



House of Commons
Regulatory Reform Committee

**Draft Regulatory
Reform (Collaboration
etc. between
Ombudsmen) Order
2007**

Fifth Report of Session 2006–07

Report, together with formal minutes

*Ordered by The House of Commons
to be printed 5 June 2007*

The Regulatory Reform Committee

The Regulatory Reform Committee is appointed under Standing Order No. 141 to consider and report to the House of Commons on proposals for regulatory reform orders under the Regulatory Reform Act 2001 and, subsequently, any ensuing draft regulatory reform order. It will also consider any "subordinate provisions order" made under the same Act.

Current membership

Andrew Miller (*Labour, Ellesmere Port & Neston*) (Chairman)
Gordon Banks (*Labour, Ochil and South Perthshire*)
Lorely Burt (*Liberal Democrat, Solihull*)
Mr James Gray (*Conservative, North Wiltshire*)
Stephen Hammond (*Conservative, Wimbledon*)
John Hemming (*Liberal Democrat, Birmingham, Yardley*)
Mrs Sharon Hodgson (*Labour, Gateshead East & Washington West*)
Mr Stewart Jackson (*Conservative, Peterborough*)
Dr Doug Naysmith (*Labour/Co-operative, Bristol North West*)
Mr Jamie Reed (*Labour, Copeland*)
Alison Seabeck (*Labour, Plymouth, Devonport*)
Mr Andrew Slaughter (*Labour, Ealing, Acton & Shepherd's Bush*)
Ms Angela C Smith (*Labour, Sheffield, Hillsborough*)
Mr Anthony Steen (*Conservative, Totnes*)

Criteria against which the Committee considers each proposal

Paragraph (6) of Standing Order No.141 requires us to consider any proposal for a regulatory reform order against the following criteria:

... whether the proposal—

- (a) appears to make an inappropriate use of delegated legislation;
- (b) removes or reduces a burden or the authorisation or requirement of a burden;
- (c) continues any necessary protection;
- (d) has been the subject of, and takes appropriate account of, adequate consultation;
- (e) imposes a charge on the public revenues or contains provisions requiring payments to be made to the Exchequer or any government department or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment;
- (f) purports to have retrospective effect;
- (g) gives rise to doubts whether it is *intra vires*;
- (h) requires elucidation, is not written in plain English or appears to be defectively drafted;
- (i) appears to be incompatible with any obligation resulting from membership of the European Union;
- (j) prevents any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise;
- (k) satisfies the conditions of proportionality between burdens and benefits set out in sections 1 and 3 of the Regulatory Reform Act 2001;
- (l) satisfies the test of desirability set out in section 3(2)(b) of the 2001 Act;
- (m) has been the subject of, and takes appropriate account of, estimates of increases or reductions in costs or other benefits which may result from its implementation; or
- (n) includes provisions to be designated in the draft order as subordinate provisions.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/regrefcom. A list of Reports of the Committee in the present Session of Parliament is at the back of this volume.

Committee staff

The current staff of the Committee are Mick Hillyard (Clerk), Stuart Deacon (Committee Specialist) and Liz Booth (Secretary/Committee Assistant).

All correspondence should be addressed to the Clerk of the Regulatory Reform Committee, Delegated Legislation Office, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 2837; the Committee's email address is regrefcom@parliament.uk.

Contents

Report	<i>Page</i>
Report Under Standing Order No. 141	3
1 Introduction	3
2 The report on the proposal	4
The Department's response	4
3 Other representations made on the proposal	4
The House of Lords Select Committee on Delegated Powers and Regulatory Reform	4
4 Recommendation	5
Formal minutes	6
Reports from the Regulatory Reform Committee in the last and present Session	
	<i>inside back cover</i>

Report Under Standing Order No. 141

The Regulatory Reform Committee has examined the draft Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007 in accordance with Standing Order No. 141. We recommend unanimously that the Order be approved.

1 Introduction

1. The proposal for the Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007 was laid before the House by the Cabinet Office on 18 December 2006. We published our report on 15 March. The draft Order was laid before the House on 9 May, together with an explanatory memorandum by the Cabinet Office.¹

2. The aim of the proposed Order is to increase the scope for collaborative working amongst three Ombudsmen (Parliamentary Ombudsman, the Health Service Ombudsman and the Local Government Ombudsman). To this end, the draft Order would amend the Parliamentary Commissioner Act 1967, the Local Government Act 1974 and the Health Service Commissioners Act 1993. The effect of the amendments would be to permit the Ombudsmen to:

- undertake joint investigations of complaints (consult with each other, share information and produce joint reports);
- delegate functions to each other's staff if required for the purpose of a joint investigation;
- appoint and pay a mediator or other appropriate person to assist in relation to any complaint they are investigating; and
- (in the case of the Local Government Ombudsman) investigate a complaint that had not previously been notified to the authority concerned where the Local Government Ombudsman is convinced that no benefit would be achieved in requiring that the case first be considered by the authority.

3. The House has instructed us to examine the draft Order against such of the criteria specified in Standing Order No. 141(6) as are relevant. We are also required to consider the extent to which the responsible minister has had regard to any resolutions or report of the Committee or to any other representations made during the period for Parliamentary consideration.² Our discussion of matters arising from our consideration is set out below.

1 Copies of the draft Order and Explanatory Statement are available to Members of Parliament from the Vote Office and to members of the public from the Cabinet Office. The draft Order is also available from the Cabinet Office website: <http://www.cabinetoffice.gov.uk/regulation/reform/orders/proposals.asp>

2 Standing Order No. 141(7)

2 The report on the proposal

4. In our first stage report, which we published on the 15 March, we recommended that a draft Order in the form of the proposal should be laid before the House.

The Department's response

5. The Department has laid before the House a draft Order substantially in the form of its proposal. A small number of textual adjustments have been made, prompted by advice given to the Cabinet Office by the Counsel to the House of Lords Committee on Delegated Powers and Regulatory Reform.

6. We are satisfied that the Minister for the Cabinet Office has had due regard to our previous report on the proposal for this draft Order.

3 Other representations made on the proposal

The House of Lords Select Committee on Delegated Powers and Regulatory Reform

7. The Committee issued its report on the proposal for the Order on 5 February 2007. The Committee considered that the proposal met the requirements of the Regulatory Reform Act 2001 and was appropriate to be made under it. The Committee also noted that it would be desirable for there to be a clear policy regarding the retention of information by the Ombudsman in cases where a joint investigation of a complaint had been undertaken. It further considered that, although it might in certain instances be desirable for some kinds of complaints to be resolved by the Ombudsman via mediation, it would be appropriate for statistics to be kept of the themes and subjects of complaints which were withdrawn following mediation so that evidence would be maintained that mediation was not an unsatisfactory alternative in situations where full investigation might be felt to be more appropriate.

8. In its explanatory memorandum, the Cabinet Office records that the Ombudsmen have confirmed that they have in place appropriate policies with respect to the retention of data following the completion of investigations and that it is their intention to implement new procedures with respect to the compilation of statistics if and when the proposed power to appoint and pay a mediator to act in relation to complaints is granted.

9. The Cabinet Office states that no other representations were received on the proposal.³

3 Explanatory Statement, paragraph 4

4 Recommendation

10. In accordance with Standing Order No. 141(15), we recommend unanimously that the draft Order be approved.

Formal minutes

Tuesday 5 June 2007

Members present:

Andrew Miller, in the Chair

Gordon Banks
Lorely Burt

Dr Doug Naysmith
Alison Seabeck

The Committee deliberated.

Draft Report [Draft Regulatory Reform (Collaboration etc between Ombudsmen) Order 2007], proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 10 read and agreed to.

Resolved, That the Report be the Fifth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

[Adjourned till a day and time to be fixed by the Chairman.]

Reports from the Regulatory Reform Committee in the last Session of Parliament

Session 2005-06

First	Proposal for the Regulatory Reform (Forestry) Order 2006	729
First Special	Legislative and Regulatory Reform Bill	878
Second	Proposal for the Regulatory Reform (Public Service Vehicles) Order 2006	879
Third	Draft Regulatory Reform (Forestry) Order 2006	880
Second Special	Government Response to the Committee's First Special Report of Session 2005-06: Legislative and Regulatory Reform Bill	1004
Fourth	Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006	1005
Fifth	Proposal for the Regulatory Reform (Registered Designs) Order 2006	1142
Sixth	Proposal for the Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006	1309
Seventh	Draft Regulatory Reform (Registered Designs) Order 2006	1349
Eighth	Draft Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006	1555

Reports from the Regulatory Reform Committee in the current Session of Parliament

Session 2006-07

First Special	Scrutiny of Regulatory Reform Orders	160
Second Special	Revised Standing Orders	385
First	Proposal for the Regulatory Reform (Game) Order 2007	384
Second	Proposal for the Regulatory Reform (Collaboration etc between Ombudsmen) Order 2007	383
Third	Proposal for the Regulatory Reform (Financial Services and Markets Act 2000) Order 2007	397
Fourth	Proposal for the Regulatory Reform (Deer) (England and Wales) Order 2007	411