



ADR APPG Ombudsman Services

Date: Tuesday 6th June 2023

Time 16:00 – 18:00

Venue: Committee Room 18, Parliamentary Estate

General overview

Session: The role of ombudsman services in the UK and beyond.

Forum: Short presentations will be given by witnesses from different ombudsman services. This will be followed by questions and answers from parliamentarians and attendees in the room.

Running order

- 16:05** Introduction from John Howell MP, Chair of ADR APPG, speaking about the Venice Commission and Venice Principles
- 16:15** Presentation from Youssoupha Niang, UNHCR Ombudsman and Mediator
- 16:25** Presentation from Richard Blakeway, UK Housing Ombudsman
- 17:30** Summary and close from the chair

Session minutes

John Howell:	<p>Stated that he is the leader of the UK delegation to the Council of Europe which gives opinions to countries to determine whether they are complying with human rights. Under the Council of Europe's Venice Commission, they have looked at the type of rules that need to be in place to oversee the structure of how ombudsman services work. Since you cannot have such services working on an ad hoc basis.</p> <p>The Commission produced the Venice Principles On The Protection and Promotion Of The Ombudsman Institution, which are 25 principles that have been adopted by the United Nations (UN) and the Council of Europe. These principles acknowledge the role that ombudsman services have. The principles also ensure ombudsmen are only acting from affirmed legal positions. The Council of Europe formalised the relationship between ombudsmen and the state. John added that the Venice Commission is very pro mediation.</p>
Youssoupha Niang:	<p>Explained that his work is based in Geneva, as Ombudsman and Mediator for UNHCR which is part of the UN's Ombudsman and Mediation Services.</p>



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He is also part of the International Ombudsman Association Board of Directors. Youssoupha added that the Mediator service was created 30 years ago, and it recently became an Ombudsman and Mediator's position. He further explained that he is an ombudsman, and that his ombudsman work is more organisational.

Additionally, he noted that the service is the UN's ombudsman; they also work in partnership with the Ethics Office and the Office of the Inspector General. The UNHCR covers all the personnel in 135 countries, even though they are based in Geneva, Nairobi, and Budapest, they try to have presence in other regions.

He identified that there are three aspects of work that the UNHCR Ombudsman does. Firstly, they look at case work and offer mediation, this includes mediation for sexual harassment. He observed that mediation for sexual harassment is new at the UN and the pilot programme has been very useful.

Secondly, they look at systemics, the identification of different causes of conflict for the organisations involved.

Thirdly, they equip people with skills to be more acute by using community-based intervention, so that people can own the process.

This ombudsman service is part of the UN system of justice. The main principles are that of independence, confidentiality, informality, and impartiality. Youssoupha also noted that the service works on administrative decision cases, as well as on cases that have been closed by the formal system. Therefore, there is a lot of work to be done. He added that a case may be closed but the topic is not closed. He further explained that there are a lot of mental health issues which are associated with conflict, so it is important to not take sides, adhere to confidentiality, and impartiality. In addition, there needs to be flexibility on impartiality to account for cultural differences.

Richard Blakeway:

Explained how the role of ombudsman services feeds into the administration of justice. The Housing Ombudsman (HO) has been around since the 1990s. The HO provides redress for residents of social landlords, under their different initiatives. Richard commented that there is a range of people who may live in a building owned by a social landlord.



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The HO has been through a lot of changes – due to the Grenfell Tower fire and criticisms about access to complaints. He pointed out that every year for the past three years, there has been new legislation that changes the HO's powers in different ways.

Richard highlighted that there are three pillars to what they do. Firstly, they set complaint handling standards, there is a duty on members to follow this standard.

The second pillar is dispute resolution – a core of what they do and the scale at which they use dispute resolution has changed. The HO now deal with 10,000 cases per year, this used to be 1,500 cases. He noted that orders made after a decision must be followed, these orders can subsequently be enforced by the courts.

The third pillar relates to systemic issues – this links to the HO's new powers. The HO also engage in group case work. Furthermore, the HO are involved in system wide or sector wide issue reports, as well as recommendations that could have a real impact in preventing complaints. For example, the HO's [Knowledge and Information Management Report](#) – this report has been accessed thousands of times.

He added that ombudsman services are an alternative to court, however, the way they gather and treat evidence is different to how the court treats evidence. The HO's discretion allows them to look at an issue in a way that other dispute resolution mechanisms cannot bring a lens to. For example, the role of human rights and whether they are being respected in a particular case. Richard further pinpointed how the work of the HO is being used by regulators to determine whether there has been a breach of standards.

John Howell: Asked how much Youssoupha's and Richard's work relates to human rights and what this means in practice.

Youssoupha Niang: Stated that when he was on the secretariat, he was also the lead on the dialogue against racism. He explained that people can advocate for things in the UN, and that the UN mandate is based on the [UN Charter](#). The UN mandate is at the core of everything done in the UN, it can be found in the preamble of the UN Charter. He added that after the murder of George Floyd, they appointed someone to deal with racism. Youssoupha



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	<p>highlighted that human rights are associated with everything that their service does.</p>
Richard Blakeway:	<p>Stated that the HO recognised that cultural considerations can sit behind the decisions that people make. He added that people have a right to have decent homes, which links to the Equality Act 2010. Richard identified that paragraph 52f of the HO Scheme refers to empathy and they will highlight it if reasonable adjustments have not been made in a particular case. He mentioned a case in which there were three occasions that the landlord did not respond to the issues appropriately.</p>
Christina Rees:	<p>Referred to the APPG on Restorative Justice and asked how restorative justice can work in health and social care as well as other sectors.</p>
Youssoupha Niang:	<p>Noted that restorative justice is a new concept at the UN. He identified that sometimes investigations can take years and become quite stressful; if the case needs to be closed, they will look at the management implications of this. Youssoupha observed that there have been cases where colleagues have come back after the investigation or the person involved in the investigation left, however, the damage was still there. He added that they also engage in community work for people involved in the damages that are created by conflict, some of this community work is done via mediation, or corporate intervention. Additionally, he explained that cultural influences are very big, so it is important to look at how culture can be used to restore or prevent conflict.</p>
Richard Blakeway:	<p>Commented that the approach that ombudsman services take is restorative on one level. He highlighted that it is valuable to restore and rebuild the relationship between a landlord and tenant. Tenants will usually continue to live in the landlord's property, so maintaining this relationship is good. Also, when people start the ombudsman process, they are very annoyed, therefore, rebuilding the relationship between tenant and landlord is hard.</p>
Youssoupha Niang:	<p>Stated that mediation was useful in cases of sexual harassment.</p>
Peter Aldous:	<p>Identified that he is the Chair of the APPG on State Pension Inequality for Women. He explained that they had agreed to look at the issue of this inequality again before it is legally challenged. There is now a suggestion to make use of ADR. Peter acknowledged that he did not know anything about ADR and that he was trying to understand the limitations of it. He</p>

	<p>asked what should be done if one party even fails to consider that there is a dispute and questioned how an ombudsman service would approach this challenge.</p>
<p>Richard Blakeway:</p>	<p>Stated that in general terms the Parliamentary and Health Service Ombudsman (PSHO) would be given an opportunity to respond to the issue before the ombudsman services can be involved.</p> <p>In relation to how the HO handles disputes, he explained that the HO will define the complaint – the definition of the dispute is their decision, and it is an important principle. Richard observed that the definition of a complaint is like the treatment of evidence and the active role that is taken when building on the evidence. The HO use their discretion to reach remedies, therefore, they have an inquisitive role. The HO will then make an order, he stressed that those orders should be fulfilled. He emphasised that they make orders, rather than seek to compel. He added the caveat that this all depends on the powers of the ombudsman service.</p>
<p>Youssoupha Niang:</p>	<p>Stated that their service does not make recommendations, but they do report to higher authorities giving them some soft powers. He recognised that it is a question of Impartiality vs multi-partiality.</p> <p>Youssoupha pointed out that it is a matter of practice, rather than the soft powers that they have. At the UN they are fine with the soft power they have to manage the resolutions they need.</p>
<p>Karl Thompson:</p>	<p>Mentioned the former HO and asked to what extent did the HO service use external mediators. He added that there is a perception of large caseloads that need to be resolved, so, he wondered whether external mediators are used to handle caseloads. He also questioned what challenges the HO faces and how they deal with new technology like artificial intelligence (AI), privacy or human rights issues.</p>
<p>Richard Blakeway:</p>	<p>Responded that the HO are moving away from the use of external mediators and investigators. He commented that case work development is better done internally and observed that bringing case work resources takes time.</p> <p>Richard noted that AI does have a role, for example, assisting with casework updates. However, there is a strong preference for human</p>



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	<p>contact because there are vulnerable people who use the HO service. So, it might be appropriate to use AI for case updates, but not for announcing decisions.</p>
Youssoupha Niang:	<p>The UN Ombudsman Service has on call mediators, although there are cultural differences to account for. He referred to how in some private companies there is interesting material on ombudsman services and AI – where it is being used in cases that need more information, as a form of triage. In his view, the power of AI is better than the power of humans for triaging cases. He stressed that it is about how things are implemented not what is implemented.</p>
Mel Schwing:	<p>Noted that the ombudsman service provides more than just substantive parts, there are also procedural issues to consider. He explained that he recently used an ombudsman service and their decision raised issues regarding the rule of law theory. He added that the service took evidence from one party and relied upon it, but they did not share this evidence with the other party. Mel identified that this ombudsman service ignored some of the submitted evidence as well. He therefore questioned what measures are in place to protect the rule of law.</p>
Youssoupha Niang:	<p>Replied that his service did not really have this issue because they do not investigate disputes, rather they handle matters informally. He additionally mentioned that, when looking at cases they avoid stating that one party is right or wrong.</p>
Richard Blakeway:	<p>Responded that Mel's question is a really fair challenge, and that sometimes their discretion is used less than it should be. He added that it is right to refer to the law and the body's own decision that influences cases. Also, individual circumstances are important, and are quite varied. For example, he mentioned a case where a row of terraces was affected by a pipe, people were impacted differently by this depending on whether they were at home or on holiday. So, they need to respect judgment-based decisions.</p> <p>He stressed that the HO Publish all decisions (via report) every 2 weeks, therefore, they are transparent. Their decisions are open to challenge via judicial review, but they also have an internal challenge process. The HO are very open to getting the right decision which has to be based on evidence; they have a quality framework and continuous quality control checks. The HO also publish their guidance and the framework which can be referred to or challenged.</p>



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Attendee:	Stated that the rules are changing for the HO in 8 weeks and questioned whether Richard had any information on it.
Richard Blakeway:	Responded that there is an 8-week period where the issue is being resolved by a designated person. If the issue is not resolved before this period it will be sent to the HO. He mentioned the moratorium that was enforced by the Grenfell Tower fire, this had an immediate impact because it coincided with an inquest on a child dying due to mould. He stated that the HO would see an increase of around 20-30% in casework volumes due to the new rules.
Youssoupha Niang:	Observed that people can complain at any time, however, they do have a time limit on escalations. The deadline will be extended if this is requested.
Christina Rees:	Questioned whether the HO have any involvement in Wales.
Richard Blakeway:	Replied that the HO is part of Wales, the first thing the HO looked at in Wales was homelessness. They published a 2021 Report on Damp and mould and engaged with the Welsh ombudsman service on this report. They also have conversations on how to raise complaints standards and the best way to investigate complaints.
Robin Brons:	Asked the speakers to identify the biggest obstacles that their services experience.
Youssoupha Niang:	Answered that the biggest challenge is having the resources to cover the mediation. He explained that they trained 4,000 people in one year and they have a team of 7. The service also does a lot of outreach, since it is important for people to know that the service exists – he emphasised that it is important for people to know all the services that they have. Languages are also a challenge; although on call mediators are useful because they are able to master some of the issues which are present in their communities.
Richard Blakeway:	Commented that awareness is a huge issue. For example, the government have done two surveys, to ask about awareness on their schemes – approximately 72% of respondents were aware of them. He clarified that it is about people being aware that they can refer cases to their service and empowering users to speak more about the service. Therefore, they are looking at parts of the country where they receive



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	<p>disproportionate complaints. With this method they can work on where they need to do more outreach – he recognised that this is usually young people, individuals with low literacy and those without English as their first language. Furthermore, social media can be used to reach out to people, though he added the caveat that it can be uncontrollable.</p>
Donal Kalligan:	<p>Pointed out that the UK is now the only place where you cannot reach out directly to an ombudsman service. On the issue of raising awareness, there is an Ombudsman Association (OA) conference between 20-21 June 2023, on how they can raise awareness. The OA is trying to retrofit, so we need to teach people these things. For example, there is a Children and Young People Ombudsman in Northern Ireland, who go out and educate children on their rights – something like this is really missing in the UK.</p>
Youssoupha Niang:	<p>Highlighted that the UN service also has education programs.</p>
Peter Aldous:	<p>Asked whether the government is bound to accept findings where the ombudsman service look at an issue that has implications.</p>
Richard Blakeway:	<p>Replied that the local housing authority will be bound, but the government is not bound. He added that the HO can only make recommendations. He observed that there are a number of examples that make reference to a type of mould and looking at what is explicitly included in it.</p>
Peter Aldous:	<p>Asked whether the government had a duty to accept a finding if the ombudsman makes financial recommendations.</p>
Richard Blakeway:	<p>Responded that the parliamentary ombudsman makes recommendations that are not binding.</p>
Donal Kalligan:	<p>Explained that all ombudsman services make recommendations, there is only one ombudsman that makes binding decisions in South Africa – however, they are always taken to court. He stressed that ombudsman services do not want binding powers, as they end up being contentious.</p> <p>Donal referred to an example where a department refused to accept an ombudsman finding, so they were put before a select committee. Therefore, the government does have the power and influence to lean on these organisations.</p>



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Youssoupha Niang:

Noted that the UN ombudsman cannot take matters to court, however, systemic matters can be reported to the general assembly. Such reports are also public. The UN service has soft power, and they use it to have things implemented at the end.

Charlotte Steinfeld:

Asked whether there was any appetite for the development of a standard procedure for ombudsman services.

Youssoupha Niang:

Replied that the UN and the International Ombudsman Association are looking into this.

Richard Blakeway:

On single sector ombudsman, Richard observed that we currently have a single ombudsman scheme per sector and that there should be consolidation rather than a framework. He added that the different ombudsman services try to do joint investigations. Furthermore, the OA has frameworks to promote consistent practices.

On the pros and cons of single sector ombudsman services – the HO can provide private tenant redress. This is really positive, but the way this service is provided is critical. He remarked that there is no choice on how to design schemes if you want people to have redress. The development of a scheme can have multiple parties involved.

End of session.