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***The role of the Ombudsman in the implementation of principles of
good administration in the United Kingdom***

REPORT PRESENTED BY

**Ms Lesley BAINSF AIR
Head of Policy and Research
Parliamentary and Health Service Ombudsman (PHSO)
United Kingdom**

My name is Lesley Bainsfair. I am Head of Policy and Research in the Parliamentary and Health Ombudsman's Office (PHSO), in the United Kingdom and I'm here today representing the Ombudsman, Ann Abraham, who sends her apologies that she can't be here today.

In March this year, the Ombudsman published her Principles of Good Administration. These are 6 Principles which set out a framework of the sorts of behaviour that the Ombudsman expects of public bodies delivering public service. I would like to talk to you about these Principles today.

Before I do, I thought it might be helpful to spend a few minutes outlining the role of the Parliamentary and Health Ombudsman in the United Kingdom. I think this might be helpful in understanding the background to the principles and why it was so important to the Ombudsman to undertake this project.

As Ombudsman, Ann's role is to carry out independent investigations in to complaints that government departments, a range of other public bodies in the United Kingdom and the National Health Service in England have not acted properly or fairly or have provided a poor service.

The Ombudsman can only act on complaints from individuals; the Ombudsman is responsible for deciding whether maladministration, service failure or both have occurred.

The Ombudsman's view is final, subject only to judicial review by the courts. Although I should make it clear that our recommendations are not mandatory.

The Ombudsman applies a test of fairness and reasonableness, taking into account the circumstances of each particular case. It is not a test of perfection, but a consideration of all the circumstances, including what happened, the nature of the maladministration, how long it had gone on for, the circumstances of the individual, how vulnerable they might be. So there is a judgement about the impact on the individual.

As well as aiming to provide a high quality and efficient complaints handling service, the Ombudsman also has a role in helping to improve public service delivery and even informing the development of policy. We draw attention to failures and aim to share the lessons learned from complaints to help inform the way public services are provided.

The Ombudsman's office is here to provide individual benefit and public benefit. At the heart of our work is providing a high quality, efficient complaints handling system. This is what we do and provides the evidence for the rest of our work and is the work from which we draw our authority. In 2006-07 the Ombudsman dealt with over 14,000 enquiries and completed over 2,500 investigations.

We also have a role in providing public benefit. On the basis of our casework we believe we are experts in good administration and good complaints handling, and can thereby promote and drive improvements in public services and would hope sometimes too to help inform the development of public policy.

So, it was against this background that the Ombudsman undertook the project, to promote both individual and public benefit.

We wanted to be clearer with public bodies, for them to understand how we will approach complaints and to be more open with complainants so that they will understand how we will consider their cases. We wanted to put forward a vision of a shared understanding of what constitutes good administration.

We believe that the core of our work, the complaints handling provides us with the expertise to be an expert in good administration and we wanted to share this with all our stakeholders.

How did we go about the project? The first step was to set up a Steering Group and their role was to inform and advise the project. Ann Abraham chaired the group and members included some of PHSO's internal management team, and very importantly senior representation from our key stakeholders - including one of the government departments from which we receive many of our complaints.

The first thing the Steering Group did was to review any existing guidelines and practice, nationally and European wide before going on to consider draft Principles. There was a wealth of information to research and this proved to be very helpful in informing our work and drafting our own principles.

We wanted from the very start of the project to consult and engage key stakeholders. Although the principles were and would remain very much the Ombudsman's principles of good administration, we wanted to bring people along with us and to address their concerns where we could. It soon transpired that a key concern was centred around the purpose of the Principles. There was some concern that the Principles were a checklist and failing to meet any one of the principles would mean that a public body would be found guilty of maladministration. This is not our intention and never was. Our aim always from the start was that the Principles would be a broad framework and a guide for public bodies to have in mind when offering public service.

Following that first informal consultation and discussions with key stakeholders, we began a formal 12 week public consultation which took place from October 2006 to January 2007. We sent the draft out to some 250 key stakeholders and also to all Members of Parliament.

January and February was spent reviewing and revising the draft Principles. The feedback we got from that consultation was really very helpful and we are very grateful to all those who took the time to offer really very thoughtful and helpful comments both on the content and in helping to make the drafting more precise. We are particularly indebted to our European colleagues, many of whose comments we took on board.

It was very encouraging to see that there was overwhelming support for the Project with most people saying that they would find the principles helpful and relevant to their work. I will show you some of the things that people said in a moment.

We took on board some points that were raised by a number of people. Government departments in the United Kingdom had some concerns about the importance of resources in all this and that we should acknowledge resources explicitly in the Principles and also the fact that there is a wide range of public bodies which fall within the Ombudsman's jurisdiction. We took this on board and the introduction to the Principles now states that we appreciate the varying nature of public bodies within the Ombudsman's jurisdiction, that their range of

remits and statutory duties are wide and varied with their own demanding standards. Public bodies have to take reasonable decisions bearing in mind all the circumstances and delivering good service often means taking a broad and balanced view of all the individuals affected by a decision.

There were some useful points made around making sure the language was plain and easily understood by everyone. About the need to make Human Rights more explicit; the need to be explicit about the importance of apologising; the need to balance openness with privacy. What we did resist was any attempt to make the principles more prescriptive and more explicit about terms like 'prompt' and 'helpful'. We resisted this as we always wanted the principles to be high level, they were deliberately drafted at a high level and we did not want to go to that level of detail.

It was also important to us that the Principles were written in language that would be easily understood by all, and not just civil servants in a public department. So, once we were happy with the final text, we submitted it to the Plain Language Commission for their view. It was a helpful and productive dialogue, with clear added value. The PLC understood our audience, and offered some very helpful suggestions.

These are the final principles. We launched them on 27 March this year at the House of Commons with an evening reception to celebrate the 40th anniversary of the Parliamentary Ombudsman.

1 Getting it right

About acting in accordance with the law, taking account of established good practice, and with due regard for the rights of those concerned.

2 Being customer focused

Easy access to services, informing customers, keeping commitments, being helpful, sensitive and flexible.

3 Being open and accountable

Being open and clear about policies and procedures, stating decision-making criteria, handling information properly, taking responsibility for actions.

4 Acting fairly and proportionately

Treating people impartially, with respect, objectively and consistently, ensuring decisions and actions are proportionate and fair.

5 Putting things right

Apologising, putting mistakes right quickly, information on how to complain and operating an effective complaints procedure which includes offering a fair and appropriate remedy when a complaint is upheld.

6 Seeking continuous improvement

Reviewing policies and procedures, asking for feedback and using it to improve services and performance, and ensuring that the public body learns from complaints and uses these to improve services and performance.

As you can see, 6 Principles also with supporting text.

The feedback from the Principles was all good.

We have been particularly pleased with the feedback we have had from our international colleagues and we hope this continues. For example, the Gibraltar Ombudsman reproduced them in his 2006 Annual Report, replacing his usual chapter highlighting good practice. My colleague has recently visited Armenia for a seminar on good administration.

The Principles were also warmly welcomed at the 10th Round Table of European Ombudsmen and the Council of Europe Commissioner for Human Rights, that Ann and colleagues attended in Greece just after Easter.

So what happened after their launch in March 2007? We need to follow up the launch of the Principles by first of all making sure that PHSO practises what it preaches, that we implement the Principles internally. And, to keep awareness of the Principles high so that public bodies in jurisdiction have regard to them and put them into practice. We want the Principles to become second nature for those involved in public service.

You may also be interested to learn that we have also very recently published the second part of our set of Principles – Principles for Remedy. There are many sources of guidelines on remedy, but there is little consistency across public service about first principles and the approach to take. The Ombudsman's fundamental principle is to try to return the complainant to their original position. We also want to encourage public bodies and NHS providers to move away from prescriptive, restrictive guidelines and to get those involved in offering remedies to consider the individual circumstances of each case and to offer fair and proportionate remedies given all the circumstances.

We took a conscious decision to use the same headings as those used in the Principles of Good Administration as the Principles for Remedy flow from and should be read in conjunction with Principles of Good Administration.

Consultation started on 27 March and closed on 19 June.

We intend to illustrate and bring the Principles alive with case examples.

We hope that both sets of Principles will help us to do our core work – investigating and resolving complaints effectively and efficiently – and also provide a first class public service to complainants and public bodies within our jurisdiction.

I would be happy to answer any questions.