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## **POLICY BRIEF**

# **Critics of the Ombudsman System: Understanding and Engaging Online Citizen Activists**

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## *Executive Summary*

- This policy brief presents the outcomes and recommendations from an ESRC IAA<sup>1</sup> funded knowledge exchange project on activist consumer groups ('ombudsman watchers').<sup>2</sup>
- Two workshops were held to explore the activities and significance of these 'ombudsman watchers' who are using the Internet and social media to protest about the operation of ombudsman schemes.
- The workshop with the ombudsman watchers covered the nature of their critique of ombudsman schemes; and the goals of their campaigns, the methods used to achieve them, and the responses they had obtained from ombudsman schemes and others.
- The aim of the workshop with the ombudsman schemes was to discuss what they felt the issues to be and how they had interacted with the ombudsman watchers operating in their area.
- Many of the issues raised by the ombudsman watchers touch upon important and widely recognised dilemmas for the ombudsman institution. These matters are likely to continue to be controversial and, perhaps, require a clearer and more coherently developed position amongst the wider ombudsman community.
- At the same time, the critiques put forward by the ombudsman watchers may highlight the way in which the public misunderstands the role of ombudsman schemes and may be indicative of an apparent gap between public expectation and what ombudsman schemes are set up to provide.
- Some ombudsman schemes had been very proactive in terms of engagement. However, it is not clear whether, from an ombudsman scheme's perspective, engagement is likely to result in learning for service improvement. There was variation in the degree to which ombudsman schemes had found the critiques of ombudsman watchers constructive and useful and to what extent those critiques had informed service improvements and resulted in meaningful dialogue.
- The influence of ombudsman watchers and the degree to which they should be engaged with is likely to remain a troubling issue for ombudsman schemes. This involves balancing the need to address negative publicity and the desire to draw lessons from the experiences of dissatisfied complainants, at the same time as recognizing that this risks privileging potentially unrepresentative perspectives.

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<sup>1</sup> The Economic and Social Research Council (Impact Acceleration Account).

<sup>2</sup> <https://www.law.ox.ac.uk/research-and-subject-groups/online-critics-ombudsmen>

# Critics of the Ombudsman System: Understanding and Engaging Online Citizen Activists

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## *Online Activism and Ombudsman Watchers*

This ESRC-funded knowledge exchange project examined the activities and significance of activist consumer groups who are using the Internet and social media to protest about the operation of ombudsman schemes in the United Kingdom (Creutzfeldt and Gill 2014).

We call these online activist consumer groups ‘ombudsman watchers’, after one of the first such websites to be set-up. The aim of the project was to help policymakers, practitioners and stakeholders of ombudsman schemes by exploring the drivers for this particular form of protest and the ways in which this social phenomenon can be better understood and managed to ensure the continued legitimacy of ombudsman schemes. A key goal was for the project to lead to an exchange of views between ombudsman schemes and ombudsman watchers.

The project had two specific aims:

- (1) to understand the concerns, goals and operations of ombudsman watcher groups (and individuals); *and*
- (2) to understand how ombudsman schemes are responding to scrutiny from ombudsman watchers.

The project was delivered in partnership with the PHSO, which is currently under close scrutiny from a group of ombudsman watchers called ‘PHSO the Facts’. Several other UK ombudsman schemes have one or more ombudsman watcher groups, so that this phenomenon and the outputs of this project are likely to be of significant interest to others within the ombudsman community.

From an academic perspective, the project aimed to shed light on a new and rapidly developing phenomenon at a time when ombudsman schemes are taking on an increasingly important role within the justice system and, therefore, coming under more intense scrutiny. As the spotlight is increasingly directed towards ombudsman schemes, it is important to begin to understand and examine those voices that are critical of the system.

The project was delivered by holding a series of workshops. Two workshops were held with representatives from ombudsman watcher groups (including an

individual who set up a website)<sup>3</sup> and one workshop with representatives from ombudsman schemes<sup>4</sup>. In total, 10 representatives took part in the project: five from ombudsman watcher groups and five from ombudsman schemes. This Policy Brief summarises the key points arising from the workshops and sets out some preliminary conclusions with regard to future policy, practice, and research.

### ***WORKSHOP 1: The Ombudsman Watchers' Critique***

We invited six ombudsman watcher groups to take part in the project. One did not reply, one told us that the group was no longer active, and one was unable to attend the workshops. The final workshops secured attendance from representatives of groups who were critical of the Financial Ombudsman Service, the Legal Ombudsman (representative is not part of a group), the Parliamentary and Health Services Ombudsman, and the Scottish Public Services Ombudsman.

The discussion was wide ranging but covered two main areas:

- (1) the nature of the ombudsman watchers' critique of ombudsman schemes;
- (2) the goals of ombudsman watchers' campaigns, the methods used to achieve their goals, and the responses they had obtained from ombudsman schemes and others.

#### ***The ombudsman watchers' critique of ombudsman schemes***

Through the workshop discussions, we identified four broad themes in terms of ombudsman watchers' critiques of ombudsman schemes:

- Lack of accountability
- Procedural and practice issues
- Staffing and qualifications
- The impact of the system on complainants

***Lack of accountability.*** Several participants expressed the view that there was a lack of accountability, due to the absence of any effective form of appeal to challenge the decisions of ombudsman schemes. Judicial review was regarded as a very limited and inaccessible form of review. Internal reviews are seen as 'rubber stamping' exercises, which were insufficiently robust and gave very little assurance to complainants. Even where ombudsman schemes used 'independent reviewers', these provided little accountability because they were paid by

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<sup>3</sup> Accountability Scotland <http://www.accountabilityscotland.org>, phso the facts <http://phsothefacts.com>, Financial Ombudsman Problems [www.financial-ombudsman-problems.co.uk](http://www.financial-ombudsman-problems.co.uk), Legal Ombudsman problems <http://www.legalombudsman-problems.co.uk/>.

<sup>4</sup> Parliamentary and Health Services Ombudsman, Local Government Ombudsman, Financial Ombudsman Services, Ombudsman Services and Scottish Public Services Ombudsman.

ombudsman schemes and their remit concerned administrative and service matters, rather than providing a route of appeal against the substantive decisions of ombudsman schemes.

Some participants felt strongly that, as a result, the quality of ombudsman schemes' decisions were subject to almost no external oversight. The perception was expressed that the schemes were analogous to a bean factory, where the only concern was on the procedures and efficiency of bean processing and no one tasted the quality of the final product. One participant noted that Parliamentary scrutiny did involve asking some searching questions, but that evasive answers were not sufficiently followed up. Generally, there was a lack of interest and knowledge amongst the public and parliamentarians about ombudsman schemes and administrative justice, which meant accountability was weakened.

Another issue, which participants perceived interfered with ombudsman schemes' accountability, was the fact that the way they reported data could be confusing and was subject to frequent change. An example cited by participants related to how upheld complaints were reported, where it could be unclear whether the substantive issue was upheld or a minor, peripheral issue.

Another example that was given by participants related to the results of customer satisfaction surveys, which were carried out and published in ways that did not allow for easy year-to-year comparisons. The suggestion was that ombudsman schemes might report statistics in a way that made their performance look more favourable than it was in actuality.

Several participants also felt that the approach of ombudsman schemes could be secretive and opaque. For example, it was alleged that one ombudsman scheme refused to release the identity of professional advisers used to provide advice on cases, while information provided by organisations was not always shared with complainants. It was not always clear to complainants how cases had been dealt with, leading to a perception of unfairness. Some participants mentioned that this sense of opacity was also present in relation to how ombudsman schemes dealt with Freedom of Information (FOI) requests. They considered that basic information should be provided more transparently, without forcing people to use the formal FOI process.

One participant accepted that demands for greater accountability by ombudsman schemes always needed to be balanced against the need for their independence, and that a key issue in relation to the effectiveness of ombudsman schemes was getting the balance right between accountability and independence.

***Procedural and practice issues.*** Some participants queried the robustness of ombudsman schemes' investigation processes, noting that they were desk based, 'paper exercises' and insufficiently inquisitorial. They compared

unfavourably to other administrative investigations such as those involving fraud, which had robust methodologies. Information provided by the bodies being investigated was often accepted at face value rather than being challenged, even where it was asserted that the complainant had been able to provide irrefutable contradicting evidence.

The process was seen as one-sided, with complainants not being made privy to discussions between ombudsman schemes and the bodies investigated. Some participants claimed that one ombudsman scheme shared reports with the body investigated prior to it being shared with the complainant. Overall, one participant felt the process was 'democratic window dressing' rather than a serious attempt to investigate issues. In addition to the perception that there was a tendency for ombudsman schemes to be both procedurally and substantively biased in favour of the body being investigated, some participants felt that ombudsman schemes were under pressure to 'gate keep' their resources. This gave rise to the perception that staff were continually looking for ways to close cases down and that the process ended up being a series of hurdles for complainants to fight their way through. This was seen as particularly problematic in the context of restrictions on wider access to justice (specifically judicial review and ADR), which meant that ombudsman schemes had become the only option available to people. Some participants noted an increasing trend for cases to be dismissed over the telephone, at a very early stage, and that it was difficult to be clear about why this was the case.

Other process issues identified by participants included the fact that multiple ombudsman staff could be involved in a complaint, which meant that the process could end up feeling very impersonal. One participant contrasted this with the Netherlands, where a single case officer dealt with a case from beginning to end of the process. Linked to this issue, participants discussed the idea that some ombudsman schemes were moving towards a call centre model, which although it could be appropriate for some disputes, was not appropriate for more complex and sensitive issues. There was a suggestion that a call centre approach was more about deflecting complaints and reducing demand than about having complaints investigated thoroughly.

Generally, some participants felt that the confidentiality of ombudsman schemes' processes was used as a smokescreen. It was harder for people to understand and assess the fairness of ombudsman processes compared with those which are more visible, such as courts. This was exacerbated by the fact that ombudsman schemes were seen to operate in a grey area without clear and fixed criteria. There was no definition of an investigation, nor did the terms 'maladministration' and 'fair and reasonable' provide any clear criteria or standards against which actions could be judged.

There was a general perception that ombudsman schemes were there to 'help the little guy' and this was reinforced by the way that they presented themselves. However, participants felt that in practice complainants found that they did not receive help from ombudsman schemes.

***Staffing and qualifications.*** Some participants felt that the qualifications and backgrounds of ombudsman staff could be problematic. Some perceived a lack of knowledge over the matters being investigated or, more generally, a lack of life experience. This could lead to investigators accepting evidence provided by the bodies being investigated at face value. It was perceived that often staff did not have professional qualifications in the area being investigated nor did they have the legal qualifications to allow them to consider more general legal issues in cases. In terms of the ombudsman sector more generally, this was perceived to be a small world and something of an 'old boys and girls club'. Several ombudsman and former ombudsman sat on each other's boards or acted as Independent Assessors, which mean that external perspectives were lacking.

***The impact of the system on complainants.*** Participants felt strongly that the current overall system for complaints, of which ombudsman schemes were a part, could have serious negative consequence for complainants in search of justice. One participant said that part of the problem was that the initial response from the body complained against was often very dismissive but that this set the tone for subsequent investigations. Complaining was described as a difficult process, which required significant persistence, often at a time when complainants were in an emotionally fragile state. Internal processes run by the bodies complained against could often dismiss complainants' concerns and when ombudsman schemes did the same, this could leave them feeling a sense of helplessness and significant injustice and often worse. Some participants suggested that complainants required more support and even representation when going through the complaint and ombudsman system. Participants said that even though they were tenacious, articulate and resourceful, they had found it difficult to get a hearing from ombudsman schemes. They suggested that vulnerable people would find it impossible without assistance.

One participant noted that a particular ombudsman schemes' own customer satisfaction surveys showed significant dissatisfaction with the service being provided. This compared unfavourably to other ombudsman schemes, such as the one in Gibraltar, where the ombudsman had a 98% positive satisfaction score, regardless of outcomes. The acceptance by some ombudsman schemes of reasonably high dissatisfaction rates was seen as problematic by some participants.

Participants said that the system could be very inaccessible and very intimidating for complainants. There was a view that ombudsman schemes were too quick to label complainants as vexatious and so refuse to deal with them, particularly if they were complaining about long running cases. At the same time, participants said that some complainants did end up being querulous and psychologically damaged and had lost perspective on their complaints. They considered that this was a result of the complaints system which did not allow people to be heard and was insufficiently adapted to their needs.

## *Motivations, goals, methods, and responses*

**Motivations.** Participants were motivated to set up their website and pursue campaigning work by a strong sense of injustice usually, but now always, arising from the way their own cases had been dealt with, combined with a desire to help others who had found themselves in a similar situation. Some participants said they saw their role as redressing the imbalance of power between complainants and ombudsman schemes through the provision of information online. One participant noted that starting a website had initially been a response to the lack of genuinely independent appeal routes available. Participants varied in terms of the nature of their website and what they hoped to achieve. While two of the sites had a broad membership and clear campaigning goals, one of them was described as more of an information service and, despite receiving a number of contacts from complainants, did not have other group members. In addition to providing information and campaigning for change, a strong motivation noted by participants was to act as a form of accountability. As noted above, they perceived a lack of accountability to be key problem with the ombudsman system.

**Goals.** One participant noted that his website's goals were largely around information provision and seeking to enhance the accountability of ombudsman schemes.

Other participants had detailed proposals for reform of the system. In the health area, participants put forward two sets of proposals. One involved a much restricted role for the ombudsman in a system that would involve: an internal complaints stage, a local tribunal, with lay and expert medical panels reaching a view following a hearing, and a limited appeal to the ombudsman following the hearing. The advantages of this proposed system were seen as allow complainants to hold services to account more directly and openly, allowing them to be heard, even if they did not get a successful outcome.

Another proposal was to create a new regulatory body or institute composed of specialist clinical investigators, who would also be able to self-initiate investigations. This body would be funded by central government on a case fee basis in such a way that attention would be focused on number of complaints and in order to incentivise improvements. The institute would also be able to refer complaints to the police if criminal action was suspected and this might require a specialist policy unit for dealing with health and care issues. Such a system, which was seen as more robust than the present one, was viewed as important in light of increased privatisation of health services.

The idea of a single public service ombudsman for England was seen with some scepticism on the basis that it would remove the means of redress even further from the local level and involve the creation of an increasingly in-expert body.

One group of participants suggested a range of goals that they were pursuing. They said they had been trying to encourage the ombudsman to adopt some of the international standards on complaints and quality assurance such as ISO9001 and ISO10002. These standards require internal quality assurance processes that check outcomes as well as processes at a small cost. Participants noted that the Gibraltar model of ombudsmanry could be adapted for use in their context. The local nature of the ombudsman, which deals with 30,000 citizens, was seen as key to his success. The office is accessible, citizens have direct contact with the ombudsman, interviews are frequently used, and the ombudsman has a clear sense of how public organisations are operating and where problems exist. Drawing on a similar model, these participants said they would like to see a reformed ombudsman system operating on a local level, within an overall national structure. Participants felt that a system with low satisfaction was not tenable in the long term, so thought needs to be given to a more local model, which is less distant, bureaucratic, and autocratic.

Another model that was considered to be helpful by this group of participants was that used in the Netherlands where there is a 'presumption of honesty' rule in operation. This means that unless there is a record to prove a public body has acted in a certain way, the account of the complainant will be accepted as correct, the presumption being that they are likely to be honest in putting their case. This was seen as crucial in a circumstance where the public bodies have all the power and have control over the production of the evidence.

Given the inaccessibility of judicial review as a means of holding the ombudsman to account in individual cases, participants also said they were pursuing the idea that some form of ADR could be introduced as an alternative to going to court for those who feel the ombudsman had got it wrong. This could provide a means of review that is actually accessible to people.

Finally, this group of participants said they were interested in research about querulous behaviour and the impact of complaining on those who complain and the costs associated with this for individuals (financial, emotional, etc.). They were also interested in exploring how complaint systems could be reformed in ways that could help avoid or reduce these costs – currently they felt the system does not recognize the outcomes (health and psychological) it can produce for individuals or the extent to which current approaches are responsible for exacerbating these outcomes.

***Methods and responses.*** One participant said he used his site to raise awareness and tried to post interesting stories and often reproduced information that had been produced by others. He noted that the 'What Do They Know' website was very useful as a source of information on how ombudsman schemes were operating. Participants from the groups which saw themselves as active campaigners described a range of activities: attending parliamentary committee hearings; submitting evidence to inquiries and reviews; successfully lobbying to meet ministers; pushing the ombudsman to review historic cases;

participating in reform activities led by the ombudsman; and attending relevant conferences.

In terms of the response, which these activities had had, participants did not know but suspected that any impact may have been limited. Some participants did note, however, that some of the changes and developments in ombudsman schemes over time did appear to be addressing issues that they had raised, and could be the result of the pressure they had applied. Some had also been invited to contribute directly to proposals for change by the ombudsman scheme. Some participants noted that their approach was to try to depersonalise their campaign and avoid presenting individual stories. They said they only used publicly available information and drew on this to put forward their critique. They noted that they tried to be constructive and non-confrontational and had mostly pursued their campaign through engagement with Parliament and by responding to consultations. This group of participants had accepted an invitation to act as a sounding board by the ombudsman at one point, but had subsequently been ignored. These participants questioned the effectiveness of the sounding board of stakeholders that had been set up. They also noted that some Parliamentary Committees were increasingly reluctant to engage with the group.

## ***WORKSHOP 2: The Ombudsman Schemes' Perspective***

A workshop was held with representatives from ombudsman organisations, including the Financial Ombudsman Service, Ombudsman Services, the Parliamentary and Health Services Ombudsman, the Scottish Public Services Ombudsman, and the Local Government Ombudsman. The aim of this workshop was to discuss what ombudsman schemes felt the issues to be and how they had approached the ombudsman watchers operating in their area.

### ***What Issues Have Ombudsman Watchers Raised?***

***Lack of clear themes.*** Participants generally agreed that there was a lack of clear themes arising from the criticisms they had been subjected to. Some noted that the members of the groups did not have common aims and that aims could shift constantly, making it very difficult to satisfy the concerns being raised. Nonetheless, some participants noted some of the criticisms include: the timescales for investigation; a lack of clarity over how complaints were defined; a lack of contact with the complainants during cases; a perceived lack of independence from the bodies investigated; and the use of staff previously employed by the bodies under investigation. Generally, suspicion of the independence and impartiality of ombudsmen was a point raised by critics. One participant noted that the campaigning group concerned with their organisation expected a different type of investigation to the kind that ombudsmen were geared up to provide. Some wanted a kind of audit style investigation, which would include root cause analysis and a broad systemic approach to individual complaints. Although some systemic work was undertaken, the expectations of

this kind of in-depth auditing approach could not generally be met in most cases. There was also a desire from some campaigners to see ombudsmen punish service providers (e.g. fines or firing individuals) which was not within the scope of the legal powers of the ombudsman schemes.

***Individual issues and unrealistic expectations.*** One participant (from a scheme whose ombudsman watcher did not attend the workshop described above) said there were no themes arising from the website concerned with his organisation because it was focused on the personal experience of a single individual. He said that as a result of the very individual nature of the criticisms and the fact that these related to historic practices, there was little scope for learning lessons in relation to possible service improvements.

Other participants also agreed that the criticisms they faced could be very individualistic rather than relating to broader issues, and that some groups might have more limited memberships than others. One area where there was a broader theme, however, was in relation to the fact that the criticisms tended to indicate a public misunderstanding of the role of ombudsman schemes. Participants noted that there could be a public perception that ombudsman schemes were regulators or consumer champions and that this could result in complainants having unrealistic expectations. Participants suggested that the critiques they were subject to could in part be explained by the fact that complainants had unrealistic expectations of what ombudsman schemes were for.

***The inevitability of dissatisfaction.*** Several participants noted that there was some sense in which criticism of ombudsman schemes was inevitable in that they were at the last stage of the process and represented the 'end of the line'. One participant noted that the damage had often been done before a complainant arrived at the ombudsman's office, and that negative perceptions could be more about the whole complaint journey than the part which the ombudsman was responsible for. There was a wide perception that satisfaction levels generally followed the outcome that the complainant had received.

### ***How have Ombudsman Schemes Engaged with their Critics?***

***Limited engagement.*** One participant reported having had little direct contact with the ombudsman watcher concerned with his organisation. He noted that critical communication often came via social media or through the Parliamentary Committee. While this did not detract from the validity of people's criticisms of ombudsman schemes, he also noted that there was a need to be mindful of people's mental health issues and to respond appropriately. Engaging with online critics might actually exacerbate the problem and not be helpful in allowing them to move on. Generally, representatives from private sector ombudsman schemes noted that they had had less engagement with campaigning groups/ websites and they did not appear to be a particularly pressing issue for them. Other participants reported having tried to engage with

their critics but finding that it was difficult to do so as a result of their diverse and changing aims.

***Proactive engagement.*** One participant noted that his organisation had made considerable efforts to engage with its critics, such as through an independently facilitated seminar and by reconsidering some of the individual cases that had led campaigners to become concerned in the first place. He commented that it was better to engage such groups rather than to ignore them and that their feedback could be valuable, especially if it appeared to be corroborated by other sources of data and feedback. At the same time, he noted that such engagement could give legitimacy to campaigning groups, and could increase their membership if other service users felt that they could successfully pursue their case by joining the group. Re-opening individual cases did not necessarily resolve problems, as often the outcome remained the same and people would still be disappointed.

***Alternative approaches.*** One participant noted that the main way in which engagement with the campaigning group happened was through Parliamentary Committees. The group would make submissions to these and the ombudsman would then have the opportunity to respond to the points raised and the Committee could consider all evidence in the round. This process was seen as helpful in terms of managing and taking some of the heat out of exchanges with the campaigning group. Another participant said that – although the action was not taken in response to online critics – his organisation had set up their own advisory panel to get feedback from service users. This involved inviting complainants who had had a case dealt with recently to join a forum which would then meet to provide the ombudsman with feedback and advice. The membership of the forum changed every year to make sure that perspectives were fresh and relevant. Some of the issues that arose from this forum included a desire to see the ombudsman issue fines against public bodies and make higher recommendations for financial redress, albeit they did not want to see this money coming from public funds. This approach was seen as a way of ensuring that feedback from users was more representative and more current than that, which might be provided by online critics.

### ***What Influence have the Ombudsman Watchers Had?***

***Limited influence.*** As noted above, representatives from private sector ombudsman schemes considered that ombudsman watchers were not a major issue for them. It appeared that campaigns were more organised and vocal in relation to public sector ombudsman schemes. Some participants noted that the individual nature of many of the concerns being raised by ombudsman watchers meant that their influence was always likely to be fairly limited. Ombudsman schemes have access to a wide range of feedback and perspectives on their performance and these would be drawn on to get a more accurate and representative picture of where there were areas for improvement. One participant noted that the ombudsman watcher groups appeared to have limited

public support for their concerns and that when public petitions had been initiated these had not attracted significant public backing.

***Influence in context.*** Several participants agreed that the influence of ombudsman watchers could be significant depending on the context and was likely to vary over time. One participant noted that the group criticising his organisation was very organised and used a range of lobbying techniques. He considered that the campaign had been very impressively and professionally run. He said that when he had joined the organisation, he had 'googled' it and the first result that came up was the campaigning site rather than the organisation's official website. He also noted that when he started there had been a small protest outside the building. Another participant noted that her organisation was concerned about the potential impact of citizens coming across a campaigning site before finding the organisation's site. She noted that people might be put off complaining even where the organisation could have helped them.

One participant said that the campaigning group concerned with their organisation had had a significant influence, although he questioned whether it would have had an influence if some of the issues had not been corroborated by broader feedback. Nonetheless, he considered that all feedback – especially from the organisation's most disappointed users – was useful. Another participant agreed and said that it was important to listen to what was being said, albeit that the points being raised had to be considered in terms of how representative they were and how far they related to the current operations of the organisation. This was echoed by another participant who said that the influence of the campaigning groups might vary depending on the wider context. If the criticisms of the group chimed with wider concerns (for example, held by a Parliamentary Committee or other stakeholders) then they could be influential. However, if the criticisms appeared isolated and did not fit with other evidence provided either by the ombudsman or other stakeholders, then they were unlikely to have influence.

Another participant also commented on the way in which campaigning groups had tried to influence Parliamentary Committees. She noted that, in her opinion, over time the Committees had given less weight to evidence submitted by these groups, as the ombudsman had been able to demonstrate good performance using a wide range of indicators. Several participants emphasised that the influence of the websites targeting their ombudsman was diminishing, as the issues related to historical complaints, the feedback being put forward was not up-to-date and reflective of current service levels, and some of the feedback was not well evidenced and could be put forward in a rather critical and attacking way. Finally, while suggesting that the groups had had a limited impact on service delivery, some participants suggested that they did have an impact in terms of tying up staff resources at a senior level. There was also a suggestion that there was some overlap between unreasonably persistent complainants and members of campaigning groups, and that such complainants could have a significant negative impact on the well-being of ombudsman staff.

## Conclusions

This was an exploratory knowledge exchange project and any conclusions reached here can only be preliminary. Indeed, our intention is not to make any assessment of the validity or otherwise of the critiques put forward by ombudsman watchers nor of the reasonableness or otherwise of the responses by ombudsman schemes. In this conclusion, therefore, the focus is only on identifying some areas that appear to be ripe for further discussion, research, exploration, and could be used to inform future policy and practice development.

- Without reaching a view on the substantive points being raised, the ombudsman watchers who took part in the workshops appear to have developed interesting and wide ranging critiques, which generally go beyond the concerns of individual complainants.
- Such critiques may be useful for those interested in the ombudsman institution in two ways. First, they offer a window into how consumers and citizens who have turned their minds to analysing the ombudsman institution perceive its potential strengths and weaknesses. While these perspectives will be heavily skewed by individual negative experiences, researchers generally do not have access to well informed user perspectives and, as such, should be of interest.
- Secondly, the critiques of ombudsman watchers may highlight, as several ombudsman scheme representative suggested, some important ways in which the ombudsman institution is misunderstood by the public. If the ombudsman watchers and their critiques do indeed misunderstand what ombudsman schemes are all about, this is likely to be the case for other citizens and consumers. The question then is why such misunderstanding arise and whether sufficient efforts are made to help people understand the ombudsman institution.
- A particularly interesting line of criticism related to the impact that complaints systems had on individuals who were often at a vulnerable point in their lives. More generally, the issue of whether complaint systems and ombudsman schemes sufficiently addressed the issues that consumers and citizens wanted to raise – and, thereafter, met their needs – is one that appears to require further thought. It may be a question of providing better public information about what citizen can expect. But it may also be about asking more fundamental questions about the degree to which the current system has been designed to appropriately meet the needs of those using the system.
- Other issues raised by the ombudsman watchers, such as those relating to the proper balance between accountability and independence, the appropriate degree of investigation, or the qualifications and experience

required of staff, are important ones which will no doubt remain of interest to academics engaged in the study of the ombudsman institution. Again, this is not to suggest agreement with their critique, although it is noteworthy that many of the issues raised by these groups of lay citizens and consumers do touch important and widely recognised dilemmas for the ombudsman institution. These matters are likely to continue to be controversial and, perhaps, require a clearer and more coherently developed position amongst the wider ombudsman community.

- In terms of the ombudsman schemes' responses, it seems evident that these kinds of critiques are more important for some schemes than others, with a particular split between public and private sector ombudsman schemes. The latter seem to be subject to less proactive campaigns.
- The influence of ombudsman watchers and the degree to which they should be engaged (or ignored) is likely to remain a troubling issue for ombudsman schemes. There is clearly a risk of privileging unrepresentative opinions by devoting too much resource to engagement, and despite the general interest of the ombudsman watcher phenomenon that we have suggested above, the value of the feedback for individual schemes may be limited by the individual and increasingly historic nature of some of the issues raised.
- It seems clear that ombudsman schemes are more likely to be mobilised into engaging with ombudsman watchers where there are other strong external drivers and a range of corroborative evidence that is indicative of a problem. Some ombudsman schemes had been very proactive in terms of engagement, although it is not clear whether, from an ombudsman scheme's perspective, engagement is likely to result in learning for service improvement or in minimising negative publicity.
- The example of the advisory forum used by one ombudsman scheme appeared to be an effective means of securing detailed and engaged feedback from users of ombudsman schemes. This approach could be helpful in harnessing user feedback and in trying to get beneath the limited data collected in surveys and focus groups. It may also be a way of exploring further and validating/ rejecting some of the external critiques of ombudsman schemes with reference to an expert group of service users.

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