



How to make a complaint to the Ombudsman

1. What is the Ombudsman?

Ombudsmen schemes have been set up by the government to monitor the behaviour of public bodies, and to enable members of the public to challenge the administrative actions of public bodies. The Ombudsmen schemes often provide the only means of redress for what is called “maladministration”, i.e. the administrative failings of public bodies.

The Ombudsman’s remit is limited to administrative actions only; they will not consider complaints about the merits of a decision, or interfere with a public body’s discretion over a particular issue.

There are specific Ombudsmen who have jurisdiction over particular public bodies. The two main Ombudsmen schemes are the Parliamentary and Health Service Ombudsman (the PHSO), which deals with all central government departments and health bodies, and the Local Government Ombudsman, which deals with councils. See the end of this leaflet for their full contact details including their websites.

Before making a complaint to the Ombudsman, you should check whether they can deal with the particular complaint you wish to make.

2. What is maladministration?

There is no specific definition of maladministration; it is simply the catch-all term for the administrative failings of public bodies which the Ombudsmen are set up to investigate. When Ombudsmen schemes first started, a list of maladministration was provided as a guide; this is now quite old and was never designed to be an exhaustive list or to set any limit on what Ombudsmen will investigate. However, it gives some useful examples of what constitutes maladministration:

Bias, delay, neglect, turpitude, incompetence, perversity, arbitrariness, etc.

Both the PHSO and the LGO give various examples of maladministration which include:

Bad decision-making, giving poor advice, delay and failure to inform someone of their rights.

If you are not sure whether your complaint is about maladministration, you can ring the relevant Ombudsman on their helpline to check. You can also look on their websites to see examples of maladministration that may be similar to what you want to complain about.

The Ombudsman's job is to look at what the public body has done wrong (maladministration), and then consider whether this has caused injustice. The Ombudsman will therefore only make recommendations to put matters right if he/she is satisfied that the injustice has been caused by the maladministration. When you make a complaint, you need to explain what you think the maladministration was and how it caused you injustice.

3. Preliminary steps and time limits

Before you can complain to the Ombudsman, ordinarily you must try using the public body's complaints procedure first. For example, if you want to complain about social services in a particular local authority, you must make a complaint using their internal procedure before you can complain to the LGO. This is to give the public body the opportunity to put things right first. The Ombudsman will probably refuse to investigate your complaint if you have not already used the internal complaints procedure, unless you have a very good reason.

See our other leaflets on complaints procedures (leaflet no. 7) and how to make a complaint (leaflet no. 6) for information on how to complain to a public body.

You must make sure that you make your complaint to the Ombudsman within the required time limit, usually 12 months from the date of the action you are complaining about. However, if more than a year has passed because you have been using the public body's internal complaints procedure, the Ombudsman will generally still consider your complaint, but you need to make sure you complain to the Ombudsman as soon as the internal complaints procedure has finished if you are already outside the 12 months time limit.

The Ombudsman has a general discretion on whether to investigate a complaint made more than 12 months after the events complained of. You will need to explain to the Ombudsman what has caused the delay and ask them to exercise their discretion.

4. How to make a complaint

Once you have complained to the public body and you have exhausted their internal complaints procedure, start by checking which Ombudsman you think you should complain to. Then see if they have a particular form that you can use to make the complaint – for example, the LGO has a special form for you to complete although you can just write a letter if you wish.

In your complaint you will need to include **all** of the following:

- Your name and address and telephone number
- Details of your adviser if they are helping you with the complaint

- Details of which public body, department and specific people you wish to complain about
- The factual details of your complaint (a short chronology can help, setting out the main events and when they happened)
- What you think the maladministration is
- How this has caused you injustice
- Details of the complaints you have already made to the public body and the outcome of their investigations
- Copies of any relevant documents (it is usually helpful to number these and to provide a list).

Try to make the explanation as short and clear as possible. Focus on the main issues that you want to complain about and try to leave out irrelevant details. If you can, try to get someone else to read through your complaint for you before you send it off to see if you have missed anything out and to check that you have explained everything clearly.

Keep a copy of what you send off and make a note of when you send it.

5. The Ombudsman's investigation and recommendations

The Ombudsman will first decide whether they have jurisdiction to investigate your complaint, meaning whether the public body and the matter you are complaining about is something they can deal with. If they think they do have jurisdiction, they will then make a decision whether to investigate or not. They are not obliged to investigate all complaints even when they do have jurisdiction, and they can refuse for various reasons (for example, if they think you have another remedy available).

Once the Ombudsman has decided your complaint is within their remit and that they will investigate, they will consider whether it can be resolved informally by contacting you and the public body by phone. If this is not successful, they will then start a full investigation, which usually includes contacting you to get more details (in person or over the phone), interviewing the relevant people at the public body and getting all the documents from the public body.

Once this stage of the investigation is complete, the investigator usually prepares a draft report that is sent to you and the public body to comment on, giving you the opportunity to correct any mistakes or to raise any issues that you think the investigator has not covered.

When the investigator has received the comments from you and the public body, they will usually finalise their report including their recommendations. They will send this to you and the public body, setting out their findings on maladministration causing injustice and recommending what the public body can do to put this right.

The recommendations (often agreed in advance with the public body) can include getting the public body to do what they should have done all along, an apology, compensation and a review of their policies and procedures in that particular area.

The Ombudsman does not have any power to force the public body to comply with the recommendations, but it is very rare indeed for public bodies not to follow them. The public body is also required to report back to the Ombudsman if the recommendations have included a review of their policies and procedures.

6. Requesting a review of the Ombudsman's decision

When you receive the letter confirming the outcome of the Ombudsman's investigation, you may find that you do not agree with their findings or their recommendations. The best approach is to consider their letter carefully and work out where you think the Ombudsman has gone wrong. Ask three questions:

- Did the Ombudsman find maladministration?
- Did the Ombudsman find injustice caused by maladministration?
- Do the recommendations match the findings?

You can then consider whether you want the Ombudsman to review their decision, but you will need to explain clearly why you think they have gone wrong. For example, if the Ombudsman did not find that there had been maladministration, address this clearly in your request for a review; say what you think the maladministration was and why it caused you injustice.

If you think that the recommendations are not fair in relation to the findings of maladministration, try to find some similar cases if there are any on the Ombudsman's website so that you can refer to these to explain why you think the recommendations are wrong.

Each Ombudsman has its own complaints procedure, so you can consider whether to use that if you think the investigation has gone wrong. You may also wish to consider whether to challenge the Ombudsman using judicial review – see PLP's information leaflets on judicial review.

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