

A COMPARATIVE ANALYSIS OF THE OMBUDSMAN SYSTEMS IN NIGERIA AND BRITAIN IN REMEDYING ADMINISTRATIVE INJUSTICE *

Abstract

The crucial responsibilities of the ombudsman in curtailing administrative abuse of powers and maladministration in most countries of the world cannot be overemphasized. The British ombudsman came to be through the Parliamentary Commissioner Act, 1967 and the Complaints Commissioner became known as the Parliamentary Commissioner. The Nigeria's Ombudsman was established in 1975 with the name Public Complaints Commission (PCC) as an organ of the government set up to redress complaints lodged by aggrieved citizens or residents in Nigeria against administrative injustice. Despite this lofty structural vision, lack of political will on the side of government coupled with other systemic inefficiencies, has considerably undermined the efficacy of the Commission as a temple of justice in Nigeria. With the use of the doctrinal method, this study carried out a comparative analysis of Nigeria's Ombudsman with that of Britain. After comparatively analyzing the British ombudsman and discovering lessons that Nigeria can draw from it, this study recommended, among others, that the Public Complaints Commission should be restructured to readily adopt best international best practices in delivering its core mandates. One of the key recommendations include the abrogation of the *locus standi* provision in Section 6(1) (g) of the Nigeria's Public Complaints Commission Act so that, like in its British counterpart, personal interest will not be a condition for bringing a complaint before the Commission.

Keywords: Public, Complaint, Commission, Ombudsman, *locus standi*, Powers and System.

1. Introduction:

The institution of the ombudsman owes its origin to the Scandinavian countries, particularly Sweden.¹ It was first established in Sweden in 1809. The other countries of the world were never aroused at that time to establish the institution until 1955 when Denmark instituted an ombudsman. The institution was confined to the Scandinavian countries until 1960 when it pervaded various parts of the world with almost every state striving to borrow a leaf from the Scandinavian countries.² The ombudsman was eventually established in Norway and then in New Zealand in 1962.³ Since then, the institution of the ombudsman has spread like wildfire across the globe including Nigeria,⁴ the United Kingdom, Russia, Mauritius, Guyana, Ghana, Tanzania, etc.⁵ This was a result of the new dimension to governance based on the principle of welfarism which emphasized that the end of government should be the welfare of the governed. This ensured that social welfare institutions were put in place to meet the needs of the general public.⁶

The Public Complaints Commission (PCC) is Nigeria's ombudsman. It is an organ of the government set up to redress complaints lodged by aggrieved citizens or residents in Nigeria against administrative injustice. It is charged with controlling administrative excesses (non-adherence to procedures or abuse of law). The primary function of the PCC is to provide impartial investigation on behalf of the complainants who feel aggrieved by the action or inaction of the government or local government or private companies.⁷ In Britain, the Bill for the establishment of a Complaints

* **Emmanuel Nnaemeka Nwambam Esq.**, Department of Public and Private Law, Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike, Ebonyi State, Nigeria, nnaemekanwambam@gmail.com, 08069359809, ****Charity Chinedu-Uhuo**, Department of Public and Private Law, Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike, Ebonyi State, Nigeria, charityuhuo2@gmail.com, 07033543039

¹ M C Okany, *Nigerian Administrative Law* (Africana First Pub. Ltd, 2007) 404.

² C L Howard, *The Organizational Ombudsman: Origins, Roles, and Operations: A Legal Guide* (American Bar Association, 2010) 3.

³ It is noteworthy that New Zealand was the first common law country to import the ombudsman system. See B. Thompson, *Constitutional and Administrative Law* (Blackstone Press Ltd, 1993) 327.

⁴ This took place in 1974.

⁵ Okany (n 1) 402.

⁶ *Ibid.*, 403.

⁷ Public Complaints Commission, 'About Us' <<https://pcc.gov.ng/>> accessed 27 November 2024.

Commissioner, with the result that the Parliamentary Commissioner Act was passed in 1967.⁸ The Complaints Commissioner became known as the 'Parliamentary Commissioner for Administration' (PCA) or simply the 'Parliamentary Commissioner'.⁹ The purpose of this paper is to carry out a comparative analysis of Nigeria's Ombudsman with that of Britain with the aim exposing the area of strength and weakness of the administrative justice systems of both countries.

Meaning of Ombudsman

Etymologically, the word ombudsman is a Swedish word rooted in the Old Norse term *umboðsmaðr*, essentially meaning 'representative'.¹⁰ The two components are '*Ombud*' meaning Commissioner or agent (deriving from the old Norse word '*Umboth*' meaning 'charge', 'Commission', 'administration by a delegacy')¹¹ and '*mathr*', corresponding with the English notion of 'man'.¹² *Chambers 21st Century Dictionary*¹³ defines an ombudsman as a man who investigates complaints and mediates fair settlement, especially between aggrieved parties such as consumers or students of an institution or organization; or, a government official, especially in Scandinavian countries, who investigates citizens' complaints against the government or its functionaries. According to Egwummuo, an ombudsman, ombuds, or public advocate is an official who is charged with representing the interests of the public by investigating and addressing complaints of maladministration or a violation of rights.¹⁴ An ombudsman has been similarly defined as a government official appointed to investigate citizens' complaints against government officials, large public and private corporations, and/or print or broadcast media; while, in general, ombudsmen have wide investigative powers, and they have only a few punitive powers.¹⁵

An ombudsman can, therefore, be said to be an independent and nonpartisan public agency provided for by law that receives and investigates complaints from members of the public and makes contact with the alleged wrongdoer to peacefully resolve and obtain remedy for the complainant. It is a body that gives citizens safeguards against maladministration by investigating and pursuing genuine claims of an aggrieved party with the relevant public or administrative authority, body, or person, whether it be a public or private body to find solutions to the issues raised.

2. Ombudsman in Nigeria: The Public Complaints Commission

2.1 Historical Development

One of the problems that have continued to plague the Nigerian civil service is the high-level display of inefficiency, disregard, and inexperience by the staff. Incompetent and non-diligent persons are placed to man public offices and the citizens ultimately suffer the consequences.¹⁶ This is because the absence of efficient and capable hands in public service weakens the quality of service rendered as it will invariably be very poor and unsatisfactory, leading to a lack of social justice and underdevelopment.¹⁷ This was the scenario that played out in post-independent Nigeria, especially around the south-western axis where the infamous 'Wild West' riots of 1968 resulted in the destruction of lives and property.¹⁸ Consequently, the then State Military Government set up a judicial inquiry to

⁹The two terms will be used interchangeably.

¹⁰H Wedgwood (ed.), *A Dictionary of English Etymology*, Vol. 1 (FB & C Ltd., 2017) 184.

¹¹*Ombodh* comprises '*um*' - 'regarding' and '*bodh*' - 'command'. See *ibid*.

¹²*Ibid*.

¹³M Robinson and G Davidson (eds.), *Chambers 21st Century Dictionary* (13th edn., Hodder & Stoughton, 2014) 247.

¹⁴JN Egwummuo, *Modern Trends in Administrative Law* (Rojoint Communications Services, 2000) 52.

¹⁵LC Reif, *The Ombudsman, Good Governance and the International Human Rights System* (Springer, 2013) 4.

¹⁶These persons were employed either by virtue of the 'federal character' policy as provided under section 14 (3) & (4) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) or through favouritism, either way, the end-product is still the same: incompetence in public service. See B O Igwenyi, *The Crime of Corruption in Nigeria: Laws, Issues and Solutions* (Snaap Press Ltd., 2010) 92.

¹⁷B A Inuwa, 'Corruption in the Public Sector: An Overview of Corruption in Nigeria Civil Service' [2021] *Lapai International Journal of Administration* (4) (1) 188.

¹⁸Guardian Nigeria, 'History of Protests in Nigeria: Reactions and Consequences' (25 October 2020) <<https://guardian.ng/life/history-of-protests-in-nigeria-reactions-and-consequences-2/>> accessed 28 October 2024.

find out what caused the grievances of the farmers who took part in the communal disturbance.¹⁹ In his investigative report, Hon. Justice Olu Ayoola (as he then was, a judge of the then-Western State High Court) made the following recommendation:

Government should consider the possibility of appointing a public complaints Commissioner on the same basis as the parliamentary Commissioner in Britain (otherwise called 'ombudsman') whose duties would include the spotlighting of grievances, receipt of complaints of a public nature, the investigation of such complaints, and the recommendation of quick remedies to government.²⁰

This seemingly well-founded recommendation was rejected by the military government:

After giving very careful consideration to this recommendation, the government has not found itself able to accept it in the present circumstance. Apart from the question of the cost which would be involved in the establishment of the Public Complaints Commissioner, with his support staff... etc., the government considers that the implementation of the recommendation for the establishment of the local advisory committees will provide an appropriate forum for the ventilation of public grievances at the local level where they could be fully discussed with a view to finding appropriate remedies. All these will be in addition to the already existing avenues open to members of the public at large to air their grievances in respect of any government measures and seek redress.²¹

The Biafra War (1967-1970) experience was indicative of a near collapse of constituted authority and arbitrary use of administrative powers within and outside public establishments. Government officials in authority wielded so much power and influence to their junior officers and members of the public. Several atrocities were being committed with impunity daily; the morale of the public service was at its lowest ebb.²² With an increase in literacy level and more awareness of the existence of their rights, more and more citizens did not seem ready to suffer in silence and the demand for an avenue for public complaints reverberated through the whole nation.²³ This eventually prompted the Gowon-led Federal Military Government to set up the Civil Service Reform Panel²⁴ in 1972 headed by Chief Jerome Udoji.²⁵ At the end of its sessions, the panel proffered the following observations and recommendations:

In the course of our enquiry, a number of persons complained that they had suffered one form of injustice or another in the hands of public officers. How many such cases there have been that are never brought to light and in which aggrieved persons may have suffered years of agonizing frustration in silence may never be known. Although there are means open to citizens to seek redress of any genuine complaints about maladministration, many instances of dereliction of duty or abuse of office by public officers do not constitute criminal offence for which redress could be sought in a court of law. There is also the general problem of ignorance. Yet we are convinced that unless there is provided ample opportunity for the impartial investigation of such complaints, the integrity of government could be seriously undermined and public confidence adversely affected. We believe, therefore, that the need exists in Nigeria for the institution of an ombudsman. The concept of this institution is simply that a citizen aggrieved by an official action or inaction has an opportunity to state his grievances to an independent person or persons empowered to investigate the complaint.

¹⁹ *Ibid.*

²⁰ Report of the Commission of Inquiry into the Civil Disturbances in the Western State of Nigeria, 1968, p. 113 (recommendation 5) Report of the Commission of Inquiry into the Civil Disturbances in the Western State of Nigeria, 1968 <<https://catalog-test.lib.uchicago.edu/vufind/Record/9839>> accessed 29 October 2024. See also ziCyberAjizi, 'The Ombudsman (Public Complaints Commission)' <http://www.academia.edu/14172817/THE_OMBUDSMAN_PUBLIC_COMPLAIN_COMMISSION> accessed 13 November 2024.

²¹ O Ayoola, 'The Ayoola Tax Agitation Probe: Commission's Recommendations and Government Decision' <<http://resourcefinder.ids.ac.uk/Record/168132>> accessed 11 November 2024. See also T. Falola, *Counting the Tiger's Teeth: An African Teenager's Story* (University of Michigan Press, 2014) 239.

²² O. Ohaegbu, 'Historical Background of the Public Complaints Commission in Nigeria' (16 February 2015) <<http://9jalegal.com.ng/articles/historical-background-of-the-public-complaints-Commission-in-nigeria/>> accessed 10 November 2024.

²³ *Ibid.*

²⁴ Also known as the 'Udoji Panel'.

²⁵ Ohaegbu (n 27).

Such a system ensures for the citizen an impartial review of administrative decisions which appear to him unjust and protects him from injustice arising from abuse of power, neglect of duty, or errors of judgment on the part of people in authority.²⁶

Meanwhile, when the Federal Military Government was still ruminating over whether or not to establish the ombudsman, the then North-Central State (now Kaduna and Katsina States), on 20 May 1974, picked up the gauntlet and established the first Public Complaints Commission in Nigeria known as 'Public Complaints Bureau'.²⁷ This was done by virtue of the Public Complaints Bureau Edict 1974.²⁸ According to the Edict, an independent Commissioner was appointed to oversee the administration of the Bureau.²⁹ The military governor could only remove him from office on grounds of misconduct, neglect of duty, or disability.³⁰ As a result of the pioneering success of the system in the then North-Central State, Kwara State enacted its Public Complaints Bureau Edict in 1975³¹ establishing the ombudsman system in its State. Subsequently (but in the same 1975), the Federal Military Government established an ombudsman³² for Nigeria known as the 'Public Complaints Commission'.³³ The Commission was designed to check the pervasive incidence of administrative arbitrariness and injustice and to fill the gap in our system of administrative justice arising from the inadequacy or inapplicability of the traditional investigation and adjudicatory processes.³⁴ It was also charged with the duty to receive and investigate complaints from the people against administrative irregularities and malpractices at both federal and state levels.³⁵ With the enthronement of civil rule in 1999, the Commission was retained via the Public Complaints Commission Act³⁶ and vested with powers to inquire into complaints by members of the public concerning the administrative action of any public authority, corporation, body, or their officials, and other matters ancillary thereto.³⁷ By Section 1(1) of the Act, the Commission shall have a Chief Commissioner as its head with such number of Commissioners as the National Assembly may determine. The Commission is empowered under Section 1(2) to establish such number of branches of the Commission in the States as the National Assembly may determine.

The Nigerian ombudsman, therefore, owes its existence to the need to check bureaucratic incompetence and abuse of power and office.³⁸

2.2 Appointment of Commissioners

The Chief Commissioner and other Commissioners are appointed by the National Assembly amongst persons of proven integrity who possess other qualifications as the National Assembly may determine. No Commissioner stays in office for more than six years. This is because Section 2(2) provides that a Commissioner shall hold office for a term of three years in the first instance and shall be eligible for re-appointment for a second term of three years only after which he stands disqualified for another re-appointment. Unlike the former North-Central State Commissioner who could only be removed from office on account of neglect of duty, misconduct, or disability, a Commissioner under the Act could be removed from office at any time by the National Assembly without giving any reason.³⁹ This is a serious flaw because, without the security of tenure of office, the Commissioners

²⁶Iluyomade and Eka (n 14) 231-232.

²⁷Ohaegbu (n 27).

²⁸Edict No. 5 of 1974. Pursuant to its s. 3(1), the Bureau became effective from 1 April, 1974.

²⁹Public Complaints Bureau Edict 1974, ss. 3(2) and 9(2).

³⁰*Ibid.* s. 4(1)-(3).

³¹Edict No. 12 of 1975.

³²This is made pursuant to the Public Complaints Commission Decree 31 of 1975.

³³Hereinafter known as 'the Commission'.

³⁴These include the Courts and the Commissions of Enquiry. See B O Nwabueze, *Military Rule and Constitutionalism in Nigeria* (Spectrum Law Pub., 1992) 161.

³⁵Okany (n 1) 408.

³⁶Cap. P37, LFN 2004.

³⁷Malemi (n 19) 320.

³⁸*Ibid.*

³⁹Public Complaints Commission Act, s. 2(3).

cannot be expected to give their best services to the Commission and the nation. Regarding this situation, Emiola commented:

This is not a particularly healthy situation. It is true that under a democratic government, it is unthinkable to conceive of a situation whereby the legislature would just decide to remove a Commissioner against whom no allegation of impropriety or inadequacy of one kind or another has been made. We are, however, concerned here with the law, and a pious assumption of what might not happen in the future is better left to political scientists.⁴⁰

In furtherance of the purposes of the Commission, the Act provides for the appointment of a Chief Commissioner and other Commissioners by the National Assembly.⁴¹ They are empowered to investigate either on their initiative or following complaints lodged before them by any other person, any administrative action taken by some specified governments agencies or private bodies.⁴² The Chief Commissioner may determine the manner by which complaints are to be lodged.⁴³ The powers of the Commissioner and his *modus operandi* are encapsulated in Sections 5, 6 and 7 of the Act.

In the discharge of his functions under the Act, a Commissioner shall have power to summon in writing any person who in the opinion of the Commissioner is in the position to testify on any matter before him, to give evidence in the matter and any person who fails to appear when required to do so shall be guilty of an offence under this Act.⁴⁴ No Commissioner shall be liable to be sued in any court of law for any act done or omitted to be done in the due exercise of his duties under or pursuant to the Act.⁴⁵

2.3 Powers and Functions of the Commission

Under section 5(1) of the Act, all Commissioners shall be responsible to the National Assembly but the Chief Commissioner shall be responsible for co-coordinating the work of all other Commissioners. Section 5(2) provides that a Commissioner shall have the power to investigate either on his initiative or following complaints lodged before him by any other person, any administrative action taken by:

- a. any department or ministry of the federal or any state government;
- b. any department of any local government authority (howsoever designed) set up in any state in the federation;
- c. any statutory corporation or public institution set up by any government in Nigeria;
- d. any company incorporated under or pursuant to the Companies and Allied Matters Act whether owned by any government or by private individuals in Nigeria or otherwise howsoever; or
- e. any officer or servant of any of the aforementioned bodies.

The Act also grants the Chief Commissioner the latitude to determine the manner by which complaints are to be lodged.⁴⁶ A Commissioner also has the discretion to decide whether, and if so, how he should notify the public of his action, or intended action in any particular case.⁴⁷ He is also free to access all information necessary for the efficient performance of his duties under the Act; thus, he is free to visit and inspect any premises belonging to any person, or body mentioned in Section 5(2) of the Act.⁴⁸

⁴⁰ A. Emiola, *Remedies in Administrative Law* (Emiola Publishers Ltd., 2000) 97.

⁴¹ Public Complaints Commission Act, s. 2.

⁴² *Ibid.*, s. 5(2).

⁴³ *Ibid.*, s. 5(2)(a).

⁴⁴ *Ibid.*, s. 9(1).

⁴⁵ *Ibid.*, s. 10.

⁴⁶ *Ibid.*, s. 5(3)(a).

⁴⁷ *Ibid.*, s. 5(3)(b).

⁴⁸ *Ibid.*, s. 5(3)(c).

The Act mandates every Commissioner to ensure that administrative action by any person or body mentioned in subsection (2) will not result in the commitment of any act of injustice against any citizen of Nigeria, or any other person resident in Nigeria.⁴⁹ For that purpose, he is required to investigate administrative acts which are, or appear to be contrary to any law or regulation; mistaken in law, or arbitrary in the ascertainment of fact; unreasonable, unfair, oppressive, or inconsistent with the general functions of administrative organs; improper in motivation, or based on irrelevant considerations; unclear, or inadequately explained; otherwise objectionable.⁵⁰ A Commissioner is also competent to investigate administrative procedures of any court of law in Nigeria.⁵¹

The Act holds confidentiality in high regard. Thus, Commissioners as well as the staff of the Commission are to maintain secrecy, in respect of matters so designated because of source, or content. The Commissioner may, however, in any report made by him, disclose such matters as in his opinion ought to be disclosed to establish grounds for his conclusions and recommendations.⁵² To avoid political or other forms of external influence in the exercise of his duties, the Commissioner shall not be subject to the direction, or control of any other person or authority.⁵³

2.4 Methods of Lodging Complaints to the Commission

The manner of lodging a complaint with the Commission may be determined by the Chief Commissioner.⁵⁴ However, in practice, complaints are usually made through oral report; delivery of report by hand; delivery of report by post; transmission of the report by other means of communication such as telephone, mail, etc.⁵⁵

The Public Complaints Commission has the power to investigate complaints against public authorities, private bodies, and individuals. For example, complaints commonly received by the Commission from members of the public fell under a range of categories, including non-payment of gratuities and pensions; compulsory acquisition of lands and houses without adequate or delayed compensations; illegal termination of appointments both by public and private employers; unpaid and delayed wages; delay of action by the police and alleged collusion or contributory negligence on the part of the police; illegal demolition of buildings; delay in approval of building plans by the town planning authorities; loss of registered parcels through the post telecommunications; chieftaincy matters; non-payment of insurance claims; refusal to pay debts over for services rendered; delayed payment of professional fees; denial of retirement benefits; refusal to grant study leave with or without pay; refusal to grant transfer of service; etc.⁵⁶

2.5 Limitations of the Commission's Powers

Despite the latitude of powers vested in the Commissioner, there are still restrictions, which are aimed at preventing maladministration or abuse of office. By Section 6(1), the Commissioner shall not investigate any matter:

- a. That is clearly outside his terms of reference;
- b. That is pending before the National Assembly, the National Council of State, or the National Council of Ministers;
- c. That is pending before any court of law in Nigeria;

⁴⁹*Ibid.*, s. 5(3).

⁵⁰*Ibid.*, s. 5(3)(d).

⁵¹*Ibid.*, s. 5(3)(e).

⁵²*Ibid.*, s. 5.(5).

⁵³*Ibid.*, s. 5(6).

⁵⁴*Ibid.*, s. 35.

⁵⁵A E. Egberi and J T Ikyase, 'Public Complaints Commission and the Administration of Justice in the Local Government System in Nigeria' [2024] *International Journal of Development Strategies in Humanities, Management and Social Sciences* (14) (1) 399.

⁵⁶Malemi (n 19) 318.

- d. That is related to anything done or purported to be done in respect of any member of the Armed Forces or the Nigeria Police Force under the Armed Forces Act or the Police Act, as the case may be;⁵⁷
- e. In which the complainant has not, in the opinion of the Commissioner, exhausted all available legal or administrative procedures;⁵⁸
- f. Relating to any act or thing done before 29 July 1975 or in respect of which the complaint is lodged later than 12 (twelve) months after the date of the act or thing done from which the complaint arose;⁵⁹
- g. In which the complainant has no personal interest.⁶⁰

With regards to matters pending before any of the quasi-judicial bodies mentioned in section 6(1)(b), the Act requires a notice signed by the Secretary to the Federal Government and addressed to the Commission certifying that any matter pending before any of the bodies mentioned in the paragraph shall be conclusive as to the pendency of the matter.⁶¹ Furthermore, in every case where a Commissioner decides not to investigate a complaint, he shall state the reason for not doing so.⁶² After due investigation of any complaint, a Commissioner may recommend to the appropriate person or responsible administrative agencies any of the following:

- a. further consideration of the matter;
- b. a modification or cancellation of the offending administrative or other act;
- c. an alteration of a regulation or ruling; and
- d. full reasons behind a particular administrative or other act.⁶³

The Commissioner may, where he deems appropriate, refer cases where he feels that existing laws are inadequate to the National Assembly, the appropriate Governor, or any other appropriate body or persons.⁶⁴ Where he discovers a crime, he shall report his discovery to the appropriate authority or recommend the suspect for prosecution.⁶⁵

2.6 Offences and Penalties

According to Section 8(1) of the Act, it is an offence punishable by ₦ 500 or imprisonment for 6 months or both such fine and imprisonment for any person except the Commissioner to make public any complaint lodged before the Commission. The same punishment awaits any person required to furnish information under the Act and who fails to do so or knowingly or recklessly makes any false statement in any material particular to the Commission in purported compliance with the requirement

⁵⁷ It seems that this provision does not prohibit the investigation of cases concerning members of these forces against private persons in their individual capacity. Individual members who violate the rights of others are excluded from this rule.

⁵⁸ What this provision is saying is that where it is possible to appeal or seek judicial review, this must be done before complaining to the Commissioner, except: (a) where harm or injury would result if one tries to comply with the Act; or (b) where the person complained against is the person in control of the machinery for justice for which he will most likely employ against the complainant. See *Garba v. University of Maiduguri* (1986) 1NWLR (pt. 18) 550 (SC) where, in an action for the enforcement of fundamental rights over unlawful expulsion, the court held that there was no need for the complaining students to have first exhausted all internal administrative procedures because they would still meet the same people complained against, who at any rate would not give them justice.

⁵⁹ It has not been possible for the Commission to observe this one-year limitation period. This is because the requirement of exhaustion of internal administrative and legal remedies would not be met if the limitation period is strictly followed due to the delay that bedevils the court system and the red-tapism rife in the civil service. See *Inuwa* (n 22) 191.

⁶⁰ It is unfortunate that such a *pro-locus standi* provision is still rearing out its head in this Act. The essence of establishing the ombudsman institution in Nigeria is to do away with the primitive and technical characteristics, such as *locus standi*, which has rendered the court system undesirable for many. Thankfully, the new position of law in Nigeria has abolished *locus standi*.

⁶¹ Public Complaints Commission Act, s. 6(2).

⁶² *Ibid.*, s. 6(3).

⁶³ *Ibid.*, s. 7(1).

⁶⁴ *Ibid.*, s. 7(2).

⁶⁵ *Ibid.*, s. 7(3).

to furnish information.⁶⁶ Willful obstruction, interference with, assault, or resistance to any Commissioner or any other officer or servant of the Commission in the execution of his duties under the Act will likewise be punished upon conviction. The Commissioner also has the power to summon in writing any person who, in his opinion, has any evidence to give on any matter before him.⁶⁷ Failure to appear is an offence punishable upon conviction by a fine of ? 500 or imprisonment for six months.⁶⁸

2.7 Immunity from Legal Process

For a Commissioner to freely operate without fear or favour, Section 10(1) of the Act provides that no Commissioner shall be liable to be sued in any court of law for any act done or omitted to be done in the due exercise of his duties under the Act. Reports, statements, or other communications or records of any meeting, investigation, or proceedings made by a Commissioner, officer, or servant in the due exercise of his functions under the Act shall be privileged. Its production may, therefore, not be compelled in any legal proceeding if the Attorney-General certifies that such production is not in the public interest.⁶⁹

3. Ombudsman in Britain

3.1 Historical Background

In the immediate aftermath of World War II in 1945, a further increase in the size and activities of the government took place. The welfare state was expanded, giving greater rights of access to state benefits and services. Additional regulatory powers – particularly for planning and urban renewal – were also entrusted to the government.⁷⁰ Much of this was motivated by altruistic political principles and a desire to improve the quality of life of the wider community. However, despite these overall laudable intentions, greater contact between the individual and the state and, in some cases, dependence on it, led to an increased incidence of complaints and disputes concerning the conduct of public officials and their treatment of individuals.⁷¹

The creation of appropriate mechanisms to deal with grievances did not go hand in hand with the granting of powers. In some contexts (for example, national assistance) tribunals were established to deal with complaints relating to the way an official had interpreted the relevant regulations or applied them to the facts of a particular case.⁷² Beyond this, the traditional method of dealing with grievance against the state remained available. Hence, an individual could complain to a Member of Parliament (MP) and ask for his/her intervention with the government department concerned or for the matter to be raised in Parliament. Also, where it appeared that a government department or official may have acted illegally, redress could be sought in the courts. The general position was, however, unsatisfactory.⁷³ Often the type of grievance felt by an individual would fall outside the jurisdiction of any tribunal and would not involve any breach of law. Examples would include such matters as rudeness, inattention, delay, inadequate or incomprehensible advice, or simply downright incompetence.⁷⁴ The right to complain to an MP could not be regarded as a generally satisfactory or adequate means of dealing with the volume and variety of complaints arising out of the relationship between members of the public and government departments. Members of Parliament did not, and do

⁶⁶ *Ibid.*, s. 8(2).

⁶⁷ *Ibid.*, s. 9(1).

⁶⁸ *Ibid.*, s. 9(2).

⁶⁹ *Ibid.*, s. 10(2).

⁷⁰ G O'Hara, 'Parties, People and Parliament: Britain's "Ombudsman" and the Politics of the 1960s' [2011] *Journal of British Studies* (50) (3) 690-714.

⁷¹ *Ibid.*

⁷² *Ibid.*

⁷³ Access to the courts was at that time difficult, due to a restricted view of *locus standi*, or the legal interest necessary for an applicant to demonstrate in the issue for which judicial review was sought. Even if a court would entertain a challenge, the likelihood of success was not high as the grounds of judicial review were not as developed as they are now. See Thompson (n 3) 327.

⁷⁴ S Carl, 'The History and Evolution of the Ombudsman Model' in M Hertogh and R Kirkham (eds.), *Research Handbook on the Ombudsman* (Edward Elgar, 2018) 21.

not, have the time, resources or expertise required to deal with all such matters effectively, nor are such individual grievances matters to which Parliament can hope to devote any significant amount of time.⁷⁵

The Crichton Down affair⁷⁶ further exposed a manifest gap in the grievance mechanisms available to the individual or group. The immediate outcome was the Franks Report on Administrative Tribunals and Inquiries. There was also an obvious need for a new, effective, and cheap non-legal remedy to be made available in the face of deficiencies revealed in the role of MPs in holding ministers to account through the then-available parliamentary procedures. This was also corroborated by a report from the British section of the International Commission of Jurists, known as Justice, titled 'The Citizen and the Administration: the Redress of Grievances'⁷⁷ in 1961. This recommended the appointment of a Commissioner for complaints procedure modeled after that already in use in some Scandinavian countries, that is, an independent Complaint Commissioner ('ombudsman') equipped with the power to investigate and secure redress for the type of grievance against officialdom not easily remedied through more traditional procedures.⁷⁸

When the Whyatt Report first appeared, the then-Conservative government was not well disposed towards it, arguing that it was likely to erode the doctrine of ministerial responsibility to Parliament⁷⁹ by undermining the role of MPs as a channel for complaints from their constituents. However, a new Parliament dominated by Labour members was elected in 1964, and this fresh intake of MPs, often from a younger generation, did not readily share these anxieties.⁸⁰ For this reason, and because it was an election manifesto promise, the Labour government was in a position to accept at least partially the case for the establishment of a Complaints Commissioner, with the result that the Parliamentary Commissioner Act was passed in 1967.⁸¹ The Complaints Commissioner became known as the 'Parliamentary Commissioner for Administration' (PCA) or simply the 'Parliamentary Commissioner'.⁸²

Since then, other ombudsmen or complaints procedures have been established in both the public and

⁷⁵ A Carroll, *Constitutional and Administrative Law* (4th edn., Pearson Education Ltd., 2007) 588.

⁷⁶ The Crichton Down affair was a British political scandal of 1954, with a subsequent effect and notoriety. The case centred on 725 acres (2.93km²) of agricultural land at Crichton Down, Dorset. Much of the land in question was part of the estate of Crichton House, owned by the 3rd Baron Alington. The land was purchased compulsorily in 1938 by the Air Ministry for use for bombing by the Royal Air Force (RAF) at the purchase price of £12,006. In 1940, the owner died on active service in the RAF, and the Crichton estate passed in trust to his then 11 year-old lone child, Mary Anna Sturt. In 1940, Winston Churchill, the then British Prime Minister, gave a promise in Parliament that the land would be returned to its owners, after the Second World War, when it was no longer required for the purpose for which it had been bought. This promise was not honoured. Instead the land (then valued at £21,000) was handed over to the Ministry of Agriculture who vastly increased the price of the land to £32,000, beyond the amount the original owners could afford, and leased it out. In 1949, Mary Anna Marten (née Sturt) and her husband, Toby, who are both now owners of the Crichton estate, began a campaign for the government's promise to be kept, by a return sale of the land. They eventually gained a public inquiry which was conducted and which report was damning about the actions taken by those acting for the government. Due to the public pressure from the publicity, the Minister responsible for the administrative abuse resigned and the estate was sold back to the owners (the Martens). See J. McGarry, *Course Notes: Constitutional and Administrative Law* (Taylor & Francis, 2013) 58.

⁷⁷ Commonly referred to as the 'Whyatt Report'.

⁷⁸ N Abedin, 'The Ombudsman Institution and Conflict Resolution in the Contemporary Third World Societies' [2006] *Journal of Third World Studies* (23) (1) 219-233.

⁷⁹ This is a constitutional convention in governments using the Westminster system that a cabinet minister bears the ultimate responsibility for the actions of their ministry or department.

⁸⁰ Leyland and Woods (n 17) 49.

⁸¹ Unless stated otherwise, subsequent references to 'the 1967 Act' or simply 'the Act' relate to the Parliamentary Commissioner Act, 1967.

⁸² The two terms will be used interchangeably.

private sectors such as the Health Service Commissioner (National Health Service Reorganization Act, 1973); the Commissions for Local Administration in England, Wales (Local Government Act, 1974) and Scotland (Local Government (Scotland) Act, 1975); the Northern Ireland Parliamentary Commissioner for Administration (Parliamentary Commissioner (Northern Ireland) Act, 1969); the Northern Ireland Commissioner for Complaints (Commissioner for Complaints (Northern Ireland) Act, 1969); the Pensions Commissioner (Social Security Act, 1990); the Courts and Legal Services Ombudsman (Courts and Legal Services Act, 1990); the Prisons Ombudsman (created administratively in 1994).⁸³ It was subsequently reported that the fears of the earlier government, to a large extent, did not come to pass. According to Wade and Forsyth:

Experience soon showed that his [parliamentary Commissioner's] investigations, so far from conflicting with ministerial responsibility, helped it to work better by enabling both Parliament and ministers to correct faults in administration which would otherwise never have been brought to light. Experience has now shown that minister and ombudsman operate for the most part on different levels and with general constitutional compatibility.⁸⁴

3.2 Appointment of the Parliamentary Commissioner

The Parliamentary Commissioner or Ombudsman is appointed by the Monarch on the advice of the government. The Monarch may also exercise the power of dismissal but only pursuant to resolutions of both Houses of Parliament.⁸⁵ This gives the Commissioner a degree of independence and security of tenure similar to that accorded to senior judges. The Commissioner should retire at 65. He or she is an *ex officio* member of the Council on Tribunals and the Commissions for Local Administration but is disqualified from membership of the House of Commons.

3.3 Jurisdiction (Remit) of the Parliamentary Commissioner

The Commissioner is authorized to investigate written complaints from individuals who claim to have suffered 'injustice in consequence of maladministration' in dealings with any of the government agencies or departments specified originally in Schedule 2 of the 1967 Act, and now contained in Schedule 1 of the Parliamentary and Health Service Commissioners Act, 1987.⁸⁶

3.3.1 Excluded Matters

A considerable range of activities in which central government departments are involved were, from the outset, put beyond the Commissioner's powers of investigation. The principal exclusions and the reasons given for them were as follows:

- a. **Any matter in respect of which a complainant may appeal to a tribunal or seek redress in the courts,⁸⁷ for instance, by applying for judicial review:** This was based on the principle that the Commissioner was not introduced to replace existing grievance procedures but to supplement these in areas where adequate protection for the citizen in dealings with the executive would not otherwise exist. Note, however, that the Commissioner has the discretion to waive this exclusion if satisfied that in the particular circumstances, it would not be reasonable to expect the complainant to go before a court or tribunal,⁸⁸ for example, where the relevant law is uncertain or the cost of proceedings is prohibitive.
- b. **Any matter or grievance arising more than twelve months before the Complaint was made⁸⁹**

⁸³ Carroll (n 113) 589.

⁸⁵ 1967 Act, s. 1.

⁸⁶ As amended by the Parliamentary Commissioner Act, 1994.

⁸⁷ *Ibid.*, s. 5.

⁸⁸ *Ibid.*, ss. 5(2). See also *R v. Commissioner for Local Administration, ex parte Croydon London Borough Council* (1989) 1 All ER, 1033. This case stemmed from complaints from parent to the Local Government Ombudsman regarding a decision of an Education Appeal Committee. The Local Education Authority sought judicial review of the Ombudsman's findings of maladministration and the Court of Appeal granted a declaration that the Ombudsman's report was void and of no effect. Woolf L.J. gave evidence on the meaning of the exclusive investigations by the ombudsmen where the complainant has a 'remedy by way of proceedings in any court of law'. See also s. 26(6) of the Local Government Act, 1974.

(unless there are special circumstances for making an exception):⁹⁰ This was designed to prevent a grievance from being referred to the Commissioner where this did not have sufficient impact on the complainant to cause the matter to be raised at an earlier stage.

- c. **Matters relating to the Contractual or Commercial Dealings of a Government Department:**⁹¹ The original reason for this exclusion was that the Parliamentary Commissioner for Administration (PCA) was intended to operate in the field of relationships between the government and the governed. Commercial judgments are by nature discriminatory, and so allowing the commercial judgments of departments to be open to examination by private interests while leaving those interests themselves free from investigation would amount to putting departments and with them the taxpayer, at a disadvantage.⁹²
- d. **Matters relating to Personnel Issues in the Public Services or Armed Forces:**⁹³ It was felt that it would be unfair and illogical to give public sector employees a grievance procedure not available to their private sector counterparts. Also, in the case of the armed forces, it was believed that access to the Commissioner would be inimical to the maintenance of authority and discipline.
- e. **Matters relating to the Government's Dealings with any other Government or International Organization:**⁹⁴ Here, it was argued that a decision on whether or not to pursue a complaint that might involve a foreign government could often raise political considerations beyond the Parliamentary Commissioner's proper sphere of competence. Also, it was felt that, in this context, the pursuit of an individual's concerns might not always be synonymous with effective protection of the wider public interest.
- f. **Action taken by British Diplomats outside the United Kingdom:** The two reasons offered for this exclusion were that such actions might well be determined by local circumstances over which such officials had no control and that the investigation of any matter arising within the territory of a foreign state would be beset with practical difficulties (particularly in terms of access to information and official cooperation generally).
- g. **Action taken relating to the Investigation of Crime and the Protection of National Security:**⁹⁵ It was felt that allowing information relating to the same to come into the public domain could be detrimental to the effectiveness of the law enforcement agencies and could put at risk some key prerequisites of good criminal intelligence, for example, anonymity and confidentiality.
- h. **The Exercise of the Prerogative of Mercy:**⁹⁶ This was justified on the ground that royal clemency was not thought to be an appropriate issue for investigation and that, in the normal course of events, problem cases of this type would most probably have already been referred to a court for reconsideration.

⁸⁹'Stale' complaints.

⁹⁰1967 Act, s. 6

⁹¹*Ibid.*, Schedule 3, para. 9

⁹²Select Committee on the Parliamentary Commissioner for Administration, 1993/4.

⁹³1967 Act, Schedule 3, para. 10

⁹⁴*Ibid.*, Schedule 3, para. 1

⁹⁵*Ibid.*, Schedule 3, para. 5

⁹⁶*Ibid.*, Schedule 3, para 7

- i. **The Grant of Honours:**⁹⁷ Again, it was felt that it would be constitutionally improper to subject the exercise of the Monarch's powers to investigation and that, since the conferment of honour was a privilege, nobody aggrieved in such matter could be said to have suffered injustice.
- j. **The Extradition Process:** In the exercise of extradition orders, the Secretary of State is acting in a quasi-judicial capacity as a final appellate authority. Adding, in effect, a further appeal – an investigation by the PCA – would, the argument ran, be inappropriate and inconsistent with the government's responsibility for compliance with international obligations.⁹⁸

3.3.2 Excluded bodies

As earlier stated, the PCA's investigative jurisdiction extends only to those government agencies and bodies listed in Schedule 2 to the 1967 Act.⁹⁹ The Schedule lists some 115 of the same. Significant amongst those excluded and, therefore, not within the PCA's remit would be the remaining public corporations, for example, the Post Office, the Civil Aviation Authority and the Atomic Energy Authority; the Criminal Injuries Compensation Board; parole boards; the Bank of England; the then Monopolies and Mergers Commission (now Competition Commission); and various bodies operating in the sphere of education, for example, the Higher Education Funding Council, the National Curriculum Council and the School Examinations and Assessment Council.¹⁰⁰

3.3.3 Procedure on Matters Subject to Investigation

Section 5 of the 1967 Act provides that each complaint must be made initially to an MP, not necessarily that of the complainant. This requirement is known as the 'MP filter'.¹⁰¹ It reflects the fact that the office of Parliamentary Commissioner was created to make departmental accountability to Parliament more effective rather than to replace it with an alternative mechanism. It is for the MP to decide whether the complaint should be referred to the Commissioner. Obvious considerations would be whether the complaint falls within the PCA's jurisdiction and whether it raises an issue worthy of investigation. Also, it is open to the MP to take up the complaint and pursue it personally if in his/her opinion this would appear to be an appropriate way of dealing with the problem. The Commissioner has no authority, therefore, to entertain a complaint that has been made to him/her directly by a member of the public. He/she may, however, communicate such a complaint to an appropriate MP so that it may, at the MP's discretion, be referred back to the Commissioner and, therefore, not simply 'lost'.¹⁰²

It should also be emphasized that the Commissioner has no authority to initiate an investigation. All is entirely dependent on a complaint being raised by an individual and being referred to the Commissioner by an MP. Each investigation should be conducted in private.¹⁰³ The head of the department or agency and those within it who are the subject of an investigation should be allowed to comment on the complainant's allegations. The same persons and the minister who referred the complaint are entitled to a report of the Commissioner's findings.¹⁰⁴

⁹⁷ *Ibid.*, Schedule 3, para. 11.

⁹⁸ Carroll (n 113) 590-592.

⁹⁹ As amended by the Parliamentary and Health Service Commissioners Act, 1987.

¹⁰⁰ R Gregory and P Giddings, *The Ombudsman and Parliament: A History of the Parliamentary and Health Service Ombudsman* (Politico's Publishing Ltd., 2002) 168.

¹⁰¹ Note that the 'MP filter' policy is not applicable to the health service ombudsman and the local ombudsmen, these bodies allow complainants direct access. See APL Sueur and Herberg J. W, *Constitutional and Administrative Law* (Cavendish Printing Ltd., 1995) 141.

¹⁰² *Ibid.*, 141-143.

¹⁰³ 1967 Act, s. 7.

¹⁰⁴ *Ibid.*

A general report on the performance of his/her functions must be laid before each House of Parliament on an annual basis.¹⁰⁵ Other special reports may be laid from time to time as the Commissioner thinks fit.¹⁰⁶ These may relate, *inter alia*, to particularly important inquiries or to instances where government departments found guilty of maladministration have refused to respond to the Commissioner's recommendations. Since 1997, such reports have been considered by the House of Commons Select Committee on Public Administration which makes recommendations concerning the Commissioner's jurisdiction, powers and investigative methods. It may also suggest changes in the administrative procedures of the government departments and bodies falling within the Commissioner's jurisdiction. This function was performed previously by the Select Committee on the Parliamentary Commissioner.

3.4 Powers and Remedies

Apart from that relating to proceedings in Cabinet or Cabinet committees, any information relevant to an investigation, whether in the possession of a minister, civil servant, or any other person, must be submitted to the Commissioner on request.¹⁰⁷ This includes information that is subject to the Official Secrets Acts or any other legal restriction relating to its disclosure, for example, a duty of confidentiality or public interest immunity. Refusal to comply with such a request or any other obstruction of an investigation may be referred to the High Court and dealt with as if it were a contempt of court.¹⁰⁸ The Commissioner is also empowered to demand the attendance of any person to obtain oral testimony and may administer the oath.¹⁰⁹ These extensive powers of access to official information are subject to the provision that the Commissioner may not include in a report anything which a minister has certified would be damaging to the national security.¹¹⁰

Where the Commissioner finds maladministration, he/she may recommend remedial action – e.g. payment of compensation, altering of decisions or procedures, or the giving of an apology – but has no power to insist on official compliance, the sole weapon being to report the matter to the MP concerned and, in particular cases, to lay a special report before Parliament. This is another illustration that the primary purpose of the office is to assist MPs in the task of supervising the activities of government departments and agencies. It is only in relatively rare cases, however, that a government body will not respond in an appropriate fashion to an adverse finding by the Commissioner.

4. Comparative Analysis of the Ombudsman Systems in Nigeria and Britain

4.1 Areas of Similarities

Some of the areas of similarities between the ombudsman systems in Nigeria and Britain are as follows:

- a. General Supervisory and Investigative Roles:** The two bodies are charged with supervisory and investigatory roles in their respective jurisdictions. They aid in pruning the excesses of the government and its agencies to ensure a responsive and responsible political structure in society.
- b. Connection to the Legislative Arm:** The two bodies have a link to their respective parliamentary bodies. In Nigeria, all Commissioners are responsible to the National Assembly; the National Assembly is in turn responsible for their appointment and removal. Also, when faced with the problem of an existing law being inadequate to resolve a complaint at hand, a Commissioner can

¹⁰⁵ *Ibid.*, s. 10. Note that, in contrast, the Commissioners for Local Administration (CLAs) report to the 'representative body' appointed by the Secretary of State under s. 24(1) of the Local Government Act, 1974. See S. N McMurtie, 'The Reviewability of the Parliamentary Commissioner' [1991] *Denning Law Journal* (6) (1) 117.

¹⁰⁶ *Ibid.*

¹⁰⁷ 1967 Act, s. 8

¹⁰⁸ *Ibid.*, s. 9.

¹⁰⁹ *Ibid.*, s. 8.

¹¹⁰ *Ibid.*

refer the complaint directly to the National Assembly for a solution. In Britain, the office of the Parliamentary Commissioner was created as an adjunct of the Parliament; he is accountable to the Parliament through the duty to present an annual report to it. The Monarch may exercise the power of dismissal of the Parliamentary Commissioner but only pursuant to resolutions of both Houses of Parliament; more so, he is frequently referred to as an officer of Parliament.¹¹¹

- c. **Utmost Regard for National Security:** In the performance of their investigatory duties and presentation of a consequential report, the two bodies are not to include in a report anything which the appropriate body responsible has certified would be damaging to the national security. This is because the national interest and security always supersedes that of the individual.
- d. **Power to Investigate Criminal Complaints:** In both jurisdictions, the ombudsmen do not have any power to investigate criminal complaints. They can, at best, report the matter to the appropriate law enforcement agency.
- e. **Privacy:** In both jurisdictions, the Commissions are required to operate with minimal publicity to safeguard the confidentiality that their investigation of complaints demands. This has greatly stunted the level of public awareness about the office.

4.2. Areas of Dissimilarities

The areas of differences between the Nigerian and British ombudsman systems include:

a. Appointment and Removal from Office:

- a. **Nigeria:** The Nigerian Public Complaints Commissioners are appointed by the National Assembly. In the same breath, they are also removed by the National Assembly, even without any reason given.
- ii. **Britain:** The British Parliamentary Commissioner is appointed by the Monarch on the advice of the government. The Monarch may also exercise the power of dismissal but only pursuant to resolutions of both Houses of Parliament.

b. Accessibility:

- i. **Nigeria:** In Nigeria, complainants have direct access to the Commissioner to vent their grievances of maladministration. There is no legislative interception en route. Also, the Commissioner does not have the power to initiate an investigation *suo motu* without being first 'briefed' by a complainant.
- ii. **Britain:** In Britain, the 'MP filter' system is applied. Here, a complainant must first forward the complaint to an MP who will then remit the same to the Parliamentary Commissioner to do the needful.¹¹² This is however subject to some exceptions.¹¹³

c. Compelling Power:

- i. **Nigeria:** If, at the end of his investigation, the Commissioner finds the agency liable for the maladministration complained of, the Commissioner cannot compel the agency to comply with his recommendation. He may, at most, report to the National Assembly.

¹¹¹J R. Heilbrunn, 'Anti-Corruption Commissions' in N Johnston, R Pelizzola and R Stapenhurst (eds.), *The Role of Parliament in Curbing Corruption* (World Bank, 2006) 141.

¹¹²The 'MP filter' is applied to the Parliamentary and Health Service Ombudsman (PHSO) in Britain and in the United Kingdom (UK) in general. The MP filter is a requirement that a complaint about a UK government department or public organization must be referred to the PHSO by a Member of Parliament (MP). This requirement is set out in the Parliamentary Commissioner Act 1967, s. 6(3). One of the ideas behind the MP filter was that MPs could filter any complaints that did not fall within the Parliamentary Ombudsman's remit, preventing the newly established body from being swamped with complaints to investigate. See T. Buck, R. Kirkham and B. Thompson, *The Ombudsman Enterprise and Administrative Justice* (Taylor & Francis, 2016) 98.

¹¹³The MP filter does not apply to complaints about the NHS or to public Ombudsman services in devolved nations. See R. Thomas, 'The operation of the MP filter for complaining to the Parliamentary and Health Service Ombudsman' (16 February 2023) <<https://essexcaji.org/2023/02/16/the-operation-of-the-mp-filter-for-complaining-to-the-parliamentary-and-health-service-ombudsman/>> accessed 30 November 2024.

- ii. **Britain:** The same applies here. However, the Commissioner can report to the MP and lay a special report to the Parliament.
- d. **Security of Tenure of Office:**
 - i. **Nigeria:** Commissioners in Nigeria are subject to removal by the National Assembly, whether or not any reason was given. This makes their tenure insecure and subject to the whims and caprices of the legislators.
 - ii. **Britain:** Commissioners can be removed by the Monarch but subject to resolution by both Houses of Parliament. This secures the tenure of their office.
- e. **Locus Standi:**
 - i. **Nigeria:** In Nigeria, there is a *locus standi* provision in section 6(1) (g) of the Public Complaints Commission Act which requires that a complainant must show the existence of a personal interest in the matter. In other words, non-personal matters shall not be entertained by the Commission. There is no such provision or rule in the British counterpart, thereby enabling a wider access to justice.
 - ii. **Britain:** The *locus standi* provision in Section 6(1) (g) of the PCC Act of Nigeria is not found in the British jurisprudence on ombudsman thereby giving a broad opportunities for seeking administrative remedies to the citizens.
- f. **Performance:** In the first six months of 2024, the Financial Ombudsman Service in Britain received 133,019 complaints, which is a 40% increase from the same period in 2023. The most complained about product was current accounts, with over 30,000 new cases. Fraud and scams were also a major issue, with over 27,000 new cases. The service upheld 35% of complaints in favor of the consumer in the first six months of 2024.¹¹⁴ In the third quarter of 2023–2024, the Housing Ombudsman found maladministration in 78% of cases. In the first quarter of 2024–2025, the Housing Ombudsman made 1,807 determinations. In the first quarter of 2024–2025, professional representatives brought about half of the complaints to the Financial Ombudsman Service.¹¹⁵ However, only 25% of cases brought by professional representatives were found in favor of consumers, compared to 40% of cases referred to the service directly by consumers.¹¹⁶ Comparing these statistics to that of Nigeria discussed above, it is unarguable that the performance margin of the British ombudsman is way higher than the Nigerian ombudsman. This is indicative, in the case of Nigeria, of the poor state of affairs in the Public Complaints Commission.

5. Conclusion

It is imperative that the remedial functions of ombudsman as a catalyst for social and administrative justice are enormous despite the operational freedom or limitations imposed on the institution by any given country. This work has brought to bear the areas of convergence and divergence of the operation of ombudsman in Nigeria and Britain. The weakness of the legal and institutional frameworks of the Nigeria's ombudsman which has undermined its efficacy is a pointer that Nigeria needs to totally overhaul the Public Complaints Commission in order to achieve desired objectives. Accordingly, it is recommended that the *locus standi* provision in Section 6(1) (g) of the Public Complaint Commission Act should be removed so that, like in its British counterpart, personal interest will not be a condition for bringing a complaint before the Commission.

¹¹⁴ Financial Ombudsman Service, 'Half-yearly complaints data: H1 2024' <<https://www.financial-ombudsman.org.uk/data-insight/half-yearly-complaints-data/half-yearly-complaints-data-h1-2024>> accessed 29 November 2024.

¹¹⁵ Housing Ombudsman Service, 'Q3 Quarterly Data 23-24' <<https://www.housing-ombudsman.org.uk/reports/landlord-complaint-statistics/q3-quarterly-data-23-24/>> accessed 29 November 2024.

¹¹⁶ Financial Ombudsman Service, 'Quarterly complaints data: Q1 2024/25' <<https://www.financial-ombudsman.org.uk/data-insight/our-insight/quarterly-complaints-data-q1-2024-25>> accessed 29 November 2024.

The mode of appointment and removal from Office of the Commissioners of Public Complaint Commission should not be allowed to the whims and caprices of the National Assembly. The Public Complaint Commission Act should be amended to give security of office to the commissioners so that they can discharge their duties without fear or favour.

Finally, it is recommended that the Public Complaint Commission Act should also be amended to give powers to the commission to compel any agency found to have committed any administrative wrong to remedy same failure of which the Commission shall sanction the erring agency appropriately.