

Customer service at the Office of the Parliamentary Ombudsman

Section 8 of the Administrative Procedure Act obliges authorities to provide their clients with the advice, within their competence, that is needed to be able to take care of administrative matters; as well as to reply to questions and queries about their service. This advice must be provided free of charge. If a matter does not fall within the competence of an authority, it must direct the client to another authority that is competent. Although the Act does not directly apply to the supreme overseers of legality, the aim at the Office of the Parliamentary Ombudsman is to observe the principles that it enshrines.

Considerable efforts have been devoted to ensuring that turning to the Ombudsman for help is as easy and flexible as possible. Contact can be made by phone, e-mail, post and fax or by visiting the Office in person. The Registry there receives complaints and answers enquiries about them in addition to supplying various parties, such as journalists, with the documents they request. Scientific researchers are mainly served by the Archive Clerk.

There has been a special concentration on serving members of the public ever since 2001, when lawyers tasked with providing advice to those requesting it were appointed. They advise clients on how to make complaints, respond to enquiries and if necessary refer clients to the appropriate authority. Advice is mainly provided over the phone, but it is also possible to meet a lawyer in person for a consultation. Each year, the advisers answer about 2,600 telephone calls and meet about 150 clients in person. The Registry, in turn, receives about 3,000 phone calls each year, about 400 personal visits and about 300 requests for documents. There are two lawyers whose duty it is to advise members of the public. The staff of the Registry comprises a registrar, an assistant registrar and two secretaries.

Anyone who is considering making a complaint can seek assistance from a legal adviser. However, a lawyer is contacted about a great variety of matters and in many kinds of problematic situations. Contacts by clients can be roughly divided into three categories, with

one-third needing assistance with making a complaint, another third needing general legal advice and guidance to find the right instance to help them in their matter of concern, whilst the remaining third are people seeking help of a kind that the Ombudsman cannot give.

Who can help?

The lawyers tasked with serving members of the public do not give any actual legal advice or adopt a position on a matter; instead, they tell people whether a matter falls within the Ombudsman's competence or if there is possibly some other way to proceed. It may be that there is some or other authority with even broader powers in the matter than the Ombudsman has. For example, a client dissatisfied with a public prosecutor's decision not to lay a charge can refer the matter to the Office of the Prosecutor General. There, it is even possible that charges will again be considered, something that the Ombudsman does not have the power to do.

Next I shall mention some of the instances to which legal advisers most usually direct clients after hearing what they have to say.

Clients who need legal advice proper are referred, depending on the matter at issue, to one of several different instances. If they need help with, for example, dividing a legacy, a divorce or other problem of a clearly legal nature, they are advised either to go to a Public Legal Aid Office or to contact the Finnish Bar Association, which will help them find a suitable lawyer, who is familiar with, for example, family law, in their own locality. If necessary, assistance can also be obtained from the Finnish Bar Association's telephone legal advice service. This is provided free of charge in about ten localities around Finland.

If a client's problem is not of a clearly juridical nature, but it is instead uncertain whether a Public Legal Aid Office or a lawyer can help, he or she is advised of the possibility of calling the national telephone service that the Ministry of Justice maintains to provide guidance in relation to legal aid. The enquirer is then advised on how to proceed in the matter. However, the service does not provide answers to legal problems. The aim with this guidance is to enable people to find help with their legal problems before they become difficult to handle. A client can discuss with an adviser whether he or she should consult a lawyer.

Clients whose cases relate to, for example, problems with housing or property deals or conflict situations between consumers and companies are referred to the Consumer Agency's advisory service. Numerous clients who contact our legal advisers have problems with a debt

collection agency. Problems relating to the invoicing practices of telecoms operators are likewise common. The tasks of the consumer advisory service include assisting and mediating in disputes between consumers and companies, giving consumers and companies advice on consumer rights and obligations, such as compensation for faults or errors, contracts and payments as well as providing advice in relation to problems arising from housing and property deals. If mediation in a dispute does not succeed, a consumer adviser can assist in making a complaint to the Consumer Disputes Board.

Clients also ask about issues to do with handling of personal data. Then they are directed to the telephone advice service operated by the Office of the Data Protection Ombudsman, where they receive general guidance and advice on matters concerning personal data. They are also told if their case requires more precise examination or possibly needs to be dealt with in writing at the Office of the Data Protection Ombudsman. The Office of the Data Protection Ombudsman does not issue precedent decisions or grant permits to handle personal data. Nor does it evaluate whether other authorities' documents are public or required to be kept secret under the Act on the Openness of Government Activities.

Legal advisers are also contacted about matters to do with the operations of banks or insurance companies. The Finnish Financial Ombudsman Bureau provides consumers with advice and guidance on matters relating to insurance, banking and investment functions, for example in situations where a negative compensation decision has come from an insurance company or when a bank or an investment service firm has followed a procedure which the client finds unsatisfactory. The Insurance Complaints Board, the Bank Complaints Board and the Securities Complaint Board work in association with the advisory service and issue solution recommendations.

A client can also have a question that relates clearly to gender equality, for example in the workplace. Such clients are referred to the Ombudsman for Equality, where they can request guidelines and advice as well as assistance in dealing with a matter. The Ombudsman for Equality is an independent oversight authority working under the aegis of the Ministry of Social Affairs and Health. She is tasked with overseeing compliance with the Act on Equality between Women and Men and especially observance of the prohibition on discrimination and discriminatory advertising. A further task is to promote, through initiatives, advice and guidelines, realisation of the purpose of the Act as well as to provide information on the Act and its application and monitor respect for equality between women and men in various sectors of the life of society. The Ombudsman for Equality also oversees compliance with the prohibition on discrimination against sexual minorities.

Legal advisers are sometimes contacted about matters relating to the terms of an employment relationship. These clients are advised to contact their local district office of the Occupational Safety and Health Administration. Both employers and employees can ask these offices for guidelines on matters relating to occupational safety and health as well as terms of employment. The district offices are tasked with creating the prerequisites for working conditions that are safe, healthy and promote work ability. They also conduct inspections at the behest of authorities or when requested to do so by either employers or employees. The areas of emphasis in the monitoring done by the district offices are work that is harmfully burdening, accidents at work, chemical hazards and overseeing compliance with the general ground rules of working life. Clients whose problems relate to unemployment benefits are referred to the telephone advice service run by the Employment and Economic Development Centre, which has a separate telephone advice number for matters connected with unemployment security.

Clients who have problems with their financial affairs are referred to a municipal Financial and Debt Counselling Service. These statutory bodies provide a cost-free service that is arranged primarily by municipalities. The advisers there help clients investigate their debt situation and outline a range of support services and the possibilities that exist to renegotiate debts with creditors, repayment schedules and debt settlements, applications to courts for debt settlements and drafting and revising a payment programme.

Persons who have experienced ethnic discrimination are advised to contact the Ombudsman for Minorities. This is an authority whose primary task is to promote the status of ethnic minorities and foreigners, equality and legal remedies as well as good inter-ethnic relations in Finland. The Office of the Ombudsman for Minorities operates a customer service, with which anyone who has experienced or observed discrimination on the ground of ethnic origin or foreign nationality can get in touch. In cases of discrimination, the Ombudsman for Minorities takes the necessary steps to deal with them.

Very often, a legal adviser is contacted by a client who has received a negative decision from an authority and does not know what to do next. Due to the complexity of the matters involved, such clients are advised to study the instructions for making an appeal that are appended to the decision and to act in accordance with them and the deadlines stated in them.

Clients are a priori advised to contact directly the authority with whose actions they are dissatisfied. For example, clients who are dissatisfied with the health care or medical treatment they have received can lodge a complaint with the director responsible for health care (under the provisions of the Act on the Status and Rights of Patients). Direct contact with

the authority that has made the decision is generally the fastest and most effective way for a client to sort out a matter. Authorities have an obligation enshrined in the Administrative Procedure Act to advise on questions connected with transacting business with them and sometimes even the possibility of themselves rectifying an error or incorrect action that may have occurred.

Whose actions are examined?

Under the Constitution, the Ombudsman's powers of investigation cover civil servants, authorities as well as others who perform public tasks. In her work, the Ombudsman oversees implementation of fundamental and human rights. Thus she can not investigate complaints that concern private persons or businesses, self-employed persons, ideological associations, foreign authorities, international organisations, or Representatives or the Eduskunta in its legislative role when the party in question is not performing a public task.

Whether or not the Ombudsman's powers cover a particular matter is not always clear. Functions in society are constantly evolving and being re-shaped. A municipality may, for example, begin outsourcing services that it formerly produced itself from a private provider. Something to which attention must then be paid when assessing whether the Ombudsman's powers cover the matter is whether an outsourced service is included in the municipality's statutory tasks or not. If the question of power is not clear, this is explained to the client, who can then decide whether to make a complaint even though it is possible that the Ombudsman has no power in the matter and it cannot be investigated. What instance the client ultimately turns to is, naturally, for him or her to decide. It is the Ombudsman who rules whether or not her powers extend to dealing with the matter.

A matter that often crops up in questions relating to the scope of the Ombudsman's powers is the organisation of a service producer. When deciding if the Ombudsman has power in a matter, whether or not it relates to, e.g., a municipality or a court is not the only consideration. Nor is a function excluded from the scope of the Ombudsman's powers merely because it is practised by a legal person constituted under private law, as the following decisions on the scope of powers reveal.

For example, in 2007 the Ombudsman issued a decision on a complaint concerning the procedure that a certain property company had followed when it terminated a tenant's rent contract. The Ombudsman took the view that the joint-stock property company, which was city-owned, was a legal person separate from the city administration and operating under

the Limited Liability Companies Act, and that oversight of it was not included in her tasks. Contracts relating to the rental of dwellings come under private law and disputes concerning its interpretation are resolved in general courts (3021/07). In another case, which concerned a demand by the complainant to be given a smaller dwelling than the present one by a city-owned housing company, the Ombudsman likewise took the view that a city-owned joint-stock company is a legal person separate from the city administration and operating under the Limited Liability Companies Act. The fact that a city acquires either all of the shares or a portion of them in a company was not of significance from the perspective of the Ombudsman's powers (2528/06).

The Ombudsman took the view that debt collection agencies perform a public task when they collect the public taxes and charges as well as cash receivables under public law that are specified in Section 1 of the Act on Distraint Measures to Collect Taxes and Charges (1964/03). The Ombudsman was investigating a complaint concerning an insurance company that had collected compulsory traffic insurance premiums through a collection agency. The complainant had been dissatisfied with the procedure in general as well as with the amount of collection charges (2346/03).

The examiner appointed by a district court in a debt-arrangement case was not deemed to be performing a public task and thus was adjudged not to fall within the scope of the Ombudsman's oversight, either. The complainant had expressed criticism of the payment programme proposal drafted by the court-appointed examiner (255/95). The Ombudsman decided that her powers did not extend to investigating the actions of a person appointed by a district court as the executor of an estate, because such a person does not perform a public task that is subject to oversight of legality (3454/05).

The services regulated by the Postal Services Act, i.e. mail distribution and the general services provided by the company have been regarded in the Ombudsman's decisions as a public task. By contrast, Itella Oyj's activities as an employer or its personnel policy are not included in the functions regulated by the Act, on the basis of which the Ombudsman's remit would empower her to investigate a matter (3770/08 and 2717/08).

The Ombudsman pointed out that Itella Oyj is a joint-stock company that provides postal service under the operating licence that it has been granted. It is not an authority or a public body, but rather a State-owned company that operates on the terms of the market. The State's ownership is not as such of relevance from the perspective of the Ombudsman's powers. The essential consideration is whether the company performs public tasks that, by virtue of an Act or powers enshrined in one, belong to the category of those covered by the provisions

on the Ombudsman's powers. NetPosti is not e-mail or a substitute for one, but rather an electronic letter that substitutes for a traditional letter in paper form. Because NetPosti is an electronic alternative to a traditional letter despatch subject to application of the Postal Services Act, the Ombudsman ruled that what is involved in offering the NetPosti service is the performance of a public task in the meaning of the provisions on the Ombudsman's powers. Therefore she had the power to act in a case brought up in a complaint (4015/08).

How is a complaint made?

The Parliamentary Ombudsman Act states that anyone who considers that a subject of oversight has acted unlawfully in the performance of his or her task or neglected to fulfil a duty can complain to the Ombudsman. A complaint must be made in writing and must include the complainant's name and contact particulars as well as the necessary information concerning the matter to which the complaint relates.


The initial assumption is that everyone is an expert in his or her own affairs and is able to express in his or her own words whose action or decision has caused dissatisfaction, when the decision was issued, why and on what ground it is considered unsatisfactory and any other facts relating to the matter and will append the necessary documents. Merely sending documents, such as decisions by the Social Insurance Institution Kela, or underlining them is not sufficient to constitute a complaint. A complaint must therefore be so itemised that the party that is criticised on its basis will be able, if necessary, to provide the Ombudsman with a report on the matter.

If a client makes a complaint on behalf of another person, a letter of authority should be appended to the complaint. The report that the Ombudsman requests arising from a complaint of this kind as well as her subsequent decision may contain information that is required by law to be kept confidential, such as information relating to a person's state of health, and which cannot be supplied to the author of the complaint without a letter of authority.

An additional matter to which attention should be paid is that a report that the Ombudsman deems necessary will be obtained on the basis of a complaint. Then the complaint drafted by the complainant is sent to the party from which a report is requested. If more than one instance is criticised in a complaint, it would be advisable for the complainant to consider beforehand whether to make one or several complaints. For example, someone dissatisfied with health care services may also be aggrieved at the actions of the restraint authorities.

A complaint can, of course, be divided into several separate ones at the Office of the Parliamentary Ombudsman, but it has happened that a complaint has been drafted in such a way that in practice dividing it will not succeed without separate processing, which unduly prolongs the time needed to deal with the matter.

Advisory service in the future

Experiences of the service that the legal advisers provide have been very positive for the most part and it is regarded as very useful, as feedback from both clients and other linkage groups indicates. The intention is to continue with and further develop it. Our vision for the future is constantly increasing interactive transactions, but without forgetting personal service. Something that has been very encouraging is feedback from clients to the effect that they have found they can obtain the information they need in an understandable form. We shall continue our efforts towards this goal. The legal advisers have an important role not only in achieving the objectives set for the Office, but also in the creation of the image that we convey outwardly. This image has a major influence on attitudes to and perceptions of the Ombudsman institution. 

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