



An tOmbudsman Seirbhísí
Airgeadais agus Pinsean
Financial Services and
Pensions Ombudsman



An Coimisinéir Teanga



ombudsman
do leanaí
for children



ODF



Garda
Ombudsman
INQUIRY INDEPENDENCE IMPARTIALITY

Martin Browne, T.D.

Cathaoirleach, An Comhchoiste um Achainíochas ón bPobal

Tithe an Oireachtais

Teach Laighean

Baile Átha Cliath 2.

D02 X2R0

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A Chathaoirleach, a chara,

Táimid buíoch den Choiste as an deis seo a thabhairt dúinn aighneacht a chur faoina bhráid maidir lena Théarmaí Tagartha. Áirítear ar Fhóram na nOmbudsman na hOifigí Ombudsman uile sa Stát, eadhon an Ombudsman d’Óglaigh na hÉireann, an tOmbudsman do Leanáí, an Coimisinéir Teanga, an tOmbudsman um Sheirbhísí Airgeadais agus um Pinsean, Ombudsman an Phreasa, Coimisiún Ombudsman an Gharda Síochána agus an tOmbudsman. Déileálann gach ceann de na hOifigí sin le gearáin ina réimsí féin, agus féachann siad le haon chliseadh a tharlaíonn do dhaoine aonair a leigheas agus, ag an am céanna, teipeanna córasacha a shainiú agus a chur ina gceart. Bíonn na hOifigí oibiachtúil agus gearáin á mbreithniú acu agus is mar abhcóidí ar son chothrom na Féinne a fheidhmíonn siad, seachas mar abhcóidí do ghearánaigh.

Go ginearálta, níl cumhachtaí ceangailteacha dlí ag Oifigí Ombudsman na seirbhíse poiblí; ina ionad sin, is amhlaidh a dhéanann siad moltaí. Bíonn siad ag brath ar an gcaoi ar féidir leo dul i gcion ar na heagraíochtaí stáit, ar a naisc lena bParlaimint – Tithe an Oireachtais i gcás na tíre seo. I gcás nach bhfuil soláthraí seirbhíse poiblí toilteanach moltaí a chur i bhfeidhm, is iondúil go mbíonn de rogha ag an Oifig Ombudsman tuarascáil faoi sin a chur faoi bhráid Thithe an Oireachtais.

Is minic a bhíonn amhras ann i dtaobh a éifeachtaí atá an cur chuige sin. I ndaonlathas aibí mar atá againne, feidhmíonn sé ar bhealach an-éifeachtach. Le blianta fada glacadh le beagnach 100% de na moltaí a rinne Oifig an Ombudsman; eisceacht amháin ba ea na moltaí a rinneadh sa tuarascáil “Lost at Sea” ón iarOmbudsman, Emily O’Reilly. Le blianta beaga

anuas, cuireadh an cás eisceachtúil sin féin ina cheart. Mar sin féin, ní chuirtear na moltaí go léir i bhfeidhm, fiú tar éis don soláthraí seirbhíse glacadh leo.

Sa chás nach bhfuil cumhachtaí atá infheidhmithe le dlí ag Oifig Ombudsman, tá tábhacht mhór leis go mbeadh an Oifig Ombudsman in ann dul os comhair Thithe an Oireachtais chun a chinntiú go mbíonn sásamh le fáil ag lucht úsáide seirbhísí. In Éirinn, níl traidisiún ann go dtuairiscíonn sealbhóirí Oifige do sheisiún iomlánach den Dáil nó den Seanad. Ciallaíonn sé sin go bhfuil sé ríthábhachtach go ndéanann Coiste Oireachtais na tuarascálacha a bhreithniú. Is féidir déileáil sna tuarascálacha seo le gearán sonracha, i gcás nár glacadh le moltaí; is féidir déileáil iontu freisin le téama áirithe nó le fadhbanna córasacha, agus áirítear tuarascálacha bliantúla orthu freisin.

Tá sé tábhachtach gur féidir leis na coistí ábhair ábhartha na tuarascálacha a bhreithniú. Faigheann beagnach gach Coiste Oireachtais tuarascálacha maidir leis na seirbhísí poiblí agus príobháideacha ilchineálacha a thagann faoi scáth bhaill Fhóram na nOmbudsman. Chomh maith le fianaise a chur ar fáil faoi obair na nOifigí, cuireann sé foinse an-luachmhar faisnéise ar fáil do na Coistí a chabhraíonn leo ina ról grinnschrúdúcháin.

Mar sin féin, sa bhreis ar an deis seo dul cúrsaí a chíoradh le Coistí, ní foláir a aithint gur minic a bhaineann obair bhaill an Fhóram le réimsí ilchineálacha, agus is gá lárphointe a bheith ann chun breithniú leathan a dhéanamh ar na saincheistanna a thagann chun tosaigh.

Tá an Fóram tar éis a áiteamh go mion minic freisin go ndéanfadh Coiste amháin maoirseacht ar ghníomhaíochtaí na nOifigí Ombudsman trí chéile, chun deimhin a dhéanamh de go bhfuil modh sásaimh le fáil, ar bhealach cuimsitheach, ag daoine sa Stát agus go mbíonn an oiread deiseanna agus is féidir ann tabhairt faoi fhoghlaim agus forbairt. D'fhonn a chinntiú go bhfuil na hOifigí Ombudsman neamhspleách ar na seirbhísí ina ndlínse, is é an cleachtas idirnáisiúnta atá ag teacht i réim anois gurb iad na Coistí a théann i mbun reachtaíocht a fhorbairt, sealbhóirí Oifige a earcú agus buiséid a shocrú agus a chur faoi ghrinnschrúdú. Meastar go bhfuil an cur chuige sin ag teacht le scaradh na gcumhachtaí.

Ó rinne an Fóram an t-ábhar seo a chíoradh go deireanach leis an gCoiste, d'fhorbair an Coimisiún Eorpach maidir le Daonlathas tríd an Dlí (Coimisiún na Veinéise) na “Prionsabail maidir le Cosaint agus Cur Chun Cinn Institiúid an Ombudsman” (“Prionsabail na Veinéise”). Rinne Comhairle na hEorpa na Prionsabail sin a ghlacadh agus a fheabhsú ina dhiaidh sin, agus ghlac Comhthionól Ginearálta na Náisiún Aontaithe iad i mí na Nollag 2020 i dtairiscint a thionscain Éire i gcomhar le roinnt tíortha eile. Is ionann na Prionsabail agus na chéad chaighdeáin a aithnítear go hidirnáisiúnta le haghaidh institiúidí Ombudsman na seirbhíse poiblí.

Deirtear i bPrionsabal 20 – “Tuairisceoidh an tOmbudsman don Pharlaimint ar ghníomhaíochtaí na hInstitiúide uair sa bhliain ar a laghad. Sa tuarascáil seo, féadfaidh an tOmbudsman an Parlaimint a chur ar an eolas i dtaobh neamh-chomhlíonadh ag an riarachán poiblí. Tuairisceoidh an Oifig Ombudsman freisin ar shaincheistanna ar leith, de réir mar is cuí leis an Oifig Ombudsman. Cuirfear tuarascálacha na hOifige Ombudsman ar fáil go poiblí. Cuirfidh na húdaráis iad sin san áireamh go cuí.”

Dá gcuirfí an ceart rochtana ag Oifigí Ombudsman na hÉireann san áireamh i dtéarmaí Tagartha an Choiste, dhéanfaí deimhin de go gcomhlíonfar an riachtanas sin. Iarrann an Fóram go leathnófaí na Téarmaí Tagartha freisin chun go mbeidh forléargas ag an gCoiste ar aon Oifig Ombudsman in Éirinn, nach dtagann faoi mhaoirseacht Coiste Oireachtais ar leith cheana féin, agus chun go mbeidh ar a chumas moltaí a dhéanamh maidir le forbairt agus athchóiriú.

Ba dheas leis an bhFóram bualadh leis an gCoiste chun na moltaí seo a phlé.

Sinne le meas,

Rónán Ó Domhnaill
An Coimisinéir Teanga
Cathaoirleach

Peter Tyndall
Ombudsman

Ger Deering
Ombudsman Seirbhísí Airgeadais agus
Pinsean

Alan Mahon
Ombudsman d'Óglaigh na hÉireann

Peter Feeney
Ombudsman an Phreasa

Niall Muldoon
Ombudsman do Leanáí

Ms. Justice Mary Ellen Ring
Cathaoirleach, Coimisiún Ombudsman An Gharda Síochána



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INQUIRY INDEPENDENCE IMPARTIALITY

Martin Browne, T.D.
Chairman of the Joint Committee on Public Petitions
Houses of the Oireachtas
Leinster House
Dublin 2.
D02 X2R0

15 February 2021

A Chathaoirligh, a chara,

We are grateful to the Committee for this opportunity to make a submission regarding its Terms of Reference. The Ombudsman Forum includes all of the Ombudsman Offices in the State, comprising the Defence Forces Ombudsman, the Children's Ombudsman, an Coimisinéir Teanga, the Financial Services and Pensions Ombudsman, the Press Ombudsman, the Garda Síochána Ombudsman Commission and the Ombudsman. Each of the Offices deals with complaints in their respective fields, and seeks to remedy any failures for individuals while also identifying systemic failings and addressing them. The Offices are objective in their consideration of complaints and function, not as advocates for complainants, but as advocates for fairness.

In general, public service Ombudsman Offices do not have legally binding powers, rather, they make recommendations. They rely on moral suasion and critically, on their links with their Parliament, in our case, the Oireachtas. Where a public service provider does not agree to implement recommendations, they usually have the option of reporting to the Oireachtas.

There is often scepticism about how effective this approach is. In practice, in a mature democracy such as ours, it is highly effective. For many years the Office of the Ombudsman had an almost 100% acceptance rate for its recommendations, the one exception being in respect of the "Lost at Sea" report by former Ombudsman Emily O'Reilly. In recent years, even this latter anomaly has been redressed. However, not all recommendations are implemented having been accepted.

Where an Ombudsman does not have legally enforceable powers, access to the Oireachtas is a vital component in ensuring that redress for service users is delivered. In Ireland, there is no tradition of Office holders reporting to a plenary session of the Dáil or Seanad. This means that it is essential that the reports be considered by a Committee. These reports can be about a particular complaint, where recommendations have not been accepted, they can be thematic or about systemic issues, and they also include annual reports.

It is important that reports can be considered by the relevant subject committees. Virtually every Oireachtas Committee can expect to receive reports about the broad span of public and private services covered by the members of the Ombudsman Forum. As well as providing evidence about the work of the Offices, it offers the Committees a highly valuable source of information to assist them in their scrutinising role.

However, in addition to this opportunity to engage with Committees, it is important to recognise that the work of Forum members is often cross-cutting, and their needs to be a locus for broader consideration of issues raised.

The Forum has also consistently argued for a single Committee to have oversight of Ombudsman activity, to ensure that there is comprehensive access to redress for people in the State and that opportunities for learning and development are maximised. In order to ensure that Ombudsman Offices are independent from the services in their jurisdiction, international practice increasingly sees a lead being taken by Committees in developing legislation, recruitment of Office holders and budget setting and scrutiny. This is seen as being consistent with the separation of powers.

Since the Forum last engaged with the Committee on this topic, the European Commission for Democracy Through Law, (the Venice Commission) has developed the “Principles on the Protection and Promotion of the Ombudsman Institution (“the Venice Principles”). These have subsequently been adopted and enhanced by the Council of Europe, and were adopted in December 2020 by the UN General Assembly in a motion co-sponsored by Ireland. The Principles form the first internationally recognised standards for public service Ombudsman institutions.

Principle 20 states that – “The Ombudsman shall report to Parliament on the activities of the Institution at least once a year. In this report, the Ombudsman may inform Parliament on lack of compliance by the public administration. The Ombudsman shall also report on specific issues, as the Ombudsman sees appropriate. The Ombudsman’s reports shall be made public. They shall be duly taken into account by the authorities.”

Including the right of access by Irish Ombudsman Offices within the Terms of Reference of the Committee would ensure that this requirement is met. The Forum requests that the Terms of Reference should also be extended to enable the Committee to maintain an overview of any Ombudsman Office in Ireland, which is not already subject to oversight by a specific Oireachtas Committee, and to make proposals for development and reform.

The Forum would be happy to meet with the Committee to discuss these proposals.

Sinne le Meas,



Rónán Ó Domhnaill
An Coimisinéir Teanga
Chair



Peter Tyndall
Ombudsman



Ger Deering
Financial Services and Pensions
Ombudsman



Alan Mahon
Ombudsman for the Defence Forces Press Ombudsman



Peter Feeney



Niall Muldoon
Ombudsman for Children



Ms. Justice Mary Ellen Ring
Chair, Garda Síochána Ombudsman Commission