, such as the property industry and higher education, is likely to be particularly severe. Many companies in the private sector may be forced to close permanently and other service providers may need to radically alter their services, which will of course have an impact on any existing or future complaints about those services.

5. Key issues going forwards

i) In the next 0 -3 months

All schemes will now be considering the ongoing challenges of continuing to deliver their services whilst maintaining lockdown and then the likely social distancing arrangements that will follow. Immediate changes to services that were accepted as reasonable responses to an urgent situation at the start of lockdown will require ongoing review to ensure that any adjustments that are in place continue to be fair, reasonable, proportionate and justifiable. Part of this will be addressing the different staffing challenges of leading and managing in this different environment and continuing to address ICT and infrastructure challenges created by the lockdown.

In terms of managing changes to complaint volumes, some schemes are seeing a fall in complaints; some of this is due to local measures, some down to complainer behaviour (e.g. not making complaints about health matters in recognition of the added strain on the health sector). In contrast some sectors are seeing an immediate increase.

Horizon scanning both across schemes to identify good practice, and across other key stakeholders such as other regulatory organisations in the relevant area of jurisdiction to identify issues emerging is likely to be of high priority to most schemes, which the OA will continue to facilitate.

ii) Medium term

Once schemes begin to return to business as usual, depending on their area of jurisdiction, as well as potentially increased caseloads as a result of the delays in processing generated by the lockdown, they will also potentially see new types of complaints about the impact of the handling of the lockdown itself on the services they have received. They will need to take decisions about the level of resource and response that can be directed to handling these.

There is some evidence already in some schemes that productivity has risen as a result of the change in working practices – although this is a mixed picture, the medium to long term challenge is that this combined with likely changes in complaint volumes, makes planning even more challenging than normal.

From a staff perspective, it isn't yet known what the impact will be in terms of both capacity and well-being from this period of lockdown. It is likely that the same impact will also be felt in the organisations that fall under the ombudsman's jurisdiction so consideration will also need to be given how to respond to this changing ability of organisations to respond to scrutiny.

iii) **Longer term**

At a longer-term macro level, it would be helpful for the sector to begin to consider the changing challenges for ombudsman schemes and the OA will look to facilitate those discussions. In particular, these may relate to:

- 1) Any changes in political attitude towards the need and priority of complaints services within the administrative justice landscape;
- 2) The changing perception, attitudes, and level of trust citizens have in services overseen by an ombudsman (and potentially those sectors / areas where an ombudsman is not in place), particularly in relation to the NHS and the care sector and any changing perception in relation to the level and type of scrutiny required;
- 3) The potential re-prioritisation of resourcing ombudsman schemes, particularly of public funding for public service schemes and the potential willingness and ability of private sector companies to continue to fund private sector schemes (especially where it is voluntary for them to be part of an ombudsman scheme); and
- 4) New working practices that have been adopted, both in relation to having the technology and processes in place to efficiently support staff, and the potentially inadvertent reduction in access to justice as some routes (e.g. telephone or post) have been reduced or closed off.

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