





Introduction

From time to time individual citizens may feel that they have been unjustly treated by the public authorities or that a wrong decision has been passed. In such cases the citizen may request the Parliamentary Ombudsman to investigate the matter.

The Parliamentary Ombudsman for Public Administration is elected by the Storting to defend the rights of the individual citizen. This booklet explains what the Ombudsman can do, how complaints should be submitted, and how complaints are dealt with by the Ombudsman and his staff.

Oslo, May 2003

The Parliamentary
Ombudsman – Norway



Arne Fliflet

Parliamentary Ombudsman

Example of letter of complaint

The Parliamentary Ombudsman for Public Administration
P.O. Box 3 Sentrum
0101 OSLO

1. October 2002

I am a single parent responsible for two children of 6 and 9 years. It is not possible for me to obtain employment here in Lilleby. I am unable to work anywhere else, as I must care for my children.

I receive only a small maintenance allowance. In addition, I receive a small amount in support from the National Insurance Office. I have no other income. As a result, I am unable to cover the necessary expenses for clothing and accommodation.

I enclose a statement of my current income and expenses showing the hopelessness of my financial situation. Despite this, my application for social security has been rejected. I have sent a complaint to the County Governor, but without result. The County Governor agrees with the social security office.

I cannot see how we shall be able to manage. Can the Ombudsman help me? I enclose all the documents in the case.

Kari Hansen
Ankeveien 99
9999 Lilleby

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What types of cases and questions can the Parliamentary Ombudsman deal with?

The Ombudsman may investigate most types of cases and matters that have been dealt with and decided on by the public authorities. Government administration and the administrations of Counties and Municipalities all come within the scope of the Ombudsman's authority. Complaints may be made against public authorities (administrative bodies), civil servants or others acting on behalf of a public service.

Private disputes fall outside his jurisdiction. For example, the Ombudsman cannot deal with private disputes between neighbours, disputes concerning private contracts or complaints against private organisations. The same applies in many cases where a public body is a party in a purely private legal relationship.

Neither may the Ombudsman deal with

- cases that have been decided by the Storting or the Odelsting
- decisions made by the King in Council of State
- the functions of the courts of law, including the administrative duties carried out by the offices of the judges, and decisions which in accordance with explicit statutory provisions may be brought before the courts by means of appeal, complaint or other legal remedy, e.g. distraint or compulsory deduction from salary

- the functions of the Office of the Auditor General
- matters which are the concern of the Ombudsman for National Defence or the Ombudsman for Civilian Conscripts

In view of the principle of municipal self-government, not all decisions passed by municipal councils or county councils can be brought before the Ombudsman.

Guidance that may be provided by the Ombudsman and his office

The Ombudsman's office may provide guidance, advice and assistance to those wishing to use the Parliamentary Ombudsman's scheme. The office can also reply to legal questions relating to a specific complaint.

A complaint to the Ombudsman – what is it? What type of complaints can be made? What does it cost?

A person who sends a complaint to the Ombudsman is requesting the Ombudsman to investigate a case or a situation that has already been dealt with by the public administration. The Ombudsman will decide whether the complaint provides sufficient grounds for him to proceed.

A complaint to the Ombudsman and a complaint to a higher administrative authority are two different things. A person complaining to a higher administrative authority will normally have the

right to have the case re-examined by the higher administrative authority, and the appellate body may amend or reverse its decision. A person complaining to the Ombudsman is requesting the Ombudsman to investigate a case or a situation in public administration and to express an opinion on his findings. No one may demand to have a complaint processed by the Ombudsman. Neither may the Ombudsman reverse decisions passed in public administration.

A complaint to the Ombudsman must refer to something that can be defined as an injustice against the complainant. This will be the case when the complaint concerns an administrative decision that is incorrect, or when a case has been processed in an incorrect or unjustifiable manner by the authorities. A person who is of the opinion that the administration has acted in an inconsiderate, insulting or other inappropriate manner, may lodge a complaint. Complaints may also be made when the administration fails to reply to inquiries or fails to take action in a particular case.

Processing of complaints by the Ombudsman's office is free of charge.

When may complaints be made to the Ombudsman?

Control by the Ombudsman is subsequent to the public administration's handling of the case, and this means that the public administration itself must be given the opportunity of settling the matter and passing a final

decision before any complaint is submitted to the Ombudsman. If the public administration concerned has its own supervisory authority, complaints must normally be submitted to this body in the first instance.

If the complaint concerns a decision passed by a public authority, in many cases there will be a higher authority in public administration to which the case can be appealed for review. This opportunity for re-examination must thus have been applied before the case can be brought before the Ombudsman. For example, a National Insurance case must, as a rule, have been submitted to the National Social Insurance Court, and in a case concerning a building permit or a social security case, the complaint must first be submitted to the County Governor. If, after a final decision has been passed, the complainant is of the opinion that there has been an error in judgment or an injustice, the complaint may be sent to the Ombudsman.

In cases where the King in Council (the Government) is the appellate body, the rule that decisions must be appealed to a higher administrative authority before a complaint can be submitted to the Ombudsman does not apply. This means that decisions initially passed by a Ministry may be appealed to the Ombudsman without an appeal first being made to the King in Council.

The aforementioned applies first and foremost to complaints against decisions that have been passed. In certain cases, complaints may be made to the Ombudsman during case processing by public administration. Such complaints could,

for example, apply to the progress of the case (slow case processing).

Time limit for complaint

The time limit for submitting a complaint is one year. The time limit applies from the time of final decision by the public body concerned or from the time of the event to which the complaint applies. Deviations from this rule are only allowed in special cases.

Who may complain?

Any person who believes they have been subjected to an injustice or wrongly treated by the public administration, may complain to the Ombudsman. However, the complainant must personally have been the subject of the error or neglect. The Ombudsman does not normally deal with cases that apply only to other parties.

However, there is nothing to prevent someone from acting on a complainant's behalf. In such cases, an authorisation must be issued by the complainant. An organisation may complain to the Ombudsman on behalf of an individual member. The member concerned should then co-sign the complaint, or a written authorisation should accompany the complaint.

Those who have been deprived of their personal freedom, for example prison inmates, have the right to appeal to the Ombudsman in a sealed letter,

i.e. without any form of censorship on the part of the administration of the prison or institution.

The Ombudsman may also take up cases on his own initiative.

How to draft a complaint

A complaint must be in writing and signed by the complainant or by another person authorised by the complainant. An ordinary letter is sufficient, and there are no special requirements with regard to the form of the letter apart from the requirement that the Ombudsman must have confirmation that the complainant is the person he or she purports to be. For this reason e-mail is used only for guidance and information purposes and not as a basis for dealing with a complaint. The complainant should provide an explanation of the injustice or error and preferably enclose any documents relating to the case.

Processing of complaints by the Ombudsman

When it has been clarified that a complaint rightfully comes under the jurisdiction of the Ombudsman, it will first be decided whether there are sufficient grounds for the Ombudsman to process the complaint. In the affirmative, the Ombudsman will ensure that the case is investigated. The Ombudsman decides the scope of the investigation. Documents are obtained as well as information and statements

from the administration when necessary. (Investigations normally are limited to a study of the case documents and other written documents, but conferences with the Ombudsman or his staff can be requested.)

Photographs, video films, etc. may also be used to throw light on cases. The Ombudsman does not normally carry out inspections, nor can he himself question parties or witnesses.

The complainant is kept informed of the progress of the case, and the result of the Ombudsman's investigations.

The Ombudsman shall investigate cases in an objective and impartial manner, and he may not therefore act as counsel, attorney or other form of representative on behalf of the individual citizen in relation to the public authorities.

What can the Ombudsman do?

The Ombudsman may express an opinion on matters that are encompassed by his jurisdiction. In other words, investigations made by the Ombudsman may result in criticism of, and requests and recommendations to the public authorities. The Ombudsman may point out that errors have been made or that there has been neglect on the part of the public body or a civil servant. He may also request the public body in question to correct errors, neglect or bias. The Ombudsman may not himself pass binding decisions or overturn decisions made by public bodies, nor may he issue

legally binding instructions to the authorities. In practice, however, the authorities comply with the requests and recommendations of the Ombudsman.

The Ombudsman has only a limited right to criticize discretionary decisions made by public bodies.

The Ombudsman may also draw attention to shortcomings in statutory law, administrative regulations or administrative practice.

Not all cases are suitable for investigation by the Ombudsman

As mentioned in the section concerning the processing of complaints (page 9), certain issues are not suitable for processing and evaluation on the part of the Ombudsman. For example, this could be in cases where an on-the-spot inquiry or verbal explanation could be of importance, as in a number of cases concerning property rights or certain claims for damages.

Would you like to know more about the Parliamentary Ombudsman?

If you need more information on the Parliamentary Ombudsman's scheme, please write or telephone to the office of the Ombudsman. An appointment should be made if you wish to discuss a matter with a member of the Ombudsman's staff.



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for Public Administration – Norway**

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The Parliamentary Ombudsman
for Public Administration
Norway

**Information on the duties
and activities of the
Parliamentary Ombudsmann**

