

Expectations of a Leading Ombud Service: Insights from the Academic Literature

Summary report

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Introduction

As part of a recent independent review of the Energy and Water Ombudsman of New South Wales (EWON), Prof Chris Gill and Dr Gavin McBurnie were asked to draft a [paper](#) setting out insights from the academic literature on expectations of a leading ombud service. In this summary report, we provide a brief outline of seven key areas treated at greater length in the paper:

1. Expectations of the ombudsman's role
2. Accessibility and access to justice
3. Addressing consumer vulnerability
4. Consumer expectations and behaviour
5. Changing working practices and digitalisation
6. Independence and relationships with industry
7. Standards and oversight

Expectations of the ombud's role

Discussions of the ombud's role often focus on the balance to be achieved between mass complaint handling and the strategic use of complaints to enhance service provision. While being separate from regulation, industry ombuds are increasingly expected to contribute to the wider regulatory landscape, for example, by enforcing regulatory standards and providing regulatory intelligence through complaint investigation work. Leading ombuds are also expected to fulfil a range of additional functions beyond complaint handling which include:

- The provision of advice and support to consumers in relation to making complaints and successfully accessing justice
- Identifying and providing additional support to vulnerable consumers, recognising the need to equalise power imbalances between consumers and service providers
- Helping consumers whose complaints are not valid gain insight and understanding into the way in which industries operate and the standards they are expected to meet
- Raising standards in, and enhancing the legitimacy of, the industries being overseen by ombudsman offices

Accessibility and access to justice

Leading ombuds should not merely be alternative to the courts, but means to extend and enhance access to justice for consumers.

There has, however, been some concern in the literature with regard to the unrepresentative nature of those who use ombuds. This not only means that certain individuals and groups remain excluded from accessing justice, but could also distort wider service provision by privileging those with the resources and capability to complain and make use of ombuds. Leading ombuds must therefore focus not only on ensuring they are accessible to their current users, but also that continuous efforts are made to provide services that reach, and are attractive to, non-users.

Addressing consumer vulnerability

Leading ombuds should have a particular focus on addressing the needs of consumers in vulnerable circumstances. Vulnerability can arise both from intrinsic characteristics of a person (e.g. their ethnicity, gender, age), their life circumstances (e.g. bereavement, job loss, debt), and the characteristics of the market they are engaging with (e.g. the degree to which the market is inherently complex). Leading ombuds will use a range of tools to assist them in this element of their work including undertaking vulnerability impact assessments, focusing on inclusive service design, ensuring the proactive identification of vulnerable and disadvantaged customers, and the provision of accessible, flexible, tailored services responsive to their needs.

Consumer expectations and behaviour

A key challenge for ombuds is meeting the variable demand for their services, as the volume of complaints can fluctuate significantly, creating issues around meeting demand. A long term trend is that consumers have increasingly high expectations around the speed and efficiency of service provision, which can be difficult for ombuds to meet. Ombuds must also deal with the often unrealistic expectations that consumers will have about ombuds and how their complaints will be dealt with. Challenging behaviour on the part of a small group of consumers is also an issue that is growing in importance, with there often being overlap between challenging behaviour and indicators of vulnerability. Leading ombuds will ensure that they are clearly communicating their role to consumers as well as ensuring that challenging behaviour is appropriately and sensitively managed.

Changing working practices and digitalisation

Ombuds practices now include a suite of options for resolving complaints, including informal resolution, mediation, and informal and formal investigations. Having procedural flexibility is key to meet the needs of various consumers in agile and nimble ways and ensuring that there is a proportionate relationship between the nature of cases and the processes used to deal with them. Leading ombuds will ensure that these options are clearly explained to consumers. The increasingly digital nature of service provision has required ombuds to modernise their processes, as has the significant digital shift caused by the Covid 19 pandemic. Leading ombuds need to both be leaders in using technology to the benefit of their consumers and industries (by ensuring technology is used effectively), as well as ensuring that services remain accessible to those facing digital exclusion. Ombuds around the world are beginning to grapple with the use of Artificial Intelligence, with debates ongoing about how potential efficiencies and improvements could be delivered by using AI in ways that are safe, ethical, and trustworthy.

Independence and relationships with industry

Independence from industry is a central feature of ombuds. However, particularly for industry ombuds that are funded by industry (and sometimes set up by industry on a self-regulatory basis) there can be a perception that schemes are too close to the industry they oversee. Leading ombuds will have governance and financial arrangements that not only secure their independence in practice but are also seen and understood by consumers as unquestionably independent. Having a formal statutory basis will often be a preferable model in terms of signalling independence. While governance arrangements must ensure the highest standards of independence, if ombuds are to be successful in their mission to raise industry standards, they cannot remain in an ivory tower. Close and cooperative relationships with industry are central to ensuring that learning occurs from complaints and that improvements result in service provision.

Standards and oversight

Ombuds are not immune from criticism and concerns have been raised in the literature with regard to the extent to which they achieve access to justice for all, the quality of their procedures and decision-making, and the effectiveness of the outcomes they deliver for individuals and service providers. There is therefore no room for complacency and leading ombuds will ensure that they implement the highest standards of service delivery, as well as ensuring that appropriate mechanisms are in place for their oversight. Public confidence in ombuds will be heightened where there can be confidence that the ombud itself is subject to appropriate internal and external accountability mechanisms.

Conclusion

Ombuds are key providers of access to justice. Their role is a challenging one, with leading ombuds now expected to play a much wider role than simply focusing on complaint handling. Ombuds must raise standards, continually seek to ensure access to justice for all, identify and adapt for consumer vulnerability, respond to increasingly high consumer expectations, and make effective use of technology. Leading ombuds will do all of this while maintaining a focus on core issues such as their independence and demonstrating their accountability and effectiveness. The full paper on which this blog is based is available [here](#).

About the authors

Professor Chris Gill (chrisoagill@gmail.com) is Director of Justice Research and Innovation Ltd and Professor of Socio-Legal Studies at the University of Glasgow. Chris has provided consultancy services to a wide range of clients including the Canadian Ombudsman for Responsible Enterprise, the Council of Europe, Utilities Disputes Ltd, the Legal Services Board, the Business Banking Resolution Service, Citizens Advice, Ombudsman Services: Energy, Ombudsman Services: Communications, the Office for Legal Complaints, the Equality and Human Rights Commission and many more. Chris has recently been involved in conducting reviews of the Energy and Water Ombudsman New South Wales (2024), the Local Government and Social Care Ombudsman (2023), the Business Banking Resolution Service (2022), and the Parliamentary and Health Services Ombudsman (2018). Chris' areas of expertise include access to justice, alternative dispute resolution, consumer policy and regulation, administrative justice, public policy design and implementation, decision-making in government and consumer settings, and the design of conflict resolution mechanisms. Chris sits on the Administrative Justice Council's Academic Panel, the Scottish Legal Complaints Commission's Consumer Panel, The Civil Aviation Authority's Consumer Panel, the Ombudsman Association's Validation Committee, and is a validated member of the International Ombudsman Institute's Peer Review Panel.

Dr Gavin McBurnie (gavinmcburnie@aol.com) is an honorary research fellow at Queen Margaret University. Gavin conducted the recent review of the United Kingdom's Civil Aviation Authority's two approved aviation ADR schemes and, previously, led the independent five-year reviews of the Energy and Water Ombudsman New South Wales (in both 2019 and 2024), the Telecommunications Industry Ombudsman (2022), the Public Transport Ombudsman Victoria (2019) and Utilities Disputes Limited (2017). These reviews required an assessment of how well the schemes performed against the Australian Government's Key Benchmarks for Industry ADR schemes, including the governance, accessibility, fairness, efficiency and effectiveness of the ADR schemes concerned. Gavin also acted as the independent external adviser to the Welsh Senate as it considered proposals to develop the role of the Public Services Ombudsman for Wales and has delivered training on complaint handling on behalf of the International Ombudsman Institute for the Caribbean Ombudsman Association, and to Greek civil servants on behalf of the Organisation for Economic Co-operation and Development. Gavin held a number of director roles at the Parliamentary and Health Service Ombudsman including as Executive Director of Operations. Gavin is a retired medical doctor who also holds an MBA, LLM and PhD, where he researched the impact of health ombudsman.