



House of Commons
Public Administration Select
Committee

Parliament and the Ombudsman: Further Report

With the Government
Response to the
Committee's Fourth Report
of Session 2009-10

Tenth Report of Session 2009–10

*Report and appendix, together with formal
minutes*

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The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

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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 <http://www.parliament.uk/pasc>

Committee staff

The current staff of the Committee are Steven Mark (Clerk), David Slater (Second Clerk), Pauline Ngan (Committee Specialist), Louise Glen (Senior Committee Assistant) and Su Panchanathan (Committee Assistant)

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Parliament and the Ombudsman: Further Report

1. We reported to the House on *Parliament and the Ombudsman* in our Fourth Report of Session 2009–10, published 9 December 2009 as HC 107. The Government Response was received on 11 March 2010 and is published as an appendix to this report.

2. Our report made two recommendations: that the ‘MP filter’, which requires complaints to the Ombudsman to be made through a Member of Parliament, be abolished; and that there should be a guaranteed debate on a substantive motion, on the floor of the House, on any report from the Ombudsman indicating that the Government has failed to remedy injustice identified by her and laid under Section 10(3) of the Parliamentary Commissioner Act 1967. The Government has rejected both our recommendations.

3. The Government states that the removal of the MP filter needs further “careful consideration”. We do not agree. The issue has been considered at length by the Cabinet Office in their *Review of the Public Sector Ombudsmen in England*, this Committee and the Ombudsman and her predecessor.¹ All have concluded that the filter should be removed. The Law Commission’s consultation paper on *Administrative Redress*, to which the Government referred in its Response, found that there was a “strong case” for the abolition of the MP filter.² We are therefore unclear what purpose further consideration would serve.

4. The Government’s Response failed to address any of the points that we made in support of our second recommendation. Parliament should not have to rely on the goodwill of the Government or Opposition front benches to decide how to respond to major reports from its own Ombudsman. We note, however, that the House’s decision of 4 March to establish a backbench business committee will mean that the decision is no longer one for them alone.

1 Cabinet Office, *Review of the Public Sector Ombudsmen in England: A Report by the Cabinet Office*, April 2000; for an example of our predecessor Committees’ work on this issue see Public Administration Select Committee, Fourth Report of Session 1999–2000, *Report of the Parliamentary Ombudsman for 1998–1999*, HC 106

2 Law Commission, Consultation Paper 187, *Administrative Redress: Public Bodies and the Citizen*, http://www.lawcom.gov.uk/docs/cp187_web.pdf Accessed 15 March 2010

Appendix—Government Response

The Government is grateful to the Committee for its short report on *Parliament and the Ombudsman*, Fourth Report of Session 2009–10, HC 107, published on 9 December 2009. This letter forms the Government’s response to the Committee’s recommendations set out in the report.

The MP ‘filter’

The report highlights the issues around the operation of the MP ‘filter’ mechanism in the Parliamentary Commissioner Act 1967 which requires complainants to approach a Member of Parliament about a complaint to the Parliamentary Ombudsman. The Government is aware that the Committee and the Parliamentary Ombudsman are strong advocates for reform of the current arrangement.

The Government believes that the ‘filter’ mechanism is recognition of the constitutional nature of the Ombudsman’s role as a ‘servant’ of Parliament. Members of Parliament hold a range of views on this issue, and some Members feel very strongly that the current arrangement is an important element of their relationship with their constituents. The Government believes that this is an issue of constitutional significance that needs to be carefully considered in the context of the Ombudsman’s wider relationship with, and responsibilities to, Parliament. Therefore, at this stage of the Parliamentary cycle, the Government does not believe that there is scope to take this issue forward by means of an amendment to the Constitutional Reform and Governance Bill.

The Committee will be aware that, as part of its response to the Law Commission’s Consultation Paper on *Administrative Redress*, published in July last year, the Government agreed that there may be some merit in the Law Commission exploring further the statutory frameworks governing the public sector Ombudsmen. The MP ‘filter’ system would form part of that consideration.

Parliamentary debate

The Committee’s report recommends that the Government should commit to providing a three-hour debate, in government time and on a substantive motion, on any future report by the Ombudsman concluding that injustice has gone unremedied and laid under section 10(3) of the Parliamentary Commissioner Act 1967. As the Committee notes, section 10(3) reports are extremely rare, and therefore generate considerable interest both within and outside Parliament. As the Committee notes, it is already open to both the Government and Opposition to table a substantive Motion to enable the House to reach a decision on any report from the Ombudsman. There are also opportunities for back-bench Members to initiate a debate in the House or in Westminster Hall.

Formal Minutes

Thursday 18 March 2010

Members present:

Dr Tony Wright, in the Chair

Paul Flynn
David Heyes
Kelvin Hopkins
Julie Morgan

Mr Gordon Prentice
Paul Rowen
Jenny Willott

Draft Report (*Parliament and the Ombudsman: Further Report, with the Government Response to the Committee's Fourth Report of Session 2009–10*) proposed by the Chair, brought up and read.

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

Paragraphs 1 to 4 read and agreed to.

A paper was appended to the Report.

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

Ordered, That the Chair make the Report to the House.

[The Committee Adjourned.]

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2009-10

First Report	Bad Language: The Use and Abuse of Official Language	HC 17 (<i>HC 394</i>)
Second Report	Work of the Committee in 2008-09	HC 20
Third Report	Selection of a new Chair of the Advisory Committee on Business Appointments	HC 42 (<i>HC 139</i>)
Fourth Report	Parliament and the Ombudsman	HC 107 (<i>HC 471</i>)
Fifth Report	Lobbying: Developments since the Committee's First Report of Session 2008-09	HC 108 (<i>HC 393</i>)
Sixth Report	Top Pay in the Public Sector	HC 172 (<i>HC 472</i>)
Seventh Report	Outsiders and Insiders: External Appointments to the Senior Civil Service	HC 241 (<i>HC 500</i>)
Eighth Report	Goats and Tsars: Ministerial and other appointments from outside Parliament	HC 330
Ninth Report	Too Many Ministers?	HC 457
Tenth Report	Parliament and the Ombudsman: Further Report, with the Government Response to the Committee's Fourth Report of Session 2009-10	HC 471
Eleventh Report	Top Pay in the Public Sector: Further Report, with the Government Response to the Committee's Sixth Report of Session 2009-10	HC 472
Twelfth Report	Outsiders and Insiders: External Appointments to the Senior Civil Service, with the Government Response to the Committee's Seventh Report of Session 2009-10	HC 500

Session 2008-09

First Report	Lobbying: Access and influence in Whitehall	HC 36 (<i>HC 1058</i>)
Second Report	Justice Delayed: The Ombudsman's Report on Equitable Life	HC 41 (<i>HC 953</i>)
Third Report	Ethics and Standards: Further Report	HC 43 (<i>HC 332</i>)
Fourth Report	Work of the Committee in 2007-08	HC 42
Fifth Report	Response to White Paper: "An Elected Second Chamber"	HC 137 (<i>HC 59</i>)
Sixth Report	Justice denied? The Government response to the Ombudsman's report on Equitable Life	HC 219 (<i>HC 569</i>)
Seventh Report	Further Report on Machinery of Government Changes	HC 540
Eight Report	Good Government	HC 97 (<i>HC 1045</i>)
Ninth Report	The Iraq Inquiry	HC 721 (<i>HC 992</i>)

Tenth Report	Leaks and Whistleblowing in Whitehall	HC 83
Session 2007–08		
First Report	Machinery of Government Changes: A follow-up Report	HC 160 (<i>HC 514</i>)
Second Report	Propriety and Peerages	HC 153 (<i>Cm 7374</i>)
Third Report	Parliament and public appointments: Pre-appointment hearings by select committees	HC 152 (<i>HC 515</i>)
Fourth Report	Work of the Committee in 2007	HC 236 (<i>HC 458</i>)
Fifth Report	When Citizens Complain	HC 409 (<i>HC 997</i>)
Sixth Report	User Involvement in Public Services	HC 410 (<i>HC 998</i>)
Seventh Report	Investigating the Conduct of Ministers	HC 381 (<i>HC 1056</i>)
Eighth Report	Machinery of Government Changes: Further Report	HC 514 (<i>HC 540, Session 2008–09</i>)
Ninth Report	Parliamentary Commissions of Inquiry	HC 473 (<i>HC 1060</i>)
Tenth Report	Constitutional Renewal: Draft Bill and White Paper	HC 499 (<i>Cm 7688</i>)
Eleventh Report	Public Services and the Third Sector: Rhetoric and Reality	HC 112 (<i>HC 1209</i>)
Twelfth Report	From Citizen’s Charter to Public Service Guarantees: Entitlement to Public Services	HC 411 (<i>HC 1147</i>)
Thirteenth Report	Selection of a new Chair of the House of Lords Appointments Commission	HC 985
Fourteenth Report	Mandarins Unpeeled: Memoirs and Commentary by Former Ministers and Civil Servants	HC 664 (<i>HC 428, Session 2008–09</i>)
Session 2006–07		
First Report	The Work of the Committee in 2005–06	HC 258
Second Report	Governing the Future	HC 123 (<i>Cm 7154</i>)
Third Report	Politics and Administration: Ministers and Civil Servants	HC 122 (<i>HC 1057, Session 2007–08</i>)
Fourth Report	Ethics and Standards: The Regulation of Conduct in Public Life	HC 121 (<i>HC 88, Session 2007–08</i>)
Fifth Report	Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme	HC 523 (<i>HC 922</i>)
Sixth Report	The Business Appointment Rules	HC 651 (<i>HC 1087</i>)
Seventh Report	Machinery of Government Changes	HC 672 (<i>HC 90, Session 2007–08</i>)
Eighth Report	The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of Session 2006–07	HC 922 (<i>HC 1048</i>)
Ninth Report	Skills for Government	HC 93 (<i>HC 89</i>)
First Special Report	The Governance of Britain	HC 901
Session 2005–06		
First Report	A Debt of Honour	HC 735 (<i>Cm 1020</i>)
Second Report	Tax Credits: putting things right	HC 577 (<i>HC 1076</i>)
Third Report	Legislative and Regulatory Reform Bill	HC 1033 (<i>HC 1205</i>)

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Fourth Report	Propriety and Honours: Interim Findings	HC 1119 (<i>Cm 7374</i>)
Fifth Report	Whitehall Confidential? The Publication of Political Memoirs	HC 689 (<i>HC 91, Session 2007–08</i>)