

Trusting the Middle-Man: Impact and Legitimacy of Ombudsmen in Europe

Research by Dr Naomi Creutzfeldt, ESRC Fellow at the Centre for Socio-Legal Studies has improved understanding of how the ombudsman process is perceived by its users and has highlighted important differences between private and public sector ombudsmen.



To date, despite the significance of ombudsmen to our constitutional and civil justice landscapes, very little was known about users' perceptions of the fairness of the procedures and practices and levels of trust in particular ombudsman offices. Dr Naomi Creutzfeldt's research has provided important insights which will be directly relevant to the development of national policies and EU level networks of policy-making.

This research is particularly timely, given recent developments in consumer Alternative Dispute Resolution. First, the continuing crisis in civil litigation funding through the courts; and second the implementation of the consumer ADR directive (2013/11/EU) as a pathway to resolve consumer-to-trader disputes, which mandates the creation of a pan-European ADR network. Big changes are also underway to the UK public-sector ombudsmen. In an attempt to make it easier for users to pursue a complaint, the Public Administration Select Committee and the Gordon report have recommended bringing together the jurisdictions of the Parliamentary and Health Ombudsman, the Local Government Ombudsman and the Housing Ombudsman, to create a clearer pathway for complainants.

Naomi has worked closely with ombudsmen and other ADR providers across sectors in the UK, France and Germany. Qualitative and quantitative data was gathered through a survey that was sent out to recent users of ombudsmen and just fewer than 3,000 responses were received. Project findings have been drawn together in country specific reports, available on the project website:

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<https://www.law.ox.ac.uk/trusting-middle-man-impact-and-legitimacy-ombudsmen-europe/project-reports>. A full comparative project report will be available in autumn 2016.

The UK report highlights similarities in respondents' expectations of the initial contact of both public and private sector ombudsmen. However, with the procedures' progression, a stark divide between users of public and private sector ombudsmen was apparent. Respondents in public schemes were far less likely than those in private schemes to be satisfied with how their cases were dealt with, with almost 60% 'very dissatisfied'. Respondents reported a favourable outcome for only 11% of public cases, compared to 53% of private cases. Contrasting overall satisfaction for users of UK public and private schemes again showed significant differences, overall 57% of those in public schemes felt the procedure was 'somewhat unfair' or 'very unfair'. This compared to a quarter of those in private schemes.

The project findings have been shared with the ombudsman and ADR providers Naomi has worked with and the findings are already having an impact within these organisations.

"Naomi's research has helped us to better identify the types of remedies that our customers are seeking and what motivates people to bring a complaint to us." **Head of Policy and Communications, Local Government Ombudsman**

There are many factors that motivate people to accept ombudsman decisions. Some of the projects findings can be directly translated into increasing decision-acceptance. For example, how ombudsman staff treat complainants (procedural justice) has a high effect on peoples overall perceptions of fairness of the ombudsman.

