

# Systems and Developments in Public Sector Oversight



## Developments in Public Services Ombudsmen

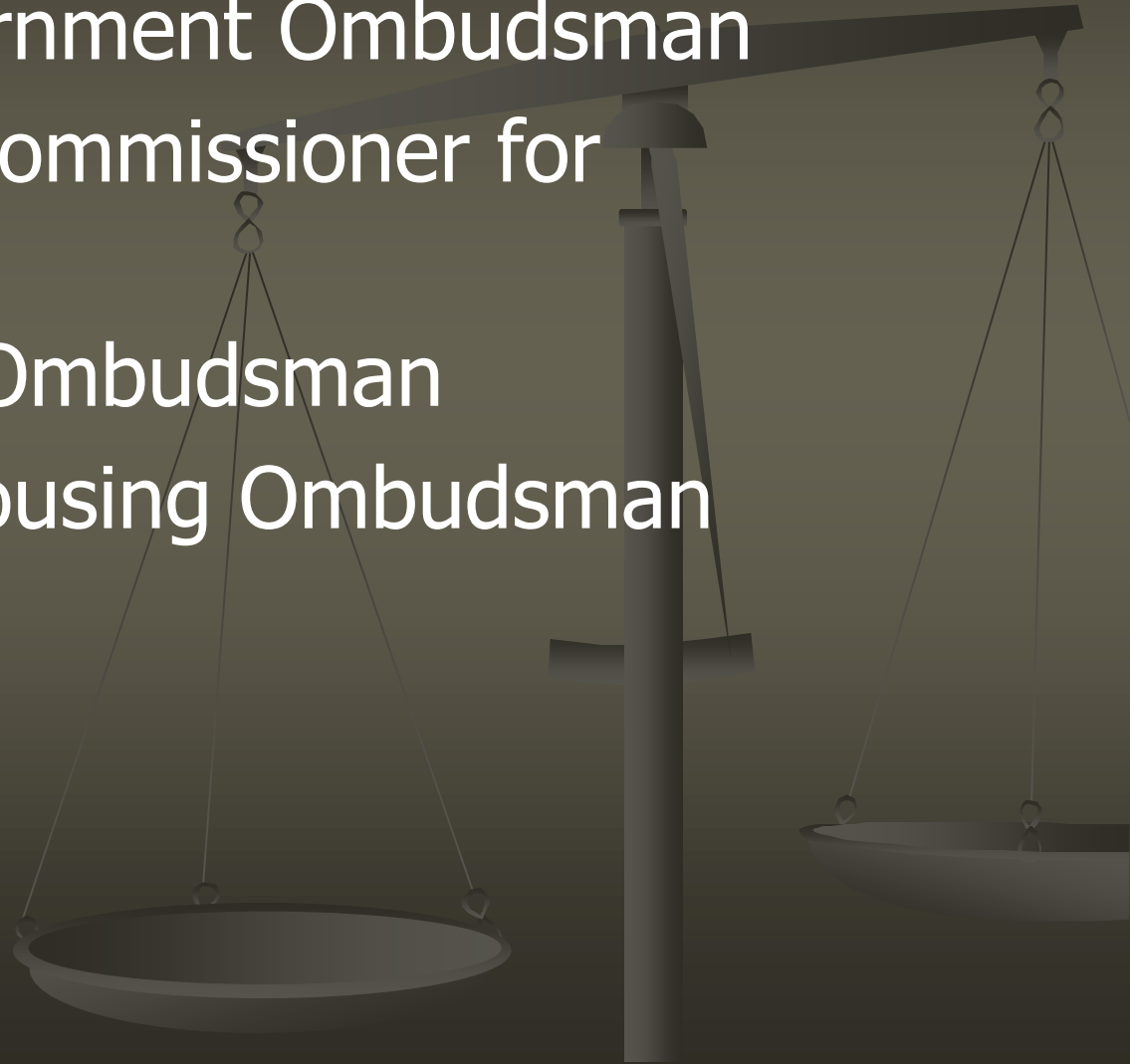
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# The UK Public Services Ombudsmen

- The Local Government Ombudsman
- Parliamentary Commissioner for Administration
- Health Service Ombudsman
- Independent Housing Ombudsman



# Recent Developments



- *Common Sense, Common Safety* (The Young Review) – October 2010
- *Complaints & Litigation* – Health Select Committee proposals for Health Service Ombudsman Reform – June 2011
- *Open Public Services White Paper* – July 2011
- Law Commission's *Public Services Ombudsmen Project* – July 2011

# A Wider ADR Redress Agenda?

- *"Citizens should be able to refer unfair decisions to the Ombudsman, and a fast track process should be implemented to ensure that decisions can be overturned within two weeks. If appropriate, the Ombudsman may award damages where it is not possible to reinstate an event. If the Ombudsman's role requires further strengthening, then legislation should be considered."*

Lord Young – Common Sense, Common Safety

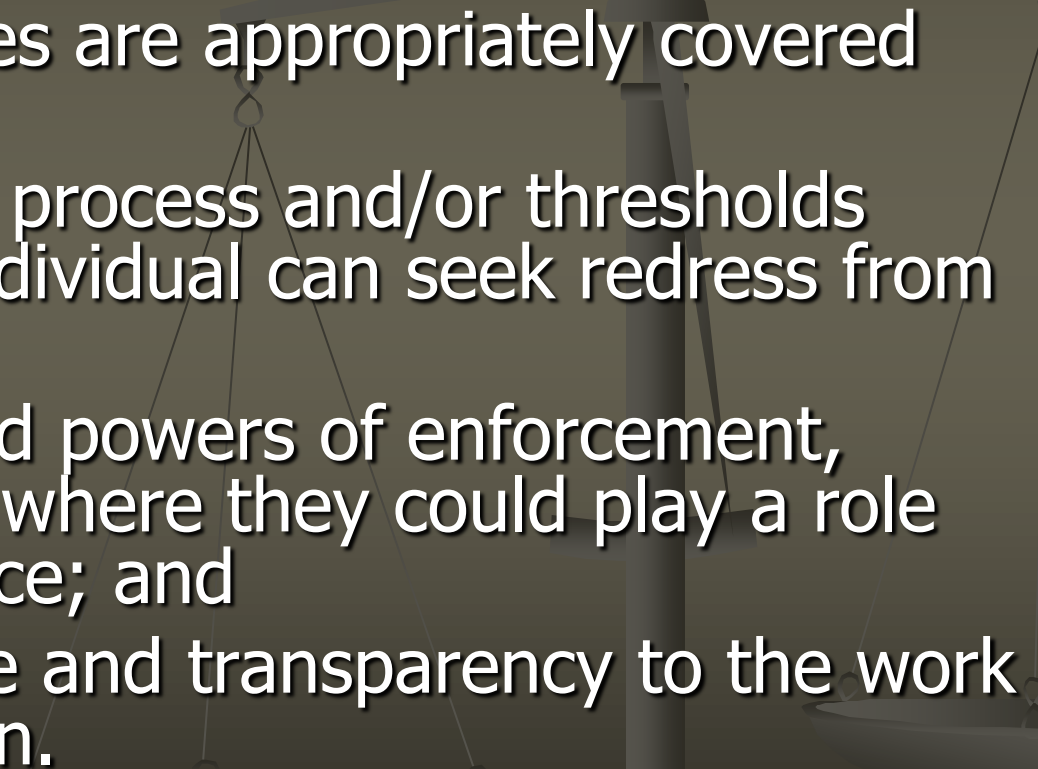
# A Wider ADR Redress Agenda? – Part 2

- *“The new frameworks for choice in individual services (e.g. personal budgets in adult social care) will give additional rights to individuals. But to make these frameworks effective, there needs to be a means for the individual to enforce these rights. Under the new frameworks, we will look at whether failure on the part of a public authority or service to provide the choice to which an individual has a right will, by definition, constitute a form of maladministration. It therefore seems natural for the power of redress to sit with the Ombudsmen, who investigate complaints, promote local resolution and, if necessary, specify remedial action.”*

Cameron, Clegg – Open Public Services

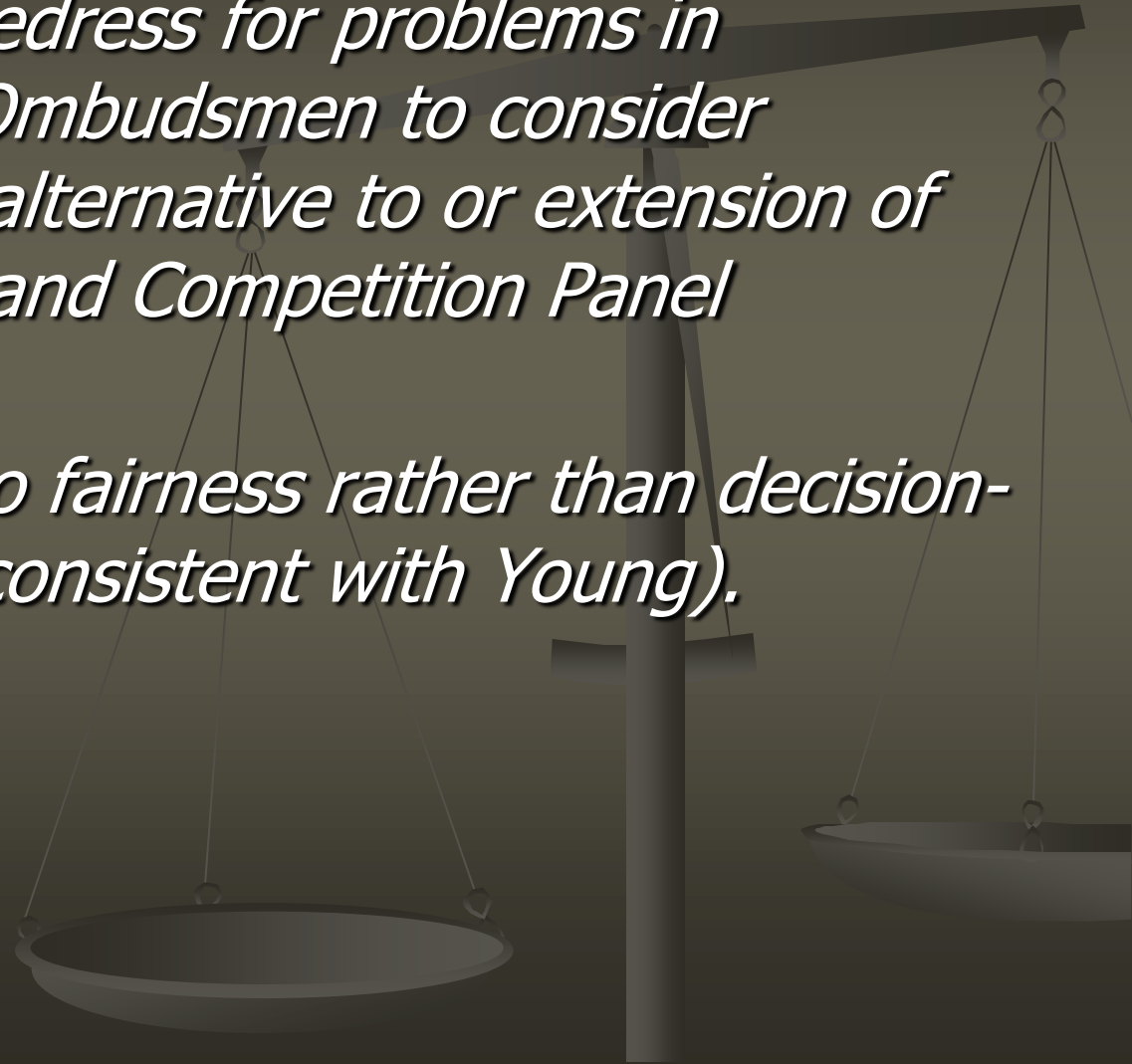
# Open Public Services White Paper

Widening the role of Ombudsmen and proposes to explore:

- whether all services are appropriately covered by Ombudsmen;
  - the requirements, process and/or thresholds under which an individual can seek redress from an Ombudsman;
  - their resources and powers of enforcement, including in areas where they could play a role in supporting choice; and
  - giving more profile and transparency to the work of the Ombudsmen.
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# Open Public Services White Paper

- *Possible right of redress for problems in commissioning. Ombudsmen to consider complaints as an alternative to or extension of the Co-operation and Competition Panel – para 6.21.*
- *Shifting focus onto fairness rather than decision-making process (consistent with Young).*



# Law Commission's Proposals

## Widening Access:

- Remove the MP filter for the Parliamentary Ombudsman
- Remove the requirement that complaints be made in writing.

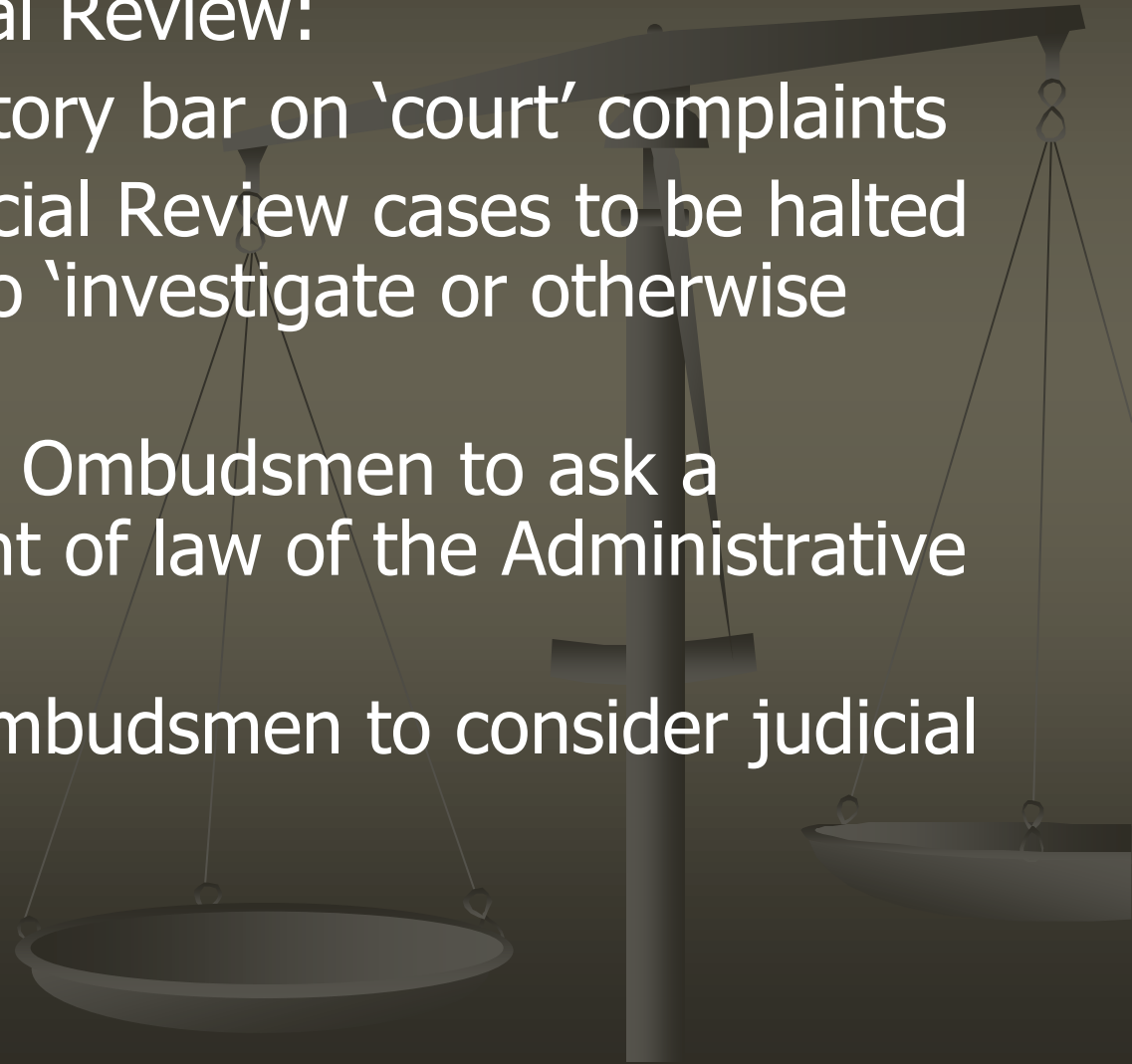




# Law Commission's Proposals

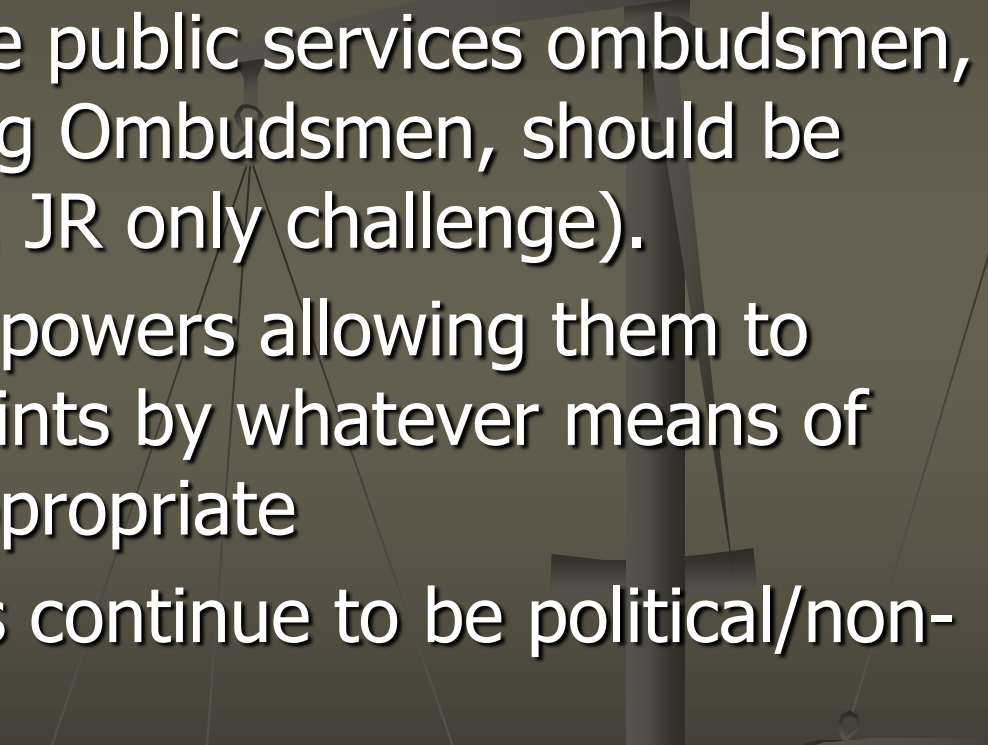
## Alternative to Judicial Review:

- Remove the statutory bar on 'court' complaints
- Allow eligible Judicial Review cases to be halted for Ombudsman to 'investigate or otherwise dispose of' a case
- Express power for Ombudsmen to ask a question on a point of law of the Administrative Court.
- Wider remit for Ombudsmen to consider judicial review cases



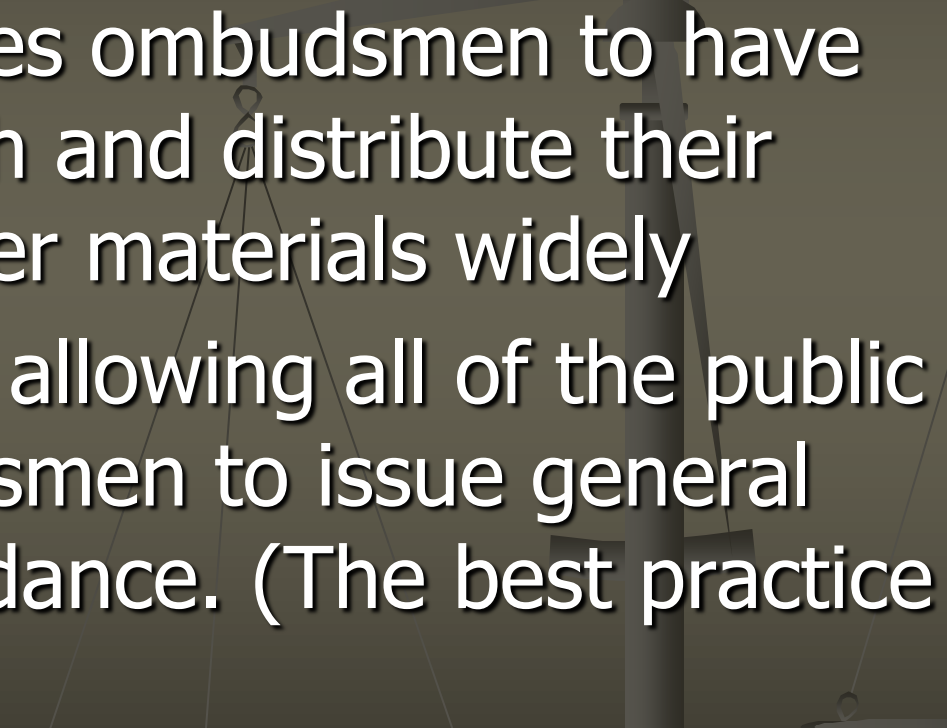
# Law Commission's Proposals

## Binding Findings:

- The findings of the public services ombudsmen, except the Housing Ombudsmen, should be made binding (i.e. JR only challenge).
  - Specific and clear powers allowing them to dispose of complaints by whatever means of ADR they think appropriate
  - Recommendations continue to be political/non-binding.
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# Law Commission's Proposals

## Conclusions and Reporting:

- All public services ombudsmen to have power to publish and distribute their reports and other materials widely
  - Specific powers allowing all of the public services ombudsmen to issue general reports and guidance. (The best practice role)
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# Key Concepts in Reform

- Increasing the scope of Ombudsmen
  - A potential shift to consider merits and fairness?
  - Widening Access to Ombudsmen
  - Public Services Ombudsmen as an alternative to judicial review
  - An increased link between Ombudsmen and the Courts
  - Greater Consistency in Ombudsmen's practice
  - Modernisation, Accountability, Transparency – mirrors developments in consumer ADR, or vice versa?
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