



INTERNATIONAL
OMBUDSMAN
INSTITUTE



Parliamentary
and Health Service
Ombudsman

2022 Conference and General Assembly of the
European IOI, Thursday 26 May – Friday 27 May

From Manchester to Athens: next steps



Contents

Executive summary	3
Annexe A: Note of the Manchester Memorandum seminar, 9-10 November 2021 ..	11
1. Background	11
2. Reaching Vulnerable and Marginalised People	12
3. Developing Competency Frameworks	14
4. Day Two, 10 November 2021	15
5. The Venice Principles and Peer Review	15
6. Branding and the term ‘Ombudsman’	16
7. Next Steps	17
Annexe B: Note of the Manchester to Athens roundtable, 28 February 2022	18
8. Introductions	19
9. Principles of development	19
10. Themes for development	19
11. Self-assessment and Peer Review	19
12. Reaching vulnerable and marginalised communities	20
13. Developing competency frameworks	21
14. Creation of a women’s network	21
15. Next Steps - Athens and afterwards	22
16. Any Other Business	22
Annexe C: Summary of the survey results following the Manchester Memorandum seminar, specifically on the Venice Principles and peer review.	23
Annexe D: IOI best practice guides on peer reviews	26
Annexe E: Examples of Ombudsman peer review	29
Annexe F: Excerpts from ‘The Art of the Ombudsman: leadership through international crisis’ (May 2021) about the Venice Principles and peer review, pp.90-91	31

Executive summary

This paper marks and celebrates the launch of important development initiatives including a revised Peer Review process, at the European IOI Congress in Athens in May 2022. This follows the publication of the [Art of the Ombudsman](#) study involving 53 national and sub-national members of the IOI and following extensive consultation and reflection the formulation of the Manchester Memorandum. The findings and recommendations from the Art of the Ombudsman study were presented at the IOI World Congress in Dublin in 2021.

Peer Review

What is a Peer Review?

Peer review is now being used by Ombudsman offices to help assess their corporate strengths and areas for improvement. These independent reviews are commissioned by an IOI member institution and undertaken by fellow Ombudsman officeholders. They usually involve a 2-day site visit to the institution under review and subsequent publication of findings. The reviews are important in identifying areas of good performance; validating where processes and outcomes are working well; validating the processes used in individual cases and helping offices understand where further improvements can be made. Please see Annex E for examples of peer review in practice.

Peer Review guidance

- The original IOI best practice paper on ‘Guide to Peer Reviews’ was published in April 2020.
- The IOI ‘Guide to Peer Reviews’ was updated in March 2021. Please see Annex D.

Applications for peer reviewers are now open

To give further authority and independence to the Peer Review process, we have selected Dr Tom Frawley to assess peer review panelist applications and to advise the IOI European Board on their validation. The revised and entirely voluntary Peer Review process is now formally relaunched. Applications to join the validated IOI peer reviewer list are now invited from current and former Ombudsman officeholders, senior Ombudsman staff with specific skills in areas such as audit, risk, finance and legal frameworks, and academics specializing in Ombudsman practice. To apply, colleagues are asked to send a two-page CV and a one-page letter of application to ioi@volksanwaltschaft.gv.at.

Dr Tom Frawley

Dr Tom Frawley is a public servant with experience of public services world-wide. He studied at St Mary's Grammar School in Belfast and graduated from Trinity College, Dublin in 1971. Tom's career began in 1971 when he joined the National Health Service and in 1973 he was appointed Unit Administrator at the Ulster Hospital, Belfast. In 1983 he was appointed Chief Administrative Officer of the Western Health and Social Services Board, at the age of 31 the youngest person to be appointed to such a post in the United Kingdom at that time. In 1985, he was appointed as the Board's Chief Executive.



A series of Fellowships led to health care study visits to the United States, Australia, and New Zealand. In 1994 he headed a Northern Ireland project team which won a competitive tender to advise on the development of the health service system in Zimbabwe. Nearer home he helped to establish a cross-border organisation of neighbouring health boards with the aim of securing the support of the European Union for the development of services in what were peripheral regions.

Tom was appointed Northern Ireland Ombudsman in 2000 and served with distinction until his retirement in 2016. In 2003 he was invited by the Northern Ireland Assembly to fulfil the role of Commissioner for Standards for the legislative Assembly. In 2004 he was elected a member of the European Board of the International Ombudsman Institute (IOI), election to the World Board followed and in 2010 he was elected Vice-President of the IOI.

Tom is currently Vice-Chairman of the Northern Ireland Policing Board and a member of the Audit Committee for the Irish Ombudsman and Irish Information Commissioner. He has also been Chairman of the Audit Committee of the Scottish Ombudsman office and a member of the Audit Committee of the Welsh Ombudsman.

Tom is currently completing his second term as a member of the Professional Standards Authority, a body that provides oversight of the professional regulators of the NHS in the UK.

Self-Assessment

Self-assessment complements peer review and can usefully precede it. Although it is envisaged that IOI members will not be paid for their time as peer reviewers, host organisations should pay for relevant travel and accommodation of panels, which usually include three members. For Ombudsman offices with less available resources, self-assessment is also an excellent alternative to a Peer Review. Please see page five for more detail on Ombudsman Self-Assessment and Peer Review and see [here](#) for the full paper on the self-assessment tool that is currently being developed by the New Zealand Ombudsman.

Reaching Vulnerable and Marginalised communities

There is a significant need to develop strategies for reaching vulnerable communities. This area will benefit greatly through sharing best practices. We are therefore asking colleagues to submit evidence from their own contexts of best practice of reaching marginalised communities to the Netherlands Ombudsman to support the drafting of a best practice paper.

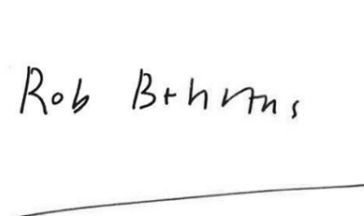
Contact: Frans Weerkamp f.weerkamp@nationaleombudsman.nl

Gender Equality network

Whether ‘Ombudsman’ is a gendered term is a highly contested debate. We encourage debate and action on this topic and broader issues of gender equality and support the creation of a Women’s network within IOI, led by Rosemary Agnew (Scottish Public Service Ombudsman), Margaret Kelly (Northern Ireland Public Service Ombudsman), Colette Langlois (Northwest Territories Office of the Ombud) and Diane Wellborn (Ombudsman, Joint Office of Citizen Complaints for Dayton, Ohio).

A handwritten signature in black ink, appearing to read 'Andreas Pottakis', on a white background.

Mr Andreas Pottakis
Ombudsman of Greece
President of the European Board of IOI

A handwritten signature in black ink, appearing to read 'Rob Behrens', on a white background. Below the signature is a long, thin horizontal line.

Rob Behrens
Parliamentary and Health Services Ombudsman, UK
Vice President of the European Board of IOI

1. Background

- [‘The Art of the Ombudsman’](#) and its embryonic Manchester Memorandum elicited vibrant and constructive papers at the November 2021 seminar. It was attended by 100 International Ombudsman Institute (IOI) colleagues, remotely and in person and the debate was cordial, evidence-based and largely consensual (with important reservations) and informs the thrust of this paper in preparation for Athens and subsequent adoption by the World Board. Please see Annexe A for full note of the seminar.
- In February this year, a number of IOI board members met for a virtual roundtable to discuss proposals to be put to the IOI European Congress in Athens. There was general consensus, agreement of the priorities and a clear route mapped out for the way forward. Members agreed to pursue a series of best practice papers on the topics of the ‘Venice Principles and Peer Review’, ‘Ombudsman Self-Assessment’ and ‘Reaching Vulnerable and Marginalised Citizens’ and it was agreed that both an IOI women’s leadership network and a forum that focuses on wider diversity and inclusion issues should be developed. This paper sets out the proposals in greater detail.

2. Principles of Development

- All proposals as part of this initiative are voluntary and non-regulatory. They should take account of the diversity of practice amongst IOI members. While strongly recommended as part of best practice, the proposals make no suggested changes to the relationship between member organisations, regional Boards and the World Board.
- The working principle of these initiatives is democratic. Development work on the various themes is encouraged, not discouraged by this initiative and need not, in any way, be sanctioned and approved centrally. The glory of IOI is the diversity of member practice, now within the broad context of the [Venice Principles](#) (2019) and the [United Nations General Assembly Resolution](#) (December 2020). Please see Annexe C for further context to the Venice Principles.
- A key element of success will be review of progress in the light of experience. Proposals set out during the pandemic in 2020 and 2021 do not necessarily have standing and relevance five years hence.

3. The Venice Principles and Peer Review

- The [Venice Principles](#), now fully endorsed and adopted by the United Nations General Assembly in December 2020, are now the authoritative set of standards for Ombudsman schemes around the world. In her presentation at the seminar, Marie Anderson, the Northern Ireland Police Ombudsman, endorsed the proposal in the Manchester Memorandum that IOI members should use peer review as a tool to provide independent evidence of effective operation and broad synergy with the Venice Principles (see [here](#) for full paper).
- Marie Anderson agreed that the IOI should help facilitate this process and encourage peer review at least once every five years. Regional boards are encouraged to adopt the existing policy of the European Board of IOI in ‘Additional Notes on Peer Review’ (2021). Please see Annexe D for document in full. This

creates a peer review panel list, validated by the IOI, to enable member organisations to select peer reviewers without the risk of appearances of a conflict of interest or lack of independence.

- At the seminar there was a good discussion about the [Global Alliance of National Human Rights Institution](#) (GANHRI) accreditation model as a possible model for the IOI's peer review process. While there may be merit in a Committee grading members according to the extent to which they meet acknowledged standards and benchmarks (in GANHRI's case: [The Paris Principles](#)) there was a strong reservation amongst most attendees in Manchester in following this route at this early stage. This paper is in agreement with the reservations pointing out that the GANHRI process is highly regulated, centralised, potentially divisive and certainly bureaucratic and proposes that the model is not adopted by the IOI.
- It is important to note that Ombudsman peer review is not an untried process. IOI best practice guides on peer review are referenced in Annexe D and examples of recent successful and published Ombudsman peer reviews in the United Kingdom and in Catalonia are referenced in Annexe E. Nevertheless, there is a continuing need to catalogue and review Ombudsman peer review practice and experience.

4. Ombudsman Self-Assessment and Peer Review

- Jordana Dawson Hayes and Maddy Pears from the Office of the Ombudsman, New Zealand, explained that the self-assessment tool that is currently being developed by their office tests against a range of operational activities including sharing best practice, outreach works, and taking action against maladministration (see [here](#) for full paper). These draw on the [UN General Assembly Resolution on the Ombudsman](#) adopted in December 2020.
- Use of the UN General Assembly Resolution as a set of benchmarks allows for flexibility and prioritisation within the self-assessment process and accommodates Ombudsman schemes from all models (legal, maladministration and human rights).
- The discussion in Manchester made clear that peer review and self-assessment are not necessarily mutually exclusive exercises. Smaller Ombudsman schemes may be insufficiently resourced to engage peer review panellists to oversee a review, so may find self-assessment entirely appropriate and adequate. At the same time, self-assessment can be used as an important preliminary to peer review, and its results handed to the peer reviewers to inform their visit and discussions. Decisions about how or whether to link peer review to self-assessment should continue to be matters left to individual members.

5. Reaching Vulnerable and Marginalised Citizens

- Reinier van Zutphen, national Ombudsman of the Netherlands, Sana Noor, of the Federal Tax Ombudsman in Pakistan, Matanyahu Englman, State Comptroller and national Ombudsman of Israel, and Ajaz Ali Khan, Honourable Ombudsman Sindh, Pakistan, all presented papers on reaching marginalised communities (see [here](#) for full papers).
- It was suggested by Sana Noor and agreed by participants in Manchester that a ‘constructivist’ approach was an essential ingredient of effective work to reach marginalised and vulnerable communities. Constructivism was defined as a concept where meaning and detriment are shaped by those who interact with Ombudsman services, with the Ombudsman’s role being to understand and assess the lived experience accessed.
- For Englman and Khan reaching out has geographical, linguistic and cultural barriers and unless Ombudsman offices are proactive in surmounting these barriers vulnerable communities will be lost ‘in the state’s bureaucratic maze’.
- In this vein van Zutphen said ‘we learned to make the story someone told us the starting point of our investigation’ and not dress it up in formal language. A citizen-centred approach prompted questions about reaching out to and targeting vulnerable groups and generating a network of ‘intermediaries’ to facilitate meaningful contact with those who might not otherwise approach the Ombudsman.
- There was widespread agreement amongst participants in Manchester about the importance of reaching out to marginalised and vulnerable communities and drawing on the experience of Ombudsman members who have successfully launched initiatives in this area.
- This paper recommends IOI should commission a best practice paper on reaching out to marginalised and vulnerable communities drawing on member experience and approaches. Key issues might include:
 - How do we undertake research, networking and data analysis to identify and engage with marginal and vulnerable groups?
 - What does this approach mean in practice and what will it cost in terms of resources?
 - How do we drive forward the necessary cultural changes within our organisations to support outreach activity?
 - How do we create a workable strategy without compromising the timeliness or quality of the service we already provide and thus risking institutional mistrust?

6. Branding, gender equality and the term ‘Ombudsman’

- Margaret Kelly, Northern Ireland Public Service Ombudsman and Rosemary Agnew, Scottish Public Service Ombudsman spoke unequivocally about gender bias in the Ombudsman world. As far as the term ‘Ombudsman’ is concerned Kelly commented ‘Overall I think it does matter and not simply because it is gender bias but because there is still an underrepresentation of women in the role.’ It also sends out signals which, she suggests, damage citizens’ perceptions of women’s relevance, usefulness, relatability and approachability within the Ombudsman institution. Kelly says, ‘it is not lost on the ordinary citizen that I am a woman holding the title “Ombudsman”’. For Kelly and Agnew, the IOI should commit to a gender-neutral variant of the Ombudsman brand.
- At the Manchester seminar there was vibrant discussion about these issues and no obvious consensus on a way forward. Some colleagues agreed that the term ‘Ombudsman’ polluted the ‘brand’ because of its gender bias and represented the perception of a lower status for women than men in the IOI, or indeed the perception that women should not exist within the institution at all. Others defended the term as etymologically correct, arguing it was a literal, non-gender biased translation of the original Norse.
- A third group were puzzled by the focus on the issue when Ombudsman was one of many variants for leaders of member organisations including, for example, Defender of Rights, Human Rights Commissioner and Public Protector.
- In the light of these competing and strongly held views, this paper strongly warns against pushing the issue ‘into the long grass’. At least two other international Ombudsman networks (the International Ombuds Association, and the European Network of Ombuds in Higher Education) have changed their names in response to concerns about gender bias. Following the ideas of Kelly and Agnew it is suggested that an IOI women’s Ombudsman leadership network group should be formed to give further profile to the important issues discussed in Manchester.
- What form such a network takes and what precise issues it should discuss are beyond the scope of this paper. But it is clear that gender issues in the sector, including the lack of representation of women as Ombudsman leaders, and the issue of branding need airing at the Athens Conference and beyond.
- Of course, gender issues relate to all of us, and while any network group should be led by women that does not absolve all IOI Board members of sharing responsibility for engaging with and resolving these sensitive and complex issues in relation to gender.

- Any research exercise carried out by the women's network group, should be fully supported by IOI structures in the quest for material and ideas to resolve and develop evidence-based proposals on for example:
 - The lived experience of women as members of IOI.
 - The number of Ombudsman organisations that use the title 'Ombudsman' and the number that use other titles, and what they are.
 - Whether there is a legislative impediment associated with a name change for some organisations.
 - The experience of other international Ombudsman networks in re-branding.
 - The level of support for a rebranding of the name by the International Ombudsman Institution, and if so, what support there is for (e.g.). Ombud, Ombudsperson, Public Protector, Defender of Rights, Rights Commissioner.
 - Views on what impact rebranding will have i.e., will it decrease confusion and increase awareness or quite the opposite.

7. **Annexes:** (Ctrl+ click to reach relevant section in the document)

- **Annexe A:** Note of the Manchester Memorandum seminar, 9-10 November 2021
- **Annexe B:** Note of the Manchester to Athens roundtable, 28 February 2022
- **Annexe C:** Summary of the survey results following the Manchester Memorandum seminar, specifically on the Venice Principles and peer review.
- **Annexe D:** IOI best practice guides on peer reviews
- **Annexe E:** Examples of Ombudsman peer review
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8. **Links**

- Papers presented to the Manchester Memorandum seminar.

Annexe A: Note of the Manchester Memorandum seminar, 9-10 November 2021

Tuesday 9 November - Wednesday 10 November 2021
Free Trade Hall, Manchester

1. Background

In ‘[The Art of the Ombudsman](#): leadership through international crisis’ (May 2021), Parliamentary and Health Service Ombudsman Rob Behrens proposed a ‘Manchester Memorandum’ to meet the challenges and significant changes faced by Ombudsman schemes.

Using the results of the International Ombudsman Institute (IOI)’s survey of members, the report proposed six elements to this approach, all informed by the overarching use of the [Venice Principles](#) (2019) to guide changes in behaviour and practice:

- (i) **Peer review** every five years as an important supplement to formal accountability mechanisms, conducted by
- (ii) **Approved peer reviewers**, validated by Regional Boards of the IOI
- (iii) **Benchmarking** against the Venice Principles, in a similar way to how the Global Alliance for National Human Rights Institutions (GANHRI) benchmarks National Human Rights Institutions against the Paris Principles.
- (iv) Consultation on the potential gradual **professionalisation** of Ombudsman schemes
- (v) Development of strategies for **reaching vulnerable people**
- (vi) Encouraging **debate about the term ‘Ombudsman’** and acting on member views

IOI members were invited to meet in Manchester in November 2021 to discuss the draft memorandum and agree how to take this work forward. In total, 100 participants joined: 30 in person at the Free Trade Hall in Manchester and the PHSO offices nearby. This report is a summary both of discussion on the day and feedback received after.

As noted in the welcoming address, the radical history of the building and surrounding area¹ chosen for the venue set an appropriate tone for the challenging and important discussions held at this significant two-day event.

**Reaching Vulnerable and Marginalised People
Developing Competency Frameworks
Peer Review and Venice Principles
Branding and the Term ‘Ombudsman’**

Day One, 9 November 2021

2. Reaching Vulnerable and Marginalised People

- 2.1 The seminar opened with presentations from colleagues from the Netherlands (Reinier van Zutphen), Pakistan (Sana Noor, Ajaz Ali Khan) and Israel (Matanyahu Englman) exploring their approaches to reaching and working with vulnerable and marginalised people.
- 2.2 Though the agenda and papers referenced ‘citizens’, the Chair of this session, Catalan Ombudsman Rafael Ribó, reminded members to consider that many of the most vulnerable and marginalised people in society do not have citizenship status in their country of complaint. Furthermore, vulnerability is not a static or permanent identity and can be significantly influenced by factors outside of our control. This has been emphasised by the ongoing Covid-19 pandemic.
- 2.3 All the papers shared in this session encouraged consideration of the ways in which the state including Ombudsman services can exacerbate a person’s experience of vulnerability and marginalisation, and steps that can be taken to mitigate this.
- 2.4 Reinier van Zutphen outlined his office’s ongoing journey from a formerly traditional legal approach to complaints handling to becoming more person-focused with direct public contact through localised outreach initiatives and engaging ‘intermediaries’ (for example advocacy and support groups) within communities who are under-represented² to maximise reach.
- 2.5 This is underpinned by an emphasis on centring the complainant’s own narrative when exploring their concerns through active listening, mutual participation, and ensuring that their voice is accurately reflected in all communications, including written reports.
- 2.6 Sana Noor introduced a theoretical framework to help further understanding of vulnerability and marginalisation in Ombudsman work around the world. Where the ‘Western’ view of vulnerability is defined according to various ‘protected characteristics’, adopting a constructivist approach leads us to a wider and less exclusionary definition by which marginalised people are simply

¹ Formerly St Peter’s Field, the site of the [Peterloo Massacre](#) in 1819

² Drawing from research, the Dutch Ombudsman identified five ‘target groups’ for their outreach work: young adults, migrants and refugees, the self-employed, single/young parents and older informal carers/single elderly people.

those with limited access to or knowledge of Ombudsman services, which may be for any number of reasons. This perspective further encourages these services to identify and work to resolve ways in which they themselves may actively contribute to this disenfranchisement.

- 2.7 Matanyahu Englman discussed the geographic, linguistic, and cultural barriers to accessing his office in Israel and the various approaches undertaken to tackle them. These include establishing local offices in more peripheral areas of the state, employing staff with diverse language skills, providing cultural sensitivity training for all staff and translation services into Hebrew for all initial complaints, as well as various outreach initiatives.
- 2.8 Ajaz Ali Khan echoed the significance of geographical barriers, particularly in the province of Sindh where he oversees 16 regional offices, of which 13 are rural. Tackling any one barrier in isolation however is rarely sufficient: targeted work has also been undertaken to support older people to access the pension payments owed to them, and to develop the education of women and girls in the region.
- 2.9 Further discussion points:
- The resource implications of both undertaking new approaches to reach vulnerable people and of the work that can arise from this are potentially significant, even when undertaking a targeted approach: How do we meet this challenge without compromising the timeliness or quality of the service we provide, which in turn may further contribute to complainants' marginalisation and institutional mistrust?
 - Extrapolation from case studies gathered through community outreach can point to wider systemic issues, which powers of own initiative can help to uncover. Not all Ombudsman services have these powers however, and there can be significant political sensitivities around them: In what other ways can potential systemic failings be identified and investigated?
 - What does a constructivist approach mean in practice, how can an Ombudsman exemplify it and what are the implications for Human Resources strategies in driving forward the necessary cultural changes within our organisations to support it?

3. Developing Competency Frameworks

- 3.1 Donal Galligan from the Ombudsman Association (OA) and Kate Wellington, an independent member of its Validation Committee, shared how they developed a Caseworker Competency Framework (CCF) for all those involved in the casework functions of an Ombudsman. This was adapted to the needs of their members in being applicable to both public and private sector schemes across a wide range of areas.
- 3.2 They identified six core competencies, expecting Ombudsman caseworkers to be analytical, impactful, approachable, professional, open-minded and constructive. These qualities are broken down into several competency areas, supplemented by indicative behaviours to support their identification in practice.³
- 3.3 In moving from an experience to skills-based and behaviourally evidenced focus, the CCF has the potential to increase workforce diversity and ensure we better reflect the communities we serve, as well as facilitating the smoother transition of employees between Ombudsman services.
- 3.4 OA members have also used this framework to inform their organisational values, recruitment processes, probation milestones, training and development programmes and annual performance reviews.
- 3.5 Further discussion points:
- Can the three main models of Ombudsman (legal, maladministration and human rights) be effectively united under one framework?
 - Can a balance be struck between the aspiration to provide a high-quality service with reference to professional standards such as the CCF (i.e., supporting and developing *professionalism*), without becoming a fully regulated profession (i.e., a more traditional model of *professionalisation*)?
 - The risk of a CCF creating a reductive and unhelpful ‘tick box’ mentality if not supported by an appropriate organisational culture, and the importance of Ombudsman services finding ways to resist this to help restore complainant trust in state systems which tend to be more bureaucratic in their approach.
 - The need to exemplify transparency by also sharing CCFs externally with organisations we investigate to help to improve frontline complaint handling.

³ The Public Services Ombudsman for Wales found that the key competencies could be adapted to all staff, with additional manager behaviours.

4. Day Two, 10 November 2021

5. The Venice Principles and Peer Review

- 5.1 The second day of the seminar began with a paper from Northern Ireland Police Ombudsman Marie Anderson which proposed that any IOI accreditation assessment (i.e., of whether the standards of the Venice Principles are met by members) should involve the rigorous use of peer review to provide independent evidence for consideration.
- 5.2 Last year's [IOI best practice paper on peer review](#) was cited as an excellent and flexible tool for this purpose. This can be an important means to advocate for increased funding or mandate from governments using a strong evidence base.
- 5.3 Jordana Dawson Hayes and Maddy Pears from the Office of the Ombudsman, New Zealand, presented on their development of a self-assessment tool to support Ombudsman services in the Australasia and Pacific Region of the IOI to benchmark their functions and capabilities against regional and international best practice, including the Venice Principles.
- 5.4 This tool measures both structural factors (independence, mandate and power) and operational factors (reporting and accountability, investigation, corporate capability, staff competency, access and outreach) to support organisations to identify and reflect on their experiences in these areas. There was some debate however as to whether funding by or accountability to the state are relevant structural factors for Ombudsman services, or rather the transparency and auditing in place around this.
- 5.5 Members also noted that self-assessment tools can encourage the autonomy of self-reflection prior to a peer review process, and a potential comparator of organisational self-awareness to external perceptions.
- 5.6 Further discussion points:
 - National laws must recognise and reflect the Venice Principles for them to have credibility as a tool for all IOI organisations.
 - There was concern that subscribing to the GANHRI model of benchmarking used by Human Rights Institutions may further confuse public understanding of the role of Ombudsman services and could risk the sector being judged according to a system not entirely focused on its particular experience.
 - Adopting a two-tier approach to accreditation per the GANHRI model risks creating an elitist culture contrary to the IOI's spirit of congeniality and collaboration, which could alienate smaller and less well-established Ombudsman schemes.
 - The Venice Principles may already be too out of date to rely upon in capturing neither the particular challenges arising from the ongoing Covid-19 pandemic, nor a constructivist approach to vulnerability and marginalisation as discussed on the first day of this seminar.
 - Further thought must be given to how IOI member organisations should cooperate to support the creation and embedding of this process, as well as

how members can be assured of its standardised application so that it is trusted as an authentic levelling tool.

6. Branding and the term ‘Ombudsman’

- 6.1 Margaret Kelly and Rosemary Agnew, Public Services Ombudsman for Northern Ireland and Scotland respectively, held a conversation on the nuances of gendered language as relating to perceptions of the term ‘Ombudsman’ (which is used for both of their roles) and its nearest alternatives ‘Ombudsperson’ or simply ‘Ombuds’.
- 6.2 Though Margaret and Rosemary both agreed that Ombudsman is or has become a gendered term over time, they stressed that public comprehension and feeling on this matter ultimately outweighs any one post holder’s personal opinion.
- 6.3 Though this may initially be perceived as a masculine term in English, most people understand either with further consideration or explanation that it refers to a post that can be occupied by a person of any gender. We must consider however whether this initial perception poses a perceived barrier to non-male people bringing their complaint to an Ombudsman.
- 6.4 This debate is set against a wider backdrop of the ‘public’s lack of knowledge and understanding of the Ombudsman’s role’ (regardless of the particular terminology used) being cited as ‘the greatest challenge for Ombudsman organisations’ in [‘The Art of the Ombudsman’](#) survey, conducted in June 2020.
- 6.5 Though there is a potentially significant opportunity in the IOI membership to make a commitment to switch to gender-neutral terminology and in doing so exemplify a willingness to change, it was also recognised that any attempts to rebrand in this way (either as individual services or as a collective) poses a risk of compromising any existing public recognition and understanding built under a former identity and would need to be carefully managed with dedicated resource if pursued.
- 6.6 The importance of cross-cultural consideration was highlighted throughout this session. Key points raised were:
 - This debate is moot in other languages where the term ‘Ombudsman’ or its variations are not used e.g., in Spain, the Ombudsman is the ‘Defensor del Pueblo’ or ‘Defender of the People’ and other countries refer to a ‘Public Protector’ or ‘Public Representative’.
 - This debate is also moot for those whose first language is not such that they would perceive the ‘man’ in ‘Ombudsman’ to denote a male person. Many Ombudsman schemes serve linguistically diverse populations and use translation services. When considering how to refer to the post or service itself, the priority should be ensuring that any translations used are understood and accepted by the communities they are for.
 - In the original Swedish, ‘Ombudsman’ is considered to be gender neutral. However, when the post was first established in 1809, the assumption would have been that the role was that of a man. Furthermore, the word is drawn from old Norse *umboðsmaðr* in which *maðr* meant ‘man’.

- In Indonesia, ‘Ombudsman’ is used to refer to the institution and ‘Commissioner’ to the person in the role. In the UK, the Parliamentary and Health Service Ombudsman is referred to in legislation as Parliamentary Commissioner (1967) and Health Service Commissioner (1993).

6.7 Further discussion points:

- Is rebranding as an international institution the most effective solution to gender inequality in the Ombudsman sector?
- Is it appropriate for the IOI membership to commit to rebranding as individual schemes where the term ‘Ombudsman’ is used, given cross-cultural considerations about the perception of this term?
- How can the IOI best facilitate exploration of issues relating to gender going forwards?

7. Next Steps

Members agreed to reconvene online in February 2022 to discuss these issues further and agree actions. This will be reported onwards to the Annual Meeting in Athens in May 2022.

Written by:

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Annexe B: Note of the Manchester to Athens roundtable, 28 February 2022

Draft Minutes of the 'From Manchester to Athens' roundtable meeting held on 28 February 2022 via VC

MEMBERS:

Rob Behrens (Chair), Parliamentary & Health Service Ombudsman (PHSO);
Regional Director, Europe, International Ombudsman Institute (IOI)
Chris Field, Ombudsman of Western Australia; IOI President
Andreas Pottakis, Ombudsman of Greece; IOI European President
Ajaz Ali Khan, Provincial Ombudsman for Sindh, Pakistan
Rosemary Agnew, Scottish Public Services Ombudsman
Paul Dubé, Ontario Ombudsman
Rafael Ribó, Catalan Ombudsman
Reiner Van Zutphen, National Ombudsman of the Netherlands

ATTENDEES:

Amanda Amroliwala, Chief Executive, PHSO
Rebecca Hilsenrath, Director of Strategy and Communications, PHSO
Kate Eisenstein, Assistant Director of Policy, Strategy and Public Affairs, PHSO
Judith Macaya, Director of Cabinet, Catalan Ombudsman Office
Stefan Sjouke, Head of International Affairs, National Ombudsman of the Netherlands
Rebecca Poole, Strategic Policy and Projects, Ombudsman of Western Australia
Meinhard Friedl, IOI Executive Director and Head of IOI Secretariat
Hannah Suntinger, IOI Secretariat
Lea Brau, IOI Secretariat
Nelly Craven, Policy & Public Affairs Manager, PHSO
Faye Glover, Assistant Private Secretary, PHSO
Faridah Newman, Executive and Governance Officer, PHSO (minutes)

8. Introductions

- 8.1 Rob Behrens welcomed members and attendees to the meeting, who each introduced themselves to the group.
- 8.2 Members noted an item under Any Other Business to discuss the planned IOI statement on the escalating humanitarian crisis in Ukraine.

9. Principles of development

- 9.1 Rob Behrens summarised the main themes of discussion at the Manchester Memorandum event in November 2021 which are to be further debated and developed at the next conference in Athens in May 2022.
- 9.2 Members noted that the suggested initiatives are voluntary, non-regulatory and proposed to be implemented in a best practice approach which would not affect the constitutional relationship between the IOI's regional and world boards and its member institutions.

10. Themes for development

11. Self-assessment and Peer Review

- 11.1 Rob Behrens summarised this theme and invited members and attendees to discuss it further:
 - IOI's regional boards would be invited to set up arrangements for Peer Review by compiling a validated list of peer reviewers.
 - If member institutions are not able to undertake Peer Review (for example due to limited resources), they could adopt a self-assessment approach similar to that outlined by colleagues from New Zealand.
 - Further discussion is required as to whether the GANHRI⁴ accreditation model is appropriate for an IOI Peer Review process.
- 11.2 Andreas Pottakis supported both review instruments and added that the Venice Commission do *not* intend to set up their own method of monitoring whether Ombuds schemes have complied with the Venice Principles
- 11.3 Chris Field supported the suggestion of Peer Review and emphasised the importance of IOI taking leadership on this. However, he did not agree with adopting the GANHRI accreditation model at present as he felt that this would not be conducive to encouraging member institutions to embrace Peer Review. (This could change in the future but is not appropriate right now.)
- 11.4 Rafael Ribó supported both review instruments, adding that we could follow but not directly replicate the GANHRI model.

⁴ Global Alliance of National Human Rights Institutions

- 11.5 Reiner Van Zutphen also supported both review instruments, adding that member initiatives should be free to apply these in ways appropriate to their organisations and be open and transparent about their outcomes.
- 11.6 Additional suggestions:
- The formation of a fund to support member institutions who may have the desire but not the means to pursue Peer Review (though peer reviewers will not charge for their services).
 - Comparative studies at the IOI regional or world level (perhaps twice a year) to assess Peer Review work.
 - Ombuds assistance of colleagues in smaller offices in their self-assessment processes.
- 11.7 **Action:** Andreas Pottakis to ask the IOI regional boards to make a call for potential peer reviewers to start setting up a pool of candidates for regional boards to assess.
- 11.8 Rob Behrens summarised discussion: There is broad consensus on developing Peer Review and self-assessment processes, with some nuances about how they should be implemented.

12. Reaching vulnerable and marginalised communities

- 12.1 Rob Behrens summarised this theme and invited members and attendees to discuss it further:
- There is a range of good practice across the world tackling this issue, but there are different ideas about how to undertake this work and what to prioritise.
 - The suggestion is for the IOI to commission a best practice paper drawing on the experience of member institutions who have successfully launched initiatives in this area.
- 12.2 Ajaz Ali Khan agreed with suggestion of a best practice paper to develop our understanding of how this is being done around the world and across cultures.
- 12.3 Reiner Van Zutphen also agreed, adding that it would be helpful to include an overview of different types of reaching out that can be used in different contexts, concentrating on a number of themes to show how these methods can work in practice.
- 12.4 Rosemary Agnew also agreed, suggesting that identifying some cross-cutting themes (e.g. vulnerability caused by displacement) could be helpful in understanding how access to Ombuds schemes is affected.
- 12.5 Paul Dubé also agreed, explaining that children and youth are a new jurisdiction for his service so he would particularly welcome an opportunity to contribute on this theme.

- 12.6 Rob Behrens summarised discussion: Members **agreed** to take forward a best practice paper on reaching vulnerable and marginalised communities.

13. Developing competency frameworks

- 13.1 Rob Behrens summarised this theme and invited members and attendees to discuss it further:
- Though there was broad support for the principle of the IOI and/or its member institutions developing competency frameworks, there were concerns about how this would work in practice.
 - The suggestion is for the IOI to commission a best practice paper which would further consider these issues.
- 13.2 Reiner Van Zutphen supported the idea, adding that the paper should be led not just by Ombuds but the colleagues who run their organisations who are likely much more acquainted with this.
- 13.3 Paul Dubé also welcomed this idea, cautioning that competencies are continually evolving and hard to nail down, especially as new areas are added to Ombuds' remits.
- 13.4 Rosemary Agnew explained that this area is less of a priority for her at present in the context of increased demand and stretched resources. She suggested that a best practice handbook rather than a paper might be more useful to more mature schemes, including a glossary with wording for how competencies should be described and assessed.
- 13.5 Rafael Ribó highlighted that there are two areas (Powers of Own Initiative and investigating private companies that offer general interest services) that not all IOI member schemes have. It would be interesting to understand how competencies are sustained in these fields.
- 13.6 Rob Behrens summarised discussion: Members **agreed** to take forward a best practice paper on developing competency frameworks.

14. Creation of a women's network

- 14.1 Rob Behrens summarised this theme and invited members and attendees to discuss it further:
- Gender bias is an issue that needs to be explicitly tackled by the IOI.
 - The suggestion is for an IOI women's Ombudsman leadership network group to be formed to help drive this work forward.
- 14.2 Rosemary Agnew suggested that this group could be useful not only to facilitate networking between women Ombuds but also possibly as a vehicle for exploring gendered issues in our work, for example disproportionate effects of the pandemic.

- 14.3 Amanda Amroliwala suggested that the group could tackle a broader range of diversity and inclusion issues including that of our workforces and access to our schemes.
- 14.4 Chris Field offered his full support to these suggestions, adding that LGBTQIA+ and indigenous populations could form additional areas of focus.
- 14.5 Rob Behrens summarised discussion: There is general support for the creation of a diversity and inclusion network. Further thinking is required to ensure that this is a useful and valuable forum.

15. Next Steps - Athens and afterwards

- 15.1 Andreas Pottakis summarised plans for the IOI General Assembly meeting and conference in Athens in May. He suggested that the items shared today should be presented at the General Assembly, with that on reaching vulnerable and marginalised communities as an item to the conference with exploration of the effect of digitalisation on Ombuds work.
- 15.2 Paul Dubé supported this suggestion, suggesting that it would be particularly useful to explore the use of decisions made by artificial intelligence and their fairness implications.
- 15.3 Rob Behrens added that Rafael Ribó hosted a conference on this recently which would be a valuable contribution. There is also a European Network of Ombudsmen conference on this in April 2022.

16. Any Other Business

- 16.1 Chris Field outlined the planned IOI statement on the escalating humanitarian crisis in Ukraine which is due to be published this week, thanking Andreas Pottakis, Rob Behrens and Paul Dubé for their contributions on this matter and the secretariat in Vienna for their support.
- 16.2 Andreas Pottakis suggested at some point in the future inviting Commissioners Denisova (Ukraine) and Moskalkova (Russia) to address us and share not only the challenges they are facing but the actions they may have already taken to address these problems.
- 16.3 Chris Field shared his gratitude to Rob Behrens for his leadership on the Manchester Memorandum and the PHSO office for their support in this, as well as to Andreas Pottakis for the upcoming Athens meeting and conference which will take this forward. He assured that this work will continue to have his strong support in terms of its passage through the IOI.
- 16.4 Rob Behrens thanked members and attendees for their attendance and closed the meeting.

The meeting ended at 13:30.

Annexe C: Summary of the survey results following the Manchester Memorandum seminar, specifically on the Venice Principles and peer review.

Following the Manchester Memorandum seminar in November, PHSO sent a survey to all delegates who attended and asked them to share their key thoughts from the sessions. This annex includes the analysis from the answers to the question about the discussion on peer review and the Venice Principles.

The question was: ‘what was the one key thing you took away from the session on ‘Peer Review and the Venice Principles’.

We received 30 responses in total. The responses were mainly drawn from Ombudsman with the European region, but we did get responses from different parts of Canada, Israel, Timor-Leste, Philippines, Pakistan and New Zealand.

Headlines of survey results⁵

- **Unsure on topic** - several respondents indicated that they were not sure about their position on the topic and were keen to do some more thinking and participate in discussion to increase their understanding.
- **Powerful benchmarking tool** - several respondents thought that using the Venice Principles within peer review has the potential to be a useful and authoritative standard and benchmark that if used by many Ombuds organisations will establish a powerful system of review to drive improvement across the community.
- **Limitations of using the Venice Principles as a standard**- some suggested the principles may be out of date, do not leave room for a ‘constructivist’ framework or may prevent organisations from delving more into reviewing operational factors. Constructivism was talked about at the Manchester Memorandum as a concept where meaning and truth is shaped by those we interact with, with the Ombudsman’s role being to assimilate and accommodate.
- **Concerns about using the GANHRI accreditation model**- several respondents shared doubts about the value and appropriateness of applying the GANHRI accreditation model when using the Venice Principles in the peer review process,

⁵ Please note that some of the responses were contradictory in nature i.e., some believed the process may bolster independence, whilst others believed it may challenge it. Some responses made unsubstantiated points.

as Ombuds schemes are not human rights institutes. Many expressed concerns about subscribing to a ranking or tiered system.

- **Regulation and independence** - there were acknowledgements of the tension between regulation and independence in any peer review process that checks compliance against a standard, though one respondent noted that the potential regulation element within such a process does not necessarily need to challenge the independence of Ombuds schemes.
- **Peer review vs Self-assessment** - some respondents thought self-assessment tools may be more valuable for their organisation.

Value and benefits

- **Benchmark tool** - potential to be a strong standard and benchmark that will encourage improvement across the Ombud community.
- **Hold organisations to account** - if operationalised then it could effectively hold Ombuds organisations to account.
- **Bolster independence** - the peer review process will bolster independence. There were however some concerns from respondents that we must consider how we adopt an international system of review like this without compromising the independence of ombudsman organisations.
- **Community of best practice** - will likely encourage community and collaboration through sharing best practice and encouraging improvement of Ombuds schemes.
- **Safeguards** - the process will enable safeguards to be set, so the appropriate checks and balances are in place.
- **Venice Principles are inclusive.**
- **Peer review is a flexible tool.**

Challenges

- **Tiered system and ranking**- some respondents raised concerns about subscribing to a model that ranks ombuds organisations. Concerns included that it was potentially divisive and could alienate smaller and less well-established ombuds organisations. One respondent felt strongly that if we were to implement an element of ranking, then this should be in a way that supports and improves schemes that do not meet the principles and should avoid a tiered system.
- **GANHRI model not appropriate for Ombuds schemes** - some respondents raised concerns that subscribing to the GANHRI model will further confuse the public's understanding of the Ombudsman's role as it will conflate it with a Human Rights Institute. One respondent expressed that Ombudsman organisations have unique characteristics that differentiate them from Human Rights Institutes. There is a risk of Ombudsman offices being subsumed by a system that is not focused on Ombudsman offices.
- **Peer review vs Self-assessment** - a couple of respondents felt that the self-assessment tool such as the tool currently being piloted by the New Zealand Ombudsman would be more appropriate for their organisation. Reasons given include that this can look more in detail on operational factors, as well as structural factors and focus in on the specific priorities for each individual organisation. There was a feeling that it was more tailored and flexible tool.

- **Limitations of using the Venice Principles as a standard-** some respondents suggested the principles may be out of date as they do not include post-COVID-19 challenges which includes the new meaning of reaching vulnerable and marginalised communities and the role of Ombudsman as ‘constructivists’. It may also prevent organisations from delving more into reviewing operational factors.

Considerations

- **National laws must embrace Venice Principles if they are to have credibility.**
- **Intended outcomes** - some respondents encouraged us to consider in what spirit we wish to proceed - i.e., is it an improvement tool, is to hold ombuds organisations to account, is it to support ‘failing’ organisations to do better. Is it more about the criteria for membership of the IOI.
- **Standardisation** - one respondent asked how we ensure the testing of compliance with the principles are applied in the same way for everyone, so it is an authentic leveller and benchmark.
- **Who should conduct the peer review** - there was some challenge on who is best placed to conduct a peer review i.e., should it be a peer Ombudsman, an expert within an organisation, an academic or a regulatory body?
- **Engagement and cooperation** - need to think about how organisations within the International Ombuds Institute should cooperate in the lead up to creating this process and embedding this process.

Annexe D: IOI best practice guides on peer reviews

- The original IOI best practice paper on ‘Guide to Peer Reviews’ was published in April 2020. It can be accessed [here](#).
- The IOI ‘Guide to Peer Reviews’ was updated in March 2021. The document is in full below.

Additional notes on Peer Reviews, IOI, March 2021

Introduction

Since the IOI Best Practice Paper on Guide to peer reviews was launched in April 2020, there has been considerable interest in how ombudsman services can maximise the potential of peer review and what processes could be put in place to support reviews. This document, in the format of questions and answers, aims to provide additional guidance to colleagues wishing to undertake a peer review of their service.

1. In what circumstances would I ask for a peer review?

Peer review is a voluntary exercise. Peer reviews are best undertaken when an ombudsman service wishes to focus on improvement. As an Ombudsman, you may be seeking validation that your processes conform to best practice in line with *The Venice Principles on the Protection and Promotion of the Ombudsman Institution* (now adopted by the United Nations General Assembly), that your office demonstrates value for money, or you may simply wish to learn from organisations similar to your own.

Whilst peer review can offer some reassurance that your office is performing effectively, it is important to remember that peer review should not replace routine assurance or compliance.

Page 4 of *Guide to Peer Reviews* outlines the common considerations for undertaking a peer review.

2. When you have made the decision to pursue a peer review, who should you seek to undertake it? Should the review be performed by an individual ombudsman or a panel?

This is entirely at the discretion of the commissioning Ombudsman and will be largely informed by the scope of the review. The nature of the review itself, the key aspect or aspects on which it will focus, will determine how the review panel is best made up.

For example, if you are seeking a broad review of the effectiveness of your office across a variety of criteria, you may decide that a panel of peers with a range of expertise is preferable. Alternatively, if you wish the review to focus on a specific topic or point of improvement, you may find that a single Ombudsman, or Ombudsman office, meets the criteria.

To ensure that we make it as simple as possible for colleagues to commission a peer review, and to strengthen the authority of peer review with our Parliamentary oversight institutions, Regional Boards of the IOI will create and make available lists of potential peer review panel candidates who have expressed an interest in being part of a peer review panel. The IOI is now inviting peers to submit an expression of interest in peer review to the President of their relevant Regional Board. The candidates should state why they want to be involved in peer reviews and set out their suitability drawing upon their areas of specialisms or interest. This could include common peer review topics such as: legal powers, work with vulnerable citizens, value for money, leadership, or process improvement.

To keep with the principle of peer review, we anticipate that this list will include:

- Current and former ombudsman officers
- Senior Ombudsman service staff with specific skills or knowledge, such as risk, audit, finance, legal specialisms
- Relevant academics specialising in ombudsman practice.

Membership of the IOI lists, and periodic review, is the responsibility of the IOI Regional Boards, who may wish to appoint a small advisory committee to consider applications and make recommendations to the Regional Board. In the unlikely event of an unsuccessful application or discontinuation of membership from the list, there is an avenue to appeal (on paper only) to a nominated member of the relevant Board who has not participated in the original decision. The outcome of the appeal should be in writing.

Potential peer review panel members are not restricted to this IOI list and the commissioning Ombudsman will be the ultimate judge of who is best suited to participate in the review.

In line with the current peer review guidance, it is the responsibility of the Ombudsman commissioning a peer review to approach a relevant lead Ombudsman and together the two can consult on the list for any additional panel members as required. Again, this will be informed by the scope of the review. Please see page 5 of *Guide to Peer Reviews* for more detailed guidance on preparing for a peer review.

3. Should panel members be paid?

As stated in the *Guide to Peer Reviews* (page 7) the commissioning Ombudsman should be prepared to meet any expenses that the peer review panel may incur in conducting the review. This may include costs associated with the panel performing a site visit. It may also be necessary to offer reasonable compensation for the time and effort expended by non-ombudsman panel members, such as academics. A per-diem fee could cover preparation, a site visit and the writing of the review report.

This should be budgeted for ahead of the review taking place and outlined, to the agreement of all parties, in the scope of the review. The ombudsman commissioning the review should be mindful of local procurement rules when deciding any agreement to pay reasonable costs.

4. What if I encounter a conflict of interests?

Peer Review can only be successful if it is unbiased, impartial and conducted without conflict of interest. Independence should be considered at each stage of the peer review process, but particularly when appointing reviewers.

While all actual or perceived conflicts of interests should be declared by the reviewer(s) before agreeing to participate in a peer review, it remains open to the Ombudsman commissioning the review to determine at their own discretion whether declared conflicts rule out any reviewer.

5. What if I disagree with the findings of the review?

Steps taken to ensure the fairness, robustness and accuracy of peer review include the Regional IOI Board provision of a list of approved reviewers, the close working of the reviewer with the Ombudsman scheme under review, and opportunities within the review process for the Ombudsman scheme under review to respond to preliminary findings.

The voluntary nature of the peer review process, alongside its focus on improvement rather than public accountability, make an appeal process inappropriate. It is open to the Ombudsman service under review to make statements of objection to findings within a review. It would be a misuse of the peer review process to pressure the independent reviewer(s) to alter their findings.

6. Do I need to publish the findings of the review?

In the interests of transparency, it would be best practice to publish the final report in full, excepting any sensitive or confidential information which forms part of the scope of review. The purpose and nature of the review will influence the decision to publish its findings and this should be expressly decided at the outset in line with the *Guide to Peer Reviews* (page 7).

Whilst the successful completion of a peer review must be a collaborative process, it is important to note that editorial ownership of the report lies with the peer review panel, not with the commissioning ombudsman. It is suggested that draft findings be shared amongst all parties prior to publication.

7. Can I use IOI intellectual property on my peer review?

The commissioning Ombudsman may wish to use the IOI logo on, or in association with, their peer review report. This is an acceptable use of IOI intellectual property but only where the lead reviewer is a member of the IOI panel, and the commissioning ombudsman provides a copy of the final review to the IOI for publication.

Annexe E: Examples of Ombudsman peer review

Below are some examples of peer reviews carried out on Ombudsman services over the last three to four years.

Ombudsman for the Republic of Ireland carried out a peer review of PHSO

- In 2018, PHSO commissioned an independent panel to carry out a peer review assessment of its value for money, led by Peter Tyndall, Ombudsman for the Republic of Ireland and former President of the IOI. Also on the panel was Caroline Mitchell, Lead Ombudsman for the Financial Ombudsman Service and Chris Gill, Lecturer in Public Law, University of Glasgow (expert in Ombudsman policy). You can access the final report [here](#).
- In conducting its review, the panel examined a large volume of documentation and conducted a two-day visit to PHSO's offices to gain an in-depth insight into the work of the organisation.
- The report concluded that following PHSO's organisational reforms and the service PHSO offer beyond investigating complaints, the organisation offers good value for money for taxpayers.
- Although complaint handling is PHSO's core business, the panel recognised that the organisation also makes a significant contribution to improving public services through highlighting issues seen in its casework in its insight reports.
- The panel found there was clear direction provided by the senior leadership team, the organisation was open to feedback from people that have used its service and there was sector leadership in staff training and development. They also commended PHSO's commitment to measuring performance against its Service Charter using complainant feedback. The panel did find PHSO still had work to do, particularly in IT.
- The panel recommended that PHSO is given the power of 'own initiative' so that it can provide justice for more people and be in line with other ombudsman services internationally.

PHSO and Federal Ombudsman of Belgium carried out a peer review of the Catalan Ombudsman service

- In 2020, PHSO was commissioned by the Ombudsman of Catalonia (Sindic de Greuges de Catalunya) along with the Federal Ombudsman of Belgium, Catherine De Bruecker, to carry out a peer review of the Catalan Ombudsman service. You can access the final report [here](#).
- The panel visited the Catalan Ombudsman's office in Barcelona in January 2020. Rafael Ribó, the Catalan Ombudsman, explained how peer review would be a valuable exercise that could help improve the quality of the Sindic's service and operations. The panel took a holistic approach, analysing key documents, meeting

with staff members from across the organisation and speaking with stakeholders and academics about the office's mandate.

- The review had a broad scope and the panel made recommendations in the areas of mandate, citizen accessibility and redress, effectiveness and efficiency, and leadership and people management. The panel found a strong and committed leadership team, effectively delivering individual case resolutions and thematic reviews (notably in the contested area of human rights) and working clearly and unambiguously within the Sindic's mandate.
- PHSO wrote a blog on the Catalanian Ombudsman's peer review, which also touches on the benefit of peer review [here](#).

Annexe F: Excerpts from ‘The Art of the Ombudsman: leadership through international crisis’ (May 2021) about the Venice Principles and peer review, pp.90-91

‘The Art of the Ombudsman: leadership through international crisis’ can be accessed in full [here](#).

Using the Venice Principles

- The adoption of the Venice Principles in 2019, and their subsequent endorsement by the General Assembly of the United Nations at the end of 2020, gives the diverse world of national and sub-national Ombudsman institutions a welcome strategic focus and coherence. The clear exhortation to adopt the principles is balanced, as the General Assembly Resolution points out, by acknowledgement that: ‘it is the right of each State to choose the framework for national institutions, including the Ombudsman and mediator, and which is best suited to its particular needs at the national level’.⁶
- The principles are not what Michael Oakeshott once called, disparagingly, bright ideas of rationalist abstractions.⁷ Rooted in the long history of Venice Commission Opinions on the operation of multiple national Ombudsman schemes, they have emerged from the lived and concrete experience of national schemes under threat.
- These Opinions are authoritative and influential. For example, in a recent Opinion about significant constitutional and legislative change in Malta, directly impacting on the status and mandate of the Office of the Ombudsman, the Opinion successfully encouraged the Maltese Government to significant legal and constitutional changes.⁸ These now ‘give the Maltese Ombudsman a high place when assessing the compliance of his institution to the Venice Principles’.⁹ The IOI played a welcome and important role in campaigning for the Venice Principles to be adopted by the UN General Assembly in December 2020, and this adoption now gives the Principles significant status beyond Europe.

⁶ UN General Assembly Resolution 75/186, 16 December 2020, para 3, p.4.

⁷ Michael Oakeshott, ‘Political Education’, in *Rationalism in Politics and other essays* (first published 1962), Methuen, London and New York, 1967, Reprinted 1981, pp.111-136

⁸ Malta Opinion on ten acts and bills implementing legislative proposals subject of opinion CDL-AD(2020)006 Adopted

by the Venice Commission at its 124th Plenary Session (Online, 8-9 October 2020)

⁹ Anthony Mifsud, Parliamentary Ombudsman (Malta)

- In light of the challenges and significant changes faced by Ombudsman schemes, there is a need for an outline strategy, the Manchester Memorandum, to develop the professional status of Ombudsman Officers and schemes with a focus on comparative learning and collective action. All the elements to this strategy involve use of the Venice Principles to guide a change in behavior and practice, and the powerful network of the International Ombudsman Institute to structure it.

Peer review

- First, a clear challenge emerging from the study is the need for Ombudsman schemes to balance their independence with their accountability. Independence from political interference (including appointment and termination of Office) and operational decision making (including case-handling) are clearly of critical importance to the credibility of schemes. But so too are accountability mechanisms, normally based on internal and external audit mechanisms, regular reporting to Parliament and sometimes on the availability (exceptionally) of judicial review of case decisions.
- Ombudsman schemes can also benefit from advice from management consultants, but this can be an expensive exercise and management consultancy does not always function effectively in narrow and discrete areas of public administration for want of expertise. In this context, and against a background of Ombudsman schemes turning to elements of self-regulation to address ‘a trend of declining trust in state institutions and a need for ombuds to do more to demonstrate their trustworthiness’¹⁰ there has been growing interest in Ombudsman peer review.
- Of course, there are many different models of Ombudsman Office in existence across the world, of different sizes and scope, each with their own processes and operating models. Ombudsman Offices operate at national, regional and service-specific levels in many countries and function across public and private sectors. This divergence can make comparison, value for money analysis and peer review difficult to achieve. However, it is important that Ombudsman Offices have the opportunity to learn from each other - ranging from best practice in processing and producing high-quality casework, assessing good performance and public value, the benefits of the ‘Demosprudential Ombud’¹¹ model and how to draw out important insight from cases under investigation.
- A peer review approach has recently been used by some Ombudsman Offices within the International Ombudsman Institute (IOI) community to help assess these areas. The reviews, undertaken by fellow Ombudsman Offices, have been important in identifying areas of good performance; validating where processes and outcomes are working well; ascertaining what measures are best used in the Ombudsman setting to assess value for money; validating the processes used in individual cases and helping Offices understand where further improvements can be made. Examples of recent peer reviews include the 2018 study of the Parliamentary and

¹⁰ Chris Gill, Accountability and improvement in the ombuds sector: the role of peer review, 27 September 2019, <https://ukaji.org/2019/09/27/accountability-and-improvement-in-the-ombuds-sector-the-role-of-peer-review/>

¹¹ Margaret Doyle and Nick O’Brien, Reimagining Administrative Justice. Human Rights in Small Places, Palgrave Macmillan, 2020, pp.89-108

Health Service Ombudsman (UK)¹² and the 2020 peer review of the Síndic de Greuges, the Ombudsman of Catalonia.¹³

- While it is important to say that peer review is not a panacea, and that there may be occasions where experts outside the sector will be able to provide more useful insight, a programme of five-yearly reviews for members of IOI, where institutions are benchmarked against the Venice Principles, would be a significant step towards greater institutional self-awareness and shared learning. Having already disseminated helpful guidance on when peer reviews might be useful and how to conduct them,¹⁴ the IOI should also now consider recommending all members, wherever possible, commission five-yearly peer reviews using the Venice Principles as a guide and a benchmark.
- Secondly, to give further authority and independence to the peer review process, Regional Boards of the IOI should advertise and then construct and validate lists of approved peer reviewers. These approved peer reviewers would then be available to undertake peer reviews at the invitation of individual member schemes. In the interests of genuine comparative learning, selection of peer reviewers should not be confined to the region the Ombudsman scheme is located in. The IOI's European Board has recently approved and disseminated additional guidance on how to introduce this process.
- Thirdly, the parallel availability of the Venice Principles and five-yearly peer review opens up the possibility of the IOI to emulate - in due course - the successful practice of the Global Alliance for National Human Rights Institutions (GANHRI) in benchmarking National Human Rights Institutions (NHRIs) against the Paris Principles.¹⁵ General observations and graded status (A, B or C) on the extent to which members have implemented the Paris Principles constitute guidance for NHRIs on their accreditation with GANHRI and on the implementation of the Paris Principles. They are 'also useful for NHRIs to press for the institutional changes necessary to fully comply with the Paris Principles'.¹⁶ There is now a real opportunity for the IOI to use peer review in similar fashion - with minimum bureaucracy, devising a mechanism that reports IOI member progress in implementing the Venice Principles and also creates supportive evidence for the member scheme to press its national Parliament for development of its mandate and governance.

¹² Peter Tyndall, Caroline Mitchell, and Chris Gill, Value for Money Study, Report of the independent peer review of the Parliamentary and Health Service Ombudsman Peter Tyndall, Caroline Mitchell, and Chris Gill, 12 November 2018. https://www.ombudsman.org.uk/sites/default/files/Value_for_Money_report_final.pdf

¹³ Rob Behrens, Catherine De Bruecker, James Hand and Donald Cardon, Peer Review of the Síndic de Greuges de Catalunya April 2020. https://www.sindic.cat/site/unitFiles/7457/Peer%20review_SGC_abril_2020.pdf

¹⁴ Guide to Peer Reviews, IOI Best Practice Paper - Issue 4 - April 2020 https://www.theioi.org/downloads/o35t/BPP_Issue%204_Peer%20review%20guidance_May%202020.pdf

¹⁵ <https://nhri.ohchr.org/EN/AboutUs/Pages/ParisPrinciples.aspx>

¹⁶ <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Pages/SCAGeneralObservations.aspx>



2022 Conference and General Assembly of the
European IOI, Thursday 26 May – Friday 27 May

From Manchester to Athens: next steps