HOUSE OF COMMONS

Public Administration and Constitutional Affairs Committee

Oral evidence: Parliamentary and Health Service Ombudsman Scrutiny 2021-22, HC 745

Tuesday 29 November 2022

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Watch the meeting

Members present: Mr William Wragg (Chair); Ronnie Cowan; John McDonnell; Damien Moore; Lloyd Russell-Moyle; Karin Smyth; John Stevenson; Beth Winter.

Questions 1 - 103

Witnesses

I: Rob Behrens CBE, Chair and Ombudsman, Parliamentary and Health Service Ombudsman; Amanda Amroliwala CBE, Chief Executive Officer and Deputy Ombudsman, Parliamentary and Health Service Ombudsman.

Written evidence from witnesses:

– PHSO

Examination of witnesses

Witnesses: Rob Behrens and Amanda Amroliwala.

Q1 **Chair:** Good morning and welcome to the Public Administration and Constitutional Affairs Committee. Today, the Committee is carrying out its annual scrutiny of the Parliamentary and Health Service Ombudsman.

In this session, we will be looking at the performance of the organisation over the past year against its key metrics, including value for money as well as delivering on its business strategy, to assess its robustness. We are joined this morning by Rob Behrens, the Parliamentary and Health Service Ombudsman, and Amanda Amroliwala, deputy ombudsman and chief executive.

Good morning to both of you. Thank you for joining us. I wonder whether you might just introduce yourselves briefly for the record, starting with Mr Behrens, please.

Rob Behrens: Good morning, Mr Wragg. I am Rob Behrens. I am the Parliamentary and Health Service Ombudsman.

Amanda Amroliwala: Good morning. I am Amanda Amroliwala. I am the chief executive.

Q2 **Chair:** The opening question is from me, and then the rest have been allocated to other members of the Committee. Can you explain how your new three-year strategy will support the ombudsman to become, in your words, "an even more modern and vibrant ombudsman service", Mr Behrens?

Rob Behrens: There are four elements to a modern and vibrant ombudsman service. First of all, we must continuously attend to the professional development of staff to provide an efficient and empathetic service to complainants.

Secondly, we need to reach out to marginalised and vulnerable communities. All the research shows ombudsmen across Europe tend to get complaints from a narrow group of people who are better educated and more connected to public administration.

Thirdly, the ombudsman must promote a culture of learning in public administration and improve complaint handling on the frontline.

Fourthly, and most importantly, the ombudsman should be compliant with international standards of best practice. In our case, those are the Venice principles of the Council of Europe, endorsed by the United Nations General Assembly.

Our new strategy does each of those things in terms of moving us forward to make us a better organisation. There are three elements to the strategy. The first is that people who use the service know the ombudsman better and can easily access our service. That is a challenge for everybody, not just complainants to our organisation. The strategy seeks to remove barriers to service and to improve public awareness of our organisation. We have done research that shows us that we need to be better known by citizens. We have to focus on making the right decision at the right time.

Our second strand is that we have to ensure that complainants receive empathetic and high-quality service. To do that, we have set out to embed the Venice principles in what we do. We know we have further to go on that. We need to replicate best practice in complaints handling in the same way as we encourage others to follow best practice. We also have to do something we have not always been terribly good at, which is to harness new technology to provide a more inclusive service so we have a better understanding of what people are complaining about.

The third strand is to create a learning culture. The complaint standards have now been created, but they need to be mobilised and developed. We have had very good feedback about them from a wide variety of people, but we have to make sure they move on and they work.

Q3 **Chair:** How does that high-level strategy, if we might define it as that, integrate with the 2022-23 business plan and the things you are seeking to deliver in that?

Rob Behrens: It is all absolutely part and parcel of that. The business plan is a reflection of the first part of implementing the new corporate strategy.

You asked us to engage a peer review before this hearing. You asked us to include people with auditor qualifications on the panel, and you asked me to look at the independence of panel members to make sure that we were not marking our own homework. Through the International Ombudsman Institute, we did exactly that. There is a new process that ensures that panel members are fit for purpose and independent. We put two auditors on the panel. The Israeli auditor is the only ombudsman in the world who is also the Comptroller and Auditor General. Another auditor came from the Housing Ombudsman Service.

This is an important piece of work, which you asked us to do. Their view was that the new corporate strategy is a good piece of work and it takes us further in the direction we want to go. They thought that the key issues about us becoming better known and reaching out are essential to deliver a better service.

Q4 **Chair:** How will that strategy address the ongoing impacts of the pandemic on the service?

Amanda Amroliwala: Shall I take a bit of that? A key element of the new strategy is about casework improvement. We were funded in the comprehensive spending review to address the queue that had built up during the pandemic. It was not only to address the queue but also to deliver casework better and more efficiently.

A key element of delivery of the strategy is the creation of a casework improvement programme. That has a number of elements within it. One of them is bringing on board new casework staff. We have onboarded over 80 new staff in the year in question. Those staff go into a training academy where they spend 10 months undergoing a mix of classroom training and ongoing support and mentoring by senior caseworkers and managers to help them be the best caseworkers they can be.

Within the programme, we also have a big focus on digital and data. We are doing work to look at how we can improve our service. That is not only about how we acquire information from other organisations. We have gone through the first process of accreditation to enable direct transfer of data from the NHS. It is also about looking at how we use the data that we have. We have a wealth of data about the issues that people complain about in public services. We are looking to maximise the use of that so we can identify more systemic issues across the health system and Government Departments.

Q5 **Chair:** In terms of the new strategy and the previous strategies, to what extent do you consider the objectives of your previous strategies to have

been met?

Rob Behrens: When I came, I had a sense that it was a right of passage that you would claim that the previous strategy had been entirely successful. We want to get away from that.

Against the 2018-21 strategy, we have made significant developments in the integrity of the organisation in terms of improving and developing the professional training available to caseworkers. We were commended by the peer review as being a leader on that in international terms. We committed ourselves to developing our transparency and publishing cases on a regular basis. We achieved that. We have further to go, but we have made significant strides in publishing our cases in the last 18 months.

Thirdly, we were again commended by the peer review on our complaint standards. They have had a magnificent impact in terms of being developed in partnership with health trusts and central Government Departments.

Although there are things that might have been done better, the three central strands of the 2018-21 strategy were achieved. This new strategy builds on that success and tries to take it further. It explicitly references the Venice principles, which is the first time we have used international benchmarks to make sure we are on the right track. We are working in partnership with international colleagues, particularly the Dutch, to look at how to reach vulnerable communities. That is a key part of democratising our service and making it more accessible.

We could not have made this new strategy unless we had significantly achieved the objectives of the 2018 strategy.

Q6 **Chair:** You mention the retrospect of things that might have been done better. For the period 2022 to 2025, what challenges do you foresee at the moment in meeting those objectives?

Rob Behrens: There are huge challenges, and no one should pretend that there are not. We have not come out of the pandemic yet, for a start. The health service is struggling to deal with the issues it has to deal with, and complaints have tended to take second place in dealing with that. The availability of trusts to respond to complaints has not been as quick as we would like. That is the first thing.

Secondly, because of the outdated mode of the ombudsman statute in the United Kingdom, we have about 16 different ombudsman schemes that people have to choose to go through. In most of my counterpart organisations, there are one or two national ombudsmen in their country so it is very easy to know where to go. A lot of our time has to be spent on raising people's awareness of who we are and where they have to go to.

It is very difficult to do that if you have a choice of 16 different ombudsman schemes to go to, which is why the peer review panel said it was essential for the Government—thank you for your support on this—to

introduce ombudsman reform as quickly as possible, although we have been waiting for years and years and nothing has happened.

Chair: Indeed, as you allude to, this Committee has long backed that reform.

Q7 **Lloyd Russell-Moyle:** The Government are in the process of creating a new housing ombudsman. The housing White Paper outlines that. Have you had communications with DLUHC around your availability to take on some of that? Rather than creating new ones, you could start to absorb them. You could do those reforms functionally even if we cannot legislatively do them. Does that make sense?

Rob Behrens: It does make sense. Unfortunately, the Government say one thing and do another. They say they are committed to integrating and creating one public service ombudsman scheme. Every time there is a crisis in public policy, they create a separate new ombudsman scheme. We are getting more and more ombudsmen.

Q8 **Lloyd Russell-Moyle:** I understand that. This is a White Paper that is coming. It is not yet a Bill. I was wondering what communications you have had with the Department. Very often Departments do not talk to each other. You can have one policy in one part of Government and a completely opposite policy in another. We understand that.

Rob Behrens: We do have communications, but there is no central lead on ombudsman reform in the UK Government.

Q9 **Lloyd Russell-Moyle:** Have you had communications with the Departments that are setting them up?

Rob Behrens: I do have communication on Housing Ombudsman issues. I have not spoken directly to the Department on this particular issue.

Q10 **Lloyd Russell-Moyle:** Would it be useful for you, and maybe even us, to write to that Department to say, "There is an ombudsman that could absorb these functionalities"?

Rob Behrens: There are some difficulties for us because the proposed new ombudsman scheme goes outside of the public sector in a way that is difficult for us to do. Yes, it absolutely would be right. We have had discussions with both the Local Government Ombudsman and the existing Housing Ombudsman on these issues. The Government are not for listening on this.

Q11 **Karin Smyth:** You started to say that we have not come out of the pandemic. Could you briefly say what that really means for the health service in practical terms? What might we need to be aware of over the next year or two?

Rob Behrens: We know that there is a critical shortage of trained staff in the health service at the moment. We know that a huge amount of money is spent on bank and follow-up staff in a way that makes care for individuals more problematic. That is the first thing.

We know there are long waiting lists for treatment. We know there are great difficulties in people getting appointments with GPs. We know that in mental health, in particular, there is an even greater shortage of trained staff in a way that makes the care of vulnerable people extremely difficult in the health service.

These issues are not going to go away quickly. There is also the issue of the failure to integrate social care into health. The Government have sat on that for a long time and have not done anything about it. We are faced with the difficulty of having two ombudsman schemes that are looking at the separate issues in health and social care. For example, we know that people who are discharged from hospital and sent back to care homes should be looked at in an integrated fashion. It is more difficult to do that if you have separate ombudsman schemes looking at that.

I am not criticising the staff in the health service. I am saying there are structural reasons why there remains to be a crisis.

Q12 **John Stevenson:** I just want to touch on casework, productivity and performance. You have touched on this a little bit already, Amanda. The end-to-end review of the casework process was completed in 2021-22. What changes do you expect to implement as a result of that?

Amanda Amroliwala: As I said, we did an entire end-to-end peer review. We had over 260 suggestions and ideas that came out of that review, which we have grouped together into work packages. Most of those were bottom-up; they were driven by frontline staff members with ideas about how we could do things better and more efficiently.

We have made a number of changes as quick wins. We have made changes to our complaint forms so that we ask people for different and better information. We have made changes to our letters and our templates. We have made changes to our technology systems to remove duplication and to increase automation. We have made changes in a number of areas, all designed to drive greater efficiency.

A number of others have been built into our business planning processes. As we go through the casework programme development that I mentioned, we will continue to implement those ongoing improvements.

Q13 **John Stevenson:** When will you review the things you have already implemented or are implementing?

Amanda Amroliwala: They will be reviewed as part of our business planning process at the end of the year. We will look at what we said we would deliver, the changes we have made and the impact of those.

For example, one of the ideas that came out of the review was that the decision form that our caseworkers construct as they work through a case was very lengthy. Often, there were areas of duplication. We have reduced that from 12 pages to five pages, saving a considerable amount of time every time a caseworker investigates a case. There are lots of things like that that are giving us real-time savings every day.

Q14 **John Stevenson:** On a specific point, your annual report says that 81% of cases following further investigation were closed within 52 weeks. Your target is 95%. Why the disparity?

Amanda Amroliwala: Coming into the pandemic, at the end of the 2019-20 business year, we were doing really well against our four performance targets. We have targets for one week, 13 weeks, 26 weeks and 52 weeks. At that point, in the early part of the pandemic, we were exceeding two of our performance indicators and we were just under the other two.

Then the pandemic hit. The impact on our staff and on the NHS was enormous. We had to pause our service completely in relation to NHS complaints for the first three months to allow the NHS to focus wholly on fighting the pandemic. Afterwards, as Rob has mentioned, there have been ongoing challenges for the NHS and an inability to respond promptly to our complaints. Alongside that, we had the pressures that all organisations have faced during the pandemic period, such as staff sickness, changes to working from home and implementing new technology solutions.

We have built up a queue of unallocated cases that built throughout the pandemic. When we started the business year in question, we had a queue of around 3,100 cases that were unallocated as a result of all of the issues I have just mentioned. During the year in question, we brought that queue down to just over 2,200 cases. We reduced it by a third, and that was despite the fact that the numbers of complaints coming to us rose during that year by 24% on the pre-pandemic period.

What we are seeing is a picture of more complaints about the health service and a big queue of unallocated cases that we are really working hard on and reducing at some speed. Inevitably, as we close those older cases, that affects the average waiting time.

Q15 **John Stevenson:** When do you therefore anticipate getting back up to your 95% target?

Amanda Amroliwala: Even since the start of this business year at the beginning of April, we have reduced the queue by a further 500 cases, even though the demand for our service is still running at very high levels compared to pre-pandemic.

Our plan is that we will continue to bring the numbers down by the end of this financial year, and then, through next year, bring the queue down to frictional levels. By the end of the business year 2023-24 we are hoping to have completely cleared the queue of unallocated cases.

Q16 **John Stevenson:** You want to get the high number of cases down, and you have mentioned the words "empathetic" and "best practice." One way of achieving that is mediation, but the number of cases that are resolved by mediation is 0.1%, which seems incredibly low. What is going wrong there?

Rob Behrens: Nothing is going wrong. This is a long-term project. It is being integrated into the culture of the organisation. The figures are dramatically increased this year—

Q17 **John Stevenson:** Sorry, you are saying it is going to increase dramatically from 0.1% this year.

Rob Behrens: "Dramatically" is a pejorative term, but in terms of numbers it will more than double.

John Stevenson: It will be 0.2%.

Rob Behrens: I do not know. I have not worked it out. At the moment, we have more than double the number of mediations resolved that we had last year, and we have not come to the end of the financial year yet. We have not done the last quarter.

Q18 **John Stevenson:** Would you agree that mediation is a good route to take to reduce the numbers?

Rob Behrens: I am the person who brought mediation and the idea of mediation into this office. Before I came, there was no prospect of mediation. It was done by investigation. We trained a small group of people to undertake mediation cases. We have been through the pandemic, in which the health service did not want to engage in mediation because they felt they did not have the time for it. As you know, mediation can only happen if both parties are prepared to engage in it.

We have done a lot of things to develop it. First of all, we have significantly increased the number of people who have been externally trained to undertake mediation so we can take more cases. Secondly, we have looked at the cases coming in from the mediation team's perspective, and they believe that, in the medium term, 25% of the cases that we receive are capable of being resolved by mediation, without investigation. We need to develop our capacity to do that.

Our mediation team has been working with the investigators in the office to pass on their experience of what works in mediation, which would be useful to investigation to make us a more compatible and empathetic service.

Q19 **John Stevenson:** I just want a simple answer. You think mediation will reduce the numbers, which is a positive, and you anticipate that number increasing significantly over the course of the next year.

Rob Behrens: Yes.

Q20 **Chair:** Before you embarked on mediation as a route forward, did you have a rough—"target" is the wrong word—idea as to the proportion of cases that might be resolved in that way? I mean when it is up and running. I accept that it is new, culturally, particularly for the health service in this instance. Over time, where would you hope for that to reach?

Rob Behrens: I will not be here.

Q21 **Chair:** Where will it reach for your successor?

Rob Behrens: The key thing is that we should be trying to double the number of cases that we mediate in successive years so that there is momentum and people understand the value of it.

There is one difficult problem. While we can publish the details of investigations that we conclude, mediations take place in private, so we are not able to publish the successful way in which the parties to mediations have engaged. We have to think about that and find ways to deal with it.

It is not going to go away. We were out of line with European practice in not having mediation, and it is working with a high-quality team.

Q22 **Lloyd Russell-Moyle:** The year before last, we talked about mediation. I asked you about the role that MPs' offices could have. I know you are slightly allergic to MPs having a role in the process. It is something that I think is rather positive, but we all agree that it could be reformed to be better. I wondered how you have got on with training and working with MPs' offices on a mediation approach that could be pre-mediation or early intervention using those resources.

Rob Behrens: "Allergic" is your word, not mine. We are not allergic to MPs. We see MPs as a vital constitutional link between complainants and public administration. There is no way in which we regard that as a bad thing.

The problem is that at the moment the MP filter prevents large numbers of people from bringing cases to us that they want to bring to us. When we tell them—Amanda has the figures—they have a complaint, but they have to go through their MP, they do not come back to us.

Q23 **Lloyd Russell-Moyle:** It is only 12%. It would be nice to know what the actual number is. What is 100% of that number?

Amanda Amroliwala: It was well over 2,500, and around 270 came back to us.

Rob Behrens: We have done a perception survey that included over 100 Members of Parliament giving their views about us. That was fine and interesting, and there are things we can learn from that. The problem is that MPs' responses to the ombudsman are variable. Some are committed to sending cases; others do nothing in terms of sending cases to us.

Q24 **Lloyd Russell-Moyle:** We have been side-tracked by my term, "allergic." What I mean is that you do not like the MP referral process. Those are well-thought-out views. When we talked about mediation last time, we talked about engaging MPs' offices in mediation and pre-mediation services so their staff and caseworkers could better support you and you could better support them.

How have you been involved, in the last year, in supporting and training MPs' offices so that those that do not engage do engage better with you and that those that do engage can work in a more proactive way in pre-mediation so that some of those 2,500 might be resolved in the MP's office and never come to you?

Amanda Amroliwala: We have planned to work with MPs' offices in the new strategy. Last year was a bridging year. We talked about the fact that, until we got the funding for the new strategy, we would not be able to do a lot of the outreach activity.

The research that Rob just mentioned was the first part of that. That involved going out, engaging with MPs' offices and talking about what would make the relationship work better. Then we need to create a work plan to talk to MPs' offices about how we can support and help. We have already been offering training, as part of the complaint standards, in mediation techniques to the frontline health services. It is something we can easily move across into MPs' offices as well.

Q25 **Lloyd Russell-Moyle:** When you have a complaint on health, which does not have to go via the MP filter, do you engage the MP for the local area on a routine and automatic basis?

Amanda Amroliwala: We do not.

Q26 **Lloyd Russell-Moyle:** Why not?

Amanda Amroliwala: Within the legislation, members of the public can bring a complaint to us about something that has happened to them personally within the health system, often concerning their personal medical records. We do not have the authority to contact other people about the complaint they have made. That is a direct relationship between us.

Q27 **Lloyd Russell-Moyle:** Do you ever ask the individual whether they would like the MP to be informed?

Amanda Amroliwala: The individual sometimes does ask their MP.

Q28 **Lloyd Russell-Moyle:** Do you proactively ask them?

Amanda Amroliwala: We do not ask them, no.

Lloyd Russell-Moyle: You are allergic to MPs, then, really.

Rob Behrens: No, sir. I am sorry. That is unfair. It is also unfair for you to say, "You do not like the current situation." It violates the Venice principles. It means that citizens do not have direct access. We put—

Lloyd Russell-Moyle: Are you elected by two-thirds of Parliament?

Chair: Order, Order.

Lloyd Russell-Moyle: That is a Venice principle as well. Lots of things violate the Venice principles.

Chair: If we could keep good order, I would be grateful.

Q29 **Ronnie Cowan:** I am looking at the numbers here and at some of the things you have said about getting through the backlog. I understand that organisations can get bogged down in these things, but from what I can understand you have adopted your own criteria on the severity of injustice. Correct me if I am wrong. It is a scale from 1 to 6. Effectively, you have said, "If it is a 1 or a 2, we are not going to touch it." It says that on the website. It says, "We will get back to you and explain to you why we are not going to go with this."

Your numbers, which are impressive, have come down from 3,084 at one stage to 1,647, but effectively you have not fixed any of those problems; you have not addressed any of those problems. You have just ignored those problems. The criteria almost tell people that their complaint is not worthy of being considered by the ombudsman.

Amanda Amroliwala: When we talked with the Committee last year, we talked about introducing a new approach, which essentially looks at those cases that have less severe impacts. We consider that in the context of a number of things.

First, applying proportionality is common amongst all of ombudsman services. It is a standard approach that not everything is investigated. In a world of competing resources, we cannot look at everything that people want us to look at. First of all, we were adopting a standard approach.

Secondly, we have a severity of injustice scale that we designed to set out for members of the public the sorts of financial amounts that might be awarded in some of our casework. Alongside those financial amounts, we set out the sorts of cases that might qualify you in one of the six bands.

The lower end of the scale, at the first two levels, includes areas where an individual might have experienced something that was annoying or frustrating, for example, but did not have any long-term medical impacts on them. When we were faced with the pandemic, with the huge pressures on our own service and the huge pressures on the NHS, we took a judgment that it was not right for people who had had more serious injustices and harms happen to them to be waiting in an ever-increasing queue in which there were also people who had had things happen to them such as a cancelled medical appointment, the explanation for which they were not happy about.

Q30 **Ronnie Cowan:** How does that happen within an organisation? Who is making the decision that this is simply an inconvenience rather than a serious health issue? Your website says, "If we cannot resolve it quickly and we can see the impact on you was relatively minor"—you are making the comment that it might be relatively minor; it has had a big enough impact on someone's life for them to take it to the ombudsman in the first place, but you are calling it minor—"we will let you know that we will not be taking it any further." That sounds to me like you have slammed the door in their face. Is there mediation at this point?

Amanda Amroliwala: We examine every case that is brought to us. If, on the basis of the information that has been provided by that complainant, we assess that the case is in a lower area of injustice, we telephone and talk to the individual. We talk through the injustice and the issues—

Q31 **Ronnie Cowan:** How are you talking to the individual?

Amanda Amroliwala: We talk to them by telephone. We call all of those individuals. We talk to them about the injustice. We listen to them to make sure we are making the right assessment. If there is any doubt, if the doubt is that it is a more severe case, we would always take those cases through for further consideration. We do talk to everybody; we listen to what they have to say. We also explain why we are making these judgments.

When we go through that process and explain, the vast majority of people accept that explanation. They understand that we are in a world of competing resources and huge pressures on the NHS and on our own service.

Q32 **Ronnie Cowan:** How many health complaints are covered by levels 1 and 2?

Amanda Amroliwala: In the last 18 months, around 1,700 complaints have been brought to us that we have assessed as being at level 1 or 2. Of those, we have managed to achieve resolutions in about 114 cases. The rest of those we have communicated to the member of the public that we will not be taking their case forward.

Rob Behrens: Mr Cowan, these are difficult decisions, but it is very important to accept that ombudsman services across Europe use the proportionality principle in a way that we did not do before the pandemic. It is unusual for a national ombudsman service to accept everything that is sent to it in the way we used to do. This is not without precedent.

The other point is that, as Amanda is alluding to, if there is a strategic dimension to a less serious complaint, which impacts on our understanding of covid, for example, we will look at it even if it is within the lesser bands.

Q33 **Ronnie Cowan:** In terms of your grades of 1 to 6, how many of the complaints you are receiving would be at levels 1 and 2? Is that proportion increasing?

Amanda Amroliwala: As I said, over the 18-month period, there have been 1,700 that we have assessed as being at that level.

Q34 **Ronnie Cowan:** How does that compare to levels 3 to 6?

Amanda Amroliwala: We took 36,000 complaints into the organisation in 2021-22.

Q35 **Ronnie Cowan:** Do you believe that level 1 and 2-type complaints are increasing in number?

Amanda Amroliwala: No. The numbers are pretty stable. In fact, we are seeing an increase in more serious complaints coming to us from the health system. Again, this is something coming out of the pandemic. I mentioned that the overall numbers coming to us have risen quite substantially. The seriousness of those issues is also rising.

We are seeing issues such as delayed diagnosis through inability to access treatment. People are being diagnosed much later in their illness, often with much more serious consequences. Overall, the sorts of complaints coming to us are becoming more severe.

Q36 **Ronnie Cowan:** You said you would update your website by September this year, and you have done. It is pretty much a one-liner that says, "You may fall into this category." I am trying to put myself in the shoes of a person who has made a complaint and been told, "We are not going to take this any further." Apart from that telephone call, how are you communicating this? How are you communicating the criteria in the first place?

Amanda Amroliwala: On the website, we have updated the information in different places. We have updated the headline information, but, when you go into our complaint checker, where you go through a process to find out whether you are ready to bring your complaint to us, there is updated information and a link to our severity of injustice scale. You can look through and see the sort of complaint you are proposing to make and where that fits.

When you telephone our organisation initially to talk about your complaint, our inquiry centre, our intake caseworkers, will go through your complaint in some detail with you and talk about our approach. That happens. If you bring the complaint to our system, the individual caseworker, after triage, will go back and talk to you as well.

Q37 **Ronnie Cowan:** On the basis of that, are any of the level 1s and 2s escalated to become level 3s and 4s?

Amanda Amroliwala: Sometimes, yes. If it is a borderline case and we cannot make that judgment, we would take that case into our system. There are also a number of cases where we identify particular vulnerabilities, or perhaps there are issues such as discrimination or systemic issues, where we would take those cases through into our system as well.

We have a safety net, or quality check, that makes sure we are taking the right cases through and not inappropriately stopping more serious cases.

Rob Behrens: There is a strategic point to add to this as well. In our judgment, cases are being resolved too far away from the frontline. The complaints standards initiative is designed to increase the quality of complaints handling on the frontline so that many of the less serious cases can be resolved at the frontline, which means they do not have to come to us.

That is important in terms of making sure that our time is better used on dealing with the more serious cases, although I accept absolutely that we have to communicate what we are doing with clarity and with empathy.

Q38 **Ronnie Cowan:** That leads me nicely into the service charter results. There are 13 different boxes here to measure how you have progressed since 2018-19 up to 2021-22. All of them are performing worse, apart from one, which has stayed the same. The one that has stayed the same is, "We will gather all the information we need, including from you and the organisation you have complained about, before we make our decision." That is only at 48%. What happens in the other 52%?

Amanda Amroliwala: Each year, we talk to this Committee about the service charter. When we spoke last year, I said we were looking fundamentally at the service charter and what it tells us. What we find is that, over the five years or so the service charter has been in operation, the scores have largely flatlined across that period. From the starting point to today, so from 2016-17 right through to today, they have gone up and down slightly year on year.

Q39 **Ronnie Cowan:** I would not say they have flatlined. They have decreased. The overall section score has gone down. The KPI has gone down in every single one.

Amanda Amroliwala: Overall since 2016-17, the scores have been grouped into three. One of the groups has gone down 1%; one has gone down 2%; and one has gone down 4% overall. They go up and down over the period.

Q40 **Ronnie Cowan:** "We will keep you regularly updated on our progress with your complaint" has gone down 8%.

Amanda Amroliwala: Yes, they go up and down within quarters and overall within the year.

Ronnie Cowan: It has gone down.

Amanda Amroliwala: What we know is that what we do in terms of service changes does not have any causal impact on the service charter scores because that is measuring the experience from the customer's perspective.

As we have talked about at this Committee before, that perspective is different depending on whether a person has had their complaint upheld or not. When we did some analysis back in 2018-19, it told us that, if we uphold a complaint, customer satisfaction was running at 86%. If we did not, it ran at 47%. We are offering the same service.

What we have done this year is commission an independent research company to go back in detail through all of the service charter survey responses over the last five years. We have asked them to conduct focus groups with complainants, and individual interviews with complainants, to get under the skin of what it is that creates satisfaction in terms of our

service. They have been gathering all of that information, and they will be presenting that back to us shortly.

We are going to use that to determine how best to measure the change in our performance and how that feels in terms of customer experience.

Q41 **Ronnie Cowan:** Do you believe the results of these KPIs?

Amanda Amroliwala: There are 13 KPIs. I have talked about the five years or so they have been in operation. Ten of those have consistently tracked above 60% in terms of customer satisfaction; four have tracked consistently above 75% in terms of customer satisfaction. There is a great deal in the results that says we are doing a pretty good job.

Then there are three that are tracking less well. No matter what we do, it does not impact directly on those scores. When we cleared the queue of complaints at the end of the financial year 2018-19, the score on timeliness—I will give you the result quickly—dropped in the following year when there was no queue. There is no link or logic between some of the scoring and some of the scores.

That is why we are doing this extensive piece of work to understand better what will work to measure changes in our performance better.

Rob Behrens: The Committee asked us to develop a score for impartiality. It has done so over a number of years. We have done that, and we have an impartiality score of around 70%, which is good. It is not good enough, but it is an indication that we have a good basis for people respecting our judgments.

Q42 **Beth Winter:** I have a question of clarification, Mr Behrens. I have not had many dealings with your service, but I have with the Public Services Ombudsman for Wales. Very often, a referral will come back to say that due process has to be followed and the individual needs to exhaust the internal processes. Is that something you do? You get in a huge amount of complaints. Do you make sure they are coming to you at the right stage and they have exhausted the internal process? That is a way of being able to make sure complainants are dealt with at the frontline by the best person.

Rob Behrens: Yes, absolutely. You make a very important point. We will receive around 130,000 inquiries each year. Of those, less than half are ready for us to investigate or to look at. This is a public service. We have to advise people where to go to resolve a complaint before it comes to us.

Q43 **Beth Winter:** There is an issue there, is there not? Going back to Lloyd's point about MPs' offices being used better, people are being referred to you incorrectly a lot of the time. There is a flaw in the system.

Rob Behrens: Yes. Very often it is people ringing up and saying, "We cannot get sense out of anybody else. Can you help us, please?" That is not the situation in Wales, where there is not the same filter as the one that applies to the United Kingdom. It is a challenge for us.

Q44 **Damien Moore:** Your response to the last scrutiny report said you would explore the viability of publishing feedback scores split between those who were satisfied and unsatisfied with the outcome of their case. Has this been given any further consideration?

Rob Behrens: Absolutely, yes. The research report we have commissioned from the independent company deals with that. We are of the mind that this is something that is so significant in determining people's view about our service that we will want, unless there is very good cause, to introduce data that shows the difference between people whose cases are upheld and those whose cases are not.

I know from my previous work as an ombudsman in higher education and other schemes that this is absolutely critical to deciding people's view about what has happened. We need to make sure we recognise that. There is also an issue about what feelings people bring to the ombudsman, having been through the health service or through a Government Department. There is some indication that they are already angry and frustrated at the point they come to us, which is going to impact on their views. We need to capture that as well.

Q45 **Damien Moore:** When will this be?

Amanda Amroliwala: As we say, we are compiling all of the information at the moment. That will be presented back to us. We would hope to be able to introduce changes to the way we operate the service charter next year.

Q46 **Beth Winter:** I am looking at staff and staff training. You have recruited 30% new staff, which is really positive. However, you still have a turnover of around 16% in 2021-22. How can you ensure that staff turnover does not impact on the new recruits and the quality of the service? What sort of training is provided to those new recruits?

Amanda Amroliwala: During the pandemic, as with most organisations, we saw very low turnover. People stayed. Once we came out of the main restrictions of the pandemic, the job market became quite buoyant and we started to see movement because people had not moved over a couple of years.

Turnover has stabilised now at around 11%, which is pretty consistent across different public services. We have found that we have been able to recruit great caseworkers. When we go out to the market for new caseworkers to come in, we have huge numbers of applications, and we are able to select really high-quality individuals. We have also recruited a lot of people to help us with our new strategy as well. Those are members of staff who are going to help us with our outreach work, going out to into communities to help us create a public user panel.

I mentioned digital and data earlier. Those are areas where it is more challenging to recruit. In the areas like digital, data and programming, we are competing with the private sector and private sector salaries. It is

harder to get staff but, again, we have managed to secure some really high-quality individuals.

When staff come to us, everybody goes through an induction programme. For caseworkers, as I mentioned, we have a 10-month training academy. That is a very extensive programme that the peer review recognises is sector-leading. We take people through classroom training and a lot of coaching, a lot of mentoring and a lot of support to develop their casework skills.

One of the areas that we have talked about with this Committee before is career progression and people feeling that they did not have opportunities to progress within the organisation. As we have expanded and been able to create more management roles and senior casework roles, we are starting to see career progression up through the ranks to those roles too.

Q47 **Beth Winter:** Do you feel you have sufficient staffing levels, given the backlog of cases that need to be investigated?

Amanda Amroliwala: We are just bringing the final group of new caseworkers into the academy. We will now take those through into the next financial year. We have recruited significant numbers. With the numbers we have, we are really confident that we will be able to bring the queue down over the next 18-month period.

Q48 **Beth Winter:** You have established four parliamentary focus teams. How do you feel they could improve the handling of parliamentary cases?

Rob Behrens: If I could just make a general point, in the last two or three years we have seen a resurgence in the amount of scrutiny we have undertaken in parliamentary cases, with some significant findings in terms of Windrush, women's state pensions, HS2 and the Department for Work and Pensions and welfare benefits.

That is important, but it would not have happened if we had not had people in specific teams with the expertise and the right environment to be able to undertake that work. It has been an extremely positive process, and we are building on it.

Q49 **Beth Winter:** The investigations result in an outcome for the individual, but there are also systemic changes that need to happen. You touched earlier on the integration of care and health. Are you having enough of an impact in terms of systems change? Unless these issues are prevented in the future, you are going to keep getting significant numbers of complaints. It is just a vicious circle, is it not?

Rob Behrens: Yes, absolutely. We make recommendations. Our record of them being adopted is over 96%. It is probably nearer 99%. There is not a problem—even without the binding powers that other ombudsmen have and that we do not want—about organisations implementing our recommendations.

There is a problem in a small number of cases—they are often big cases—where a Department or a trust refuses to comply with our decisions. That is when we lay the case before Parliament. Unfortunately, with respect, this Committee has chosen not to follow those cases up, which means that, in our view, there is a gap that could be usefully filled if the old practice of calling those bodies to give evidence to this Committee were continued.

I understand the reasons why that does not happen, but it is not to the benefit of our impact that the opportunity is lost.

Q50 **Beth Winter:** We will come back to that. Finally from me, the peer review panel raised lots of issues and a number of areas for improvement. Some of them seemed quite routine to me, such as accessible language being used for complainants, and so on. Are those recommendations going to result in changes and improvements in the service for complainants?

Rob Behrens: Absolutely, yes. I do not know whether you have had chance to read the peer review report, but it was an emphatic endorsement of our robustness and our effectiveness, and it pointed out that we were international leaders in a number of areas.

They also made 17 recommendations for how we could do things better, which is why we commissioned them in the first place. We wanted to know how to do things better. We have accepted all 17 recommendations in terms of the suggestions they have made. We have published this. As things go forward, we will be in conversation with the panel and with you about how to implement those recommendations. It has been entirely positive and beneficial, and we are very pleased we did it.

Q51 **Beth Winter:** Do you have timeframes for implementation?

Rob Behrens: A lot of the suggestions they made are not world-shattering. They could be done incrementally without too much difficulty. We have set out our response to each question very frankly, and that is available for people to look at.

Q52 **John McDonnell:** Can you give us an example of where you think the Committee has not followed through on a case? We can always try again.

Rob Behrens: I am respecting the Committee. I am not telling the Committee what to do, but there was a lost opportunity in the case of the Environment Agency, which did not comply with our recommendations over a licence to a service user. The Environment Agency would not accept the findings of an independent report about the quantum that should be given.

In previous terms, that would have caused the chief executive to be asked to give an account to this Committee, but that does not seem to have happened. As a result, it has laid in furlough and nothing has happened.

John McDonnell: We can look at that again.

Q53 **Damien Moore:** When you responded to the Committee's report in July, you mentioned that 22 of the 25 recommendations of the Donaldson review on the use of clinical advice had been implemented. What is the status of the remaining three?

Amanda Amroliwala: One of them has been completed. It was about changes to the quality framework for clinical advice. That has been changed and is now being used and worked on to align it with our wider quality framework.

There were two others. One was in respect of sharing how clinical advice is used in our investigations with clinical advisers. We have already done that for all of our more serious cases. We routinely share the provisional view report with the clinical adviser to make sure we have used the advice in the appropriate way. We are now in the process of considering how to roll that out more widely without impacting on the length of time casework takes. That is not straightforward because there are bigger volumes.

The final one was about naming clinical advisers. One of the recommendations was that we should consider whether we would name the clinical adviser in our investigations. We have done quite a lot of work talking to other organisations, such as regulators that use clinical advisers, to understand what their practice is.

There was a recent decision by the Information Commissioner that said the names of clinical advisers should not be given. We are now considering that and in fact what our approach should be in the light of all of that information.

Q54 **Damien Moore:** Is there anything else you are doing in the light of that as well, other than the advice given?

Amanda Amroliwala: The review gave us lots of ideas for things we could do differently in relation to how we use clinical advice. We have responded to those in a number of ways.

At PHSO, we have created new roles of lead clinician and senior lead clinician. They are all clinical practitioners. They review all of the clinical advice for quality assurance purposes. They are involved in multidisciplinary discussions when we have different types of health advice. They get involved in our highest-risk and most complex casework to make sure we are approaching that in the right way from a clinical perspective.

We have also done things such as changed our communication templates. We tell members of the public the qualifications of the clinical adviser and the experience of the clinical adviser so they can have confidence as to why we have gone to a particular clinician. Those are just some of the changes we have made.

Rob Behrens: Sir Liam Donaldson made the point to us, when he wrote his report, that clinical advisers were too segmented from the

investigation teams in the office and there needed to be more symmetry between them. We have addressed that.

Covid has dramatically impacted on our ability to do these things quickly. Recognising what constitutes a covid issue is now something that our clinical advisers work with investigators to identify. There are regular meetings between the clinical advisers, the investigators and the lawyers to make sure each party contributes to the effectiveness of our judgments. That is a good thing.

Q55 **Damien Moore:** Will this improve the trust and confidence that people want to have in what you are doing? Will it improve because of what you are doing?

Amanda Amroliwala: With many of our clinical investigations that involve health, members of the public want to know that somebody independent has made a judgment on the clinical practice involved in that investigation.

We make lay decisions. Our investigators are not medical practitioners, but we need to rely on expert advice. Over the course of this period we created the Ombudsman's clinical standard. That sets out very clearly how we will use that advice; it explains how individual clinicians who are giving us their expertise will judge the activity in question against the clinical standard. For example, they will look at what should have happened, what guidelines the initial clinician should have followed, what is good practice and whether they did that. They will judge whether there was a gap. Then our investigators will examine that.

If that information is used as material evidence in our investigation, we will share that with the complainant as well, so the complaint can be confident of the fact we have used an expert, considered what they have said, judged it against the right standards and shared that material evidence with them.

Q56 **Damien Moore:** Just going back to something we mentioned before, would that increase customer satisfaction?

Amanda Amroliwala: Yes.

Rob Behrens: There is a challenge there. Some complainants are sceptical about whether the case-handler is making the decision or whether it is being made by the clinical adviser. We have to be absolutely clear that the independent case-handler is the person who makes the decision on the basis of advice, which is looked at carefully. There may be more than one piece of advice that has to be reconciled with other pieces of advice. We have more to do to make sure people understand that is how things work.

Q57 **Chair:** Before we proceed, the case as regards the Environment Agency was raised, Mr Behrens. As you are aware, we have written to the Environment Agency on that matter and are waiting upon a Command Paper from DEFRA before we can pursue anything else. I just wanted to

clarify that matter.

Rob Behrens: Thank you, Chair. I respect what you are doing. There is also the case of the Department for Work and Pensions and their failure to give benefits compensation to individuals who have suffered as a result of that. There has been no compliance on that.

Q58 **Karin Smyth:** I want to come back to staff management and training. We note that, generally, the diversity statistics are very positive. Maybe you could talk us through what you have recently done in order to improve the diversity of the workforce.

Amanda Amroliwala: It has been an absolute focus for us. One of the big areas we have focused on is recruitment and how we make sure we reach out to the most diverse communities in terms of bringing people into our organisation because we want to reflect as best we can the communities we serve.

In the last 12 months, we have recruited a lot of people into our service, as I have mentioned. The recruitment of people from Asian, black and minority ethnic groups is running at around 28% of all recruits, which is a big improvement. That is helping us to raise our overall diversity.

We want to be the most inclusive and diverse organisation we can be. Recruitment is a really important aspect, but it is also about culture and the organisation. We have a very open culture. We have different networks, and we encourage participation in various staff networks to promote inclusion and diversity.

We have a diversity and inclusion calendar where we try to celebrate different aspects of diversity, and we have learning labs and workshops, again to promote inclusivity. We have teams of people who are always thinking about what we do. Every time we change a policy or a practice, we will do an equality impact assessment. We do that to look fundamentally at what we are doing and what sort of impact that will have not only on our own staff but also as we reach out towards members of the public. It is an integral part of everything we do.

Q59 **Karin Smyth:** The only area that looks like it is not working is with the over-50s, which is a problem in the wider economy. Do you have any insight into what is happening and why the group of over-50s, many of whom are women, are either not being retained or are not at the level you are at for other groups?

Amanda Amroliwala: We have more women working in the PHSO than we do men.

Karin Smyth: You do generally, yes.

Amanda Amroliwala: We have done a lot of recruitment into the organisation from a diverse and mixed group. We have had people coming to us as late-career individuals, as well as those coming to us as their second or third job. We are doing everything we can to promote

diversity in all its forms. We have a mixed age group running from some very—

Q60 **Karin Smyth:** It is lower for the over-50s than it was previously. That is reflective of the wider economy. Do you have any insight into whether that is because you have not been able to retain those people?

Amanda Amroliwala: We certainly saw people making different life choices as a result of the pandemic. Some people have chosen to leave the workforce completely at that stage rather than remain longer. Generally, there is no particular issue with people in older age groups leaving us.

Rob Behrens: We do have a negative gender pay gap, which is encouraging as well.

Q61 **Karin Smyth:** If we look at the staff survey, you have improved scores in relation to staff engagement. What measures were put in place to achieve those results? How are you going to sustain them, given the pandemic?

Amanda Amroliwala: We made a big investment in the training and development of our management team. A lot of activities have improved the scores for managers. All of our managers go through an exemplary manager programme. That involves a lot of different aspects, but a core aspect is about the coaching and mentoring of their team and giving support to their team.

Generally, training has been a significant investment. We invested in more than 2,000 training days over the course of the year in question. We do offer general support for staff. We want to make PHSO a great place to work. We want to attract the brightest and the best because that is how we give the best service. We have invested a lot of time and effort into building a really supportive culture and a place people want to work.

Rob Behrens: Could I just say something there? These scores do not come about by magic. They come about because the leadership team, on a daily basis, is engaged in a conversation with the staff in Manchester and London about what is going on. There are four things that feature in our culture that are important.

First of all, 80% of staff think it is a diverse and inclusive workplace, which is significant. That goes to the point you were making. Secondly, people feel trusted to do their jobs and supported when things go wrong. Thirdly, they think it is safe to challenge the way things are done at PHSO. We have our own speak-up guardian, and people feel they can challenge what we are doing.

Lastly—22% above the civil service benchmark—82% of staff think we have a clear vision about where we are going and what we are doing, as a result of the engagement that the leadership team has with the office.

You cannot just do this. It has to be done regularly all the time. When I have talked to tranches of new colleagues who come in, they have said that in their previous jobs they did not see their bosses. When they come into this organisation, they see their managers and their leaders. We need to continue to do that and to talk to them about how to become a better service.

Q62 **Karin Smyth:** As you said, we drew attention to those positive results. We want to make sure we recognise positive things as well for staff. Finally, to be a bit negative, it may be inevitable, but we saw the headline scores for pay and benefits and anxiety dropping during this time. Do you want to talk us through those particular aspects?

Amanda Amroliwala: Yes. This survey was run a year ago. It was at a time when we were just entering into our pay negotiations with our trade union colleagues. It was a time when inflation was starting to rise rapidly and there were predictions of rapidly rising inflation.

Unsurprisingly, staff were concerned about where that would leave them in terms of their pay and benefits versus the cost of living. We saw a big drop in that survey score, but it still remained significantly above the civil service benchmark. People were generally feeling better than elsewhere in the public sector, but they were recognising that we were entering into some really tough times. That was not surprising at all.

Again, on anxiety, bear in mind that this is a year when we still had lockdown measures until July. We had the omicron variant surge in the autumn, which was the time when we were doing this survey. People were very concerned about the ongoing issues of the pandemic.

Q63 **Karin Smyth:** Inflation has got worse. We are entering into a different situation. What is your feeling about that now?

Amanda Amroliwala: The issues of pay will be really challenging for us. We had a settlement from the Treasury, which did not take account of the levels of the inflation we are now facing. Therefore, it is going to be a challenging discussion this year as we start to try to negotiate pay going into next year. We are facing similar challenges across contract negotiations with our service suppliers. Inflation running at the rate it is will put pressure on us and our budgets. There is a tough year ahead.

Q64 **Chair:** Could you confirm that the resource budget for 2022-23 increased by 24% on actual spending in 2021-22?

Amanda Amroliwala: I am sorry. Those are two separate periods with a gap in between.

Chair: What is the extent of the increase that was granted by the Treasury?

Amanda Amroliwala: In real terms it was an increase of around 17% on our previous budget. We put forward a case, because of the pandemic and the pressures on our service, to get a significant uplift. In that bid, we were able to demonstrate to the Treasury that we had fulfilled the

commitments we made to it previously and that we were a good investment and would spend the money wisely. Our audit reports over the last seven years have come back very positively. In fact, there has only been one recommendation in the last four years from the National Audit Office.

We were able to give confidence to the Treasury, and we were also able to set out the ambitious change agenda we want to do to make our service even better as we came out of the pandemic. We were given investment to enable us to do that.

Q65 **Chair:** On that increase, have you had anything from Treasury since then to suggest that your budget will be subject to efficiencies?

Amanda Amroliwala: We committed to efficiencies as part of the comprehensive spending review. We are committed to delivering them over the three-year period. The autumn statement did not give us any indication that our budget for the coming year would be affected. Like all public Departments, we understand that there are pressures, and we are continuing to look for efficiencies where we can.

Q66 **John McDonnell:** We are coming to the peer review. You have mentioned it extensively. You must be really chuffed with the response in that.

Rob Behrens: I am not chuffed, sir. This is difficult. We want to learn how to do things better from colleagues who have been through that experience. What was important about the peer review was that international colleagues came to Manchester for two days. They had the freedom to look at our books. They had confidential meetings with complainants, with bodies in jurisdiction and with non-executive staff. They had a meeting that was in private with members of staff.

They came out with, as I said, 17 ways in which we could do better. That is extremely helpful.

Q67 **John McDonnell:** It had a positive impact. Could you elaborate on some of the changes you are now going to implement as a result?

Rob Behrens: Do you mean from the peer review?

John McDonnell: Yes.

Rob Behrens: Although they said it was sector-leading, they had lots of suggestions about how we could improve our training and development for staff coming out of the academy. They wanted us to increase the amount of cases we published after completing them, because they thought this was important in democratising and sharing.

They were absolutely committed to the idea of us doing outreach work with vulnerable communities. They said that was a key issue. They made very sensible suggestions for how we could bring together the proof that we were providing value for money in a more systematic way. They said we were too modest in not putting that forward. They made a whole host

of suggestions, to which we have committed ourselves and which are very valuable.

Q68 **John McDonnell:** What was the main weakness they found?

Rob Behrens: They said this was a strong and robust organisation. They said we need to be careful that we do not try to do too many things and therefore exhaust our colleagues by asking them to do too much, which is important. Secondly, they did say that they felt we could do more to demonstrate an empathetic approach to complainants, although they accepted that we do a lot already.

Q69 **John McDonnell:** Can we just talk about hybrid working now? You said there had been an evaluation of the hybrid working pilot, which reported in the autumn. Has that been completed? If so, what was learned from it?

Amanda Amroliwala: It has been completed. We conducted quite a lengthy pilot of hybrid working to see what worked. We took in the data, surveyed staff and did an assessment of performance. We found that hybrid working offered us really good benefits, not only for the organisation but also for staff members working with us.

In terms of the amount of time we asked people to work in the office versus work from home, we think we have got the balance about right. We have introduced a hybrid working framework, which says we expect people to be in the office for a minimum of 40% of their time in a month.

Q70 **John McDonnell:** Are you going to review that?

Amanda Amroliwala: We will look at that as we move through the year ahead. Of that 40%, we ask them to come together as a team at least one day a week, but then we give more flexibility over the month to whether people spend more time in the office together or time working from home as long as they are present for 40%.

We judged that this figure was the right figure for balancing people's ability and wish to work from home and the need to build the culture we have talked about. We are also an organisation with lots of new members of staff. They need to have experienced members of staff to support and help them. We are a casework organisation. We talk about cases; we talk about our investigations. Bringing people together is a really positive way to do that.

The balance is there through our hybrid working framework. We will keep reviewing and thinking about how that is working.

Q71 **John McDonnell:** Has there been any pushback from staff?

Amanda Amroliwala: We did a survey. The survey said that there was a small number of staff who wanted to work from home more. It was a small but significant number. The vast majority of staff were very happy with what we were proposing.

What we have seen in fact, certainly over the last couple of months, is people choosing to be in the office more than the 40%. I am sure that

will go up and down as we go through the year. As you have seen from our staff survey results, people have been very positive overall about our approach.

Q72 **John McDonnell:** What is that going to do in terms of your estate organisation and cost?

Amanda Amroliwala: We have managed to increase our workforce significantly, by over 20%, without having to think about an additional office footprint. There is an efficiency there straightaway. We are looking at how we can reconfigure the offices to create the best possible environment for collaborative space so we can work better together.

In value-for-money terms, we have also been renegotiating our rents with our landlords. We have had some success with that. As we move forward with contract renewal, we will look at the occupancy of our buildings and think about other savings that can be made.

Q73 **John McDonnell:** Can we come on to legislative reform? You have mentioned this already. I get the sense of frustration from yourselves, but also from this Committee, because of the pressure. The Government have signed up to the Venice principles and promoted them as an international standard that we should adhere to, and yet we have seen no move to implement them in legislation. The first draft legislation to start implementing them was way back in 2016.

Can you explain the practical implications of the Government's lack of support for legislative reform? How does that hold you back from adhering to the Venice principles, which the Government have signed up to?

Rob Behrens: I have to put on record our thanks for the consistent support of this Committee in calling for these reforms. I do not meet anybody who does not think they should happen, but they have not happened. Mr Russell-Moyle talked about the legislation for the Housing Ombudsman. There is time for it. It is just that the Government have chosen not to use that time for national public service ombudsman reform.

As the peer review panel made clear, not having reform means that citizens in England are disadvantaged in terms of access to the ombudsman compared to their devolved counterparts in Wales, Scotland and Northern Ireland. They are disadvantaged in two ways. One is the MP filter, which we agree needs to be developed and reformed.

Secondly, two of my counterparts have the power of own-initiative investigation. In cases like Windrush, the maternity scandal in hospitals or the issues with mental health, we could go out and look at an issue without it being complained about. We could resolve that issue before it went to a long-standing independent or public inquiry. The peer review panel said that other ombudsman schemes in Europe use that and have used it in covid to good effect. They cannot see a reason why we should not have that power as the national public service ombudsman.

I made this point before, but it needs repeating. If you have 16 public service ombudsmen in the United Kingdom, it means that people do not know where to go. It means the profile of my office and other offices is lower than it would otherwise be. That is not satisfactory in terms of being the only organisation in the public service that provides redress free of charge to citizens. That is very important.

My last point on this would be about the Venice principles. It is not clear to me that some Departments in the UK were aware of their existence before I took the case on safe space to the Venice Commission. We have very good relations with HCIB, which we want to continue. As the Venice Commission found—again, we are grateful for your support on this—the practical effect of creating safe space is it undermines confidence in our institution because we are prevented from going into some areas of public administration without the permission of the High Court at the moment. That is not a good basis for people to have confidence in our scheme.

There is a lot to do, and there is no reason why that cannot be introduced quickly after the next general election.

Q74 **John McDonnell:** Have you had any indication that there is interest in Government to do anything similar?

Rob Behrens: As you know, there has been a change of Ministers on a quite frequent basis. The latest Minister in the Cabinet Office has expressed a willingness to talk about these issues. We have had conversations with Opposition parties that are quite promising. Words are easy; commitments are more difficult. As the peer review panel said, we are behind the times of other schemes. Our job is made more difficult by the absence of reform.

Q75 **Chair:** I have mentioned this to you, but have you flagged with colleagues of ours the prospect of a future Private Member's Bill being used as a vehicle for such a reform?

Rob Behrens: I do that on a regular basis, and I am extremely grateful for that. It would be very valuable.

Q76 **Lloyd Russell-Moyle:** On that point, have you considered non-legislative measures to do some of this? You could look at co-locating the two ombudsmen, having joint staff between the two ombudsmen or having joint IT systems. Whilst we cannot get the legislation in order, we could get the practice as close as possible to force the hand of Government a bit more.

Rob Behrens: We have some of that already. We have a joint team to investigate complaints with the Local Government Ombudsman. We have co-location of some office space with the Housing Ombudsman. We have what is called the Public Services Ombudsman Group, which sits together regularly—that includes the Local Government Ombudsman and the Housing Ombudsman—to discuss these issues. There is quite a lot of that already.

As you may know, the Local Government and Social Care Ombudsman is stepping down in March. That would be an opportunity to create some synergy, but that is a responsibility of the Department for Levelling Up, Housing and Communities. We have had no indication that they are interested in using that as an opportunity to bring further synergy.

Q77 **Lloyd Russell-Moyle:** When do you stand down?

Rob Behrens: It will be March 2024 or sooner.

Q78 **Lloyd Russell-Moyle:** There could be some synergy of a joint appointment.

Rob Behrens: There could.

Q79 **Lloyd Russell-Moyle:** That is an interesting idea. Last year, you mentioned the new strategy, which involves outreach to communities to improve the accessibility of your service for people with diverse characteristics. How is this progressing?

Amanda Amroliwala: We have conducted some significant research to reach out to communities through local community leaders. We have tried to get under the skin of why certain groups of people do not bring complaints either to frontline Departments or through to the PHSO. That research is under way in a number of different areas. We are going to use that research to start to pilot how we can have better connectivity into those communities, again using advocacy organisations, third-sector organisations and other community leaders.

Alongside that, we are planning a number of community events. We are also creating a public and user panel. The adverts for members to join that panel will be going out shortly. The idea is that we will bring members of the public in to help us improve our services. We are doing a lot of work in a lot of different ways to reach out and be more accessible.

Q80 **Lloyd Russell-Moyle:** What particular groups are you talking about?

Amanda Amroliwala: It is a variety of groups.

Q81 **Lloyd Russell-Moyle:** Your statistics look very good in terms of your numbers. 18% BAME is higher than the national average; 39% disabilities is probably on par with the broadest definition of disabilities in the national average but probably higher than a more conservative definition; the male-female ratio is relatively good. What communities are you talking about when you say you are trying to reach out more?

Amanda Amroliwala: I am pleased that you recognise that, because we are proud and pleased about our push for really good diversity. We know that, to bring a complaint to the ombudsman, you have to be pretty determined because you have to have gone through a frontline complaints system, sometimes more than one, if there is a second tier of complaint handling, and then you have to come to us.

Our legislation requires you to put that complaint in writing, although we do help with that. You have to be a determined and often well-educated

individual to come through to us. There is not always support. There is support and advocacy to support people in health complaints, but not in making complaints about Government Departments.

It is a real challenge. There are groups in our communities that just do not get that far. We want to be able to reach out and to understand why that is and what we might do to help those communities—those groups of individuals—to understand that they do have the right to complain.

Rob Behrens: We are committed in the next financial year to undertaking pilot outreach activities, along the lines of my Irish, Dutch and Catalonian counterparts, who take their office out into local communities, meet with local stakeholders and advertise who they are and what they can do. That will be extremely important in learning about what we can do better to advertise ourselves.

Just in response to what you are saying, young carers are people who do not use our service, but they have tremendous responsibilities and they are not part of the regular complaints that we receive. There are communities with English as a second language and the refugee communities in England. I am getting information about how some of these people are treated, which needs looking at very closely. We have a lot to do on this and a great opportunity to do it.

Q82 **Lloyd Russell-Moyle:** You do not publish any baseline statistics on any of those elements of your diversity. When I look at all your diversity statistics, I think you are doing really well and you do not need to do anything more. Is there a push to develop baseline statistics? I noticed that economic deprivation was not really included in those baseline levels of statistics. That probably goes along with lower levels of educational attainment.

Are you able to, or do you already, gather some of that data that you could then publish? Is it a case of having to set those data systems up before we can start to delve into them?

Amanda Amroliwala: It is the latter. We recognise that the UK deprivation index is one of the areas that we want to try to overlay on our existing data so that we can better understand whether it is exactly as you have described.

Q83 **Lloyd Russell-Moyle:** I do not want to open up a can of worms, but I wonder whether it would be useful to split those statistics out between ones that come via self-initiation and ones that come via MP referral for the NHS, victims and public services. They are the three different routes in. We could see whether there is a differential in the diversity between those different groups that come in.

Amanda Amroliwala: I can certainly ask the team to consider that in the research they are doing.

Q84 **Lloyd Russell-Moyle:** What lessons have been learnt from the pilot of the NHS complaint standards and the UK Government's handling of standards? Are you monitoring compliance with these standards?

Rob Behrens: Yes, absolutely. This has been wonderful. It has been a celebration of the possibilities of joint working. It has addressed what is acknowledged widely as a need across public administration. We have not gone in there and said, "This is what you have to do."

We did an evidence-based piece of research, which we laid before Parliament, called "Making Complaints Count". We then asked stakeholders in the system to join us in identifying what could be done better, and they asked us to provide them with best practice points that could be codified so they could learn from it.

We have had joint working groups; we have had joint pilot schemes; we have had early adopters. We have looked to incorporate the best practice that is already there on the frontline, rather than saying to people, "This is how to do it." That has worked extremely well. There is a lot of buy-in to something that could be difficult as we do not have complaint standards authority powers.

The next challenge is to deliver monitoring and reporting in a way in that Departments and trusts do not think is bureaucratic or authoritarian. We are trying to report—we will lay this report with you—on what works, what constitutes good practice and how things could be done even better on the frontline as a result of bodies adopting our complaints standards.

It has been a really good experience. We have done a large amount of outreach work. We have done more than 200 visits to trusts and Departments. It has been a fine demonstration of the capacity of our team to relate to their colleagues in public administration.

Q85 **Lloyd Russell-Moyle:** Do you publish a list of the Departments with which you have engaged? Do you publish the ones who have been proactive in terms of those reports you say you are going to produce?

Rob Behrens: It is a good question. We certainly have published the names of the people on the working group, the early adopters and the pilot bodies. That is all in the public domain. We need to take that forward in making sure we encourage everybody to join in. The dilemma here is that, without complaint standards authority powers, it is the Departments that are more interested in this initiative that are taking part in it more than those that are not interested, which tend to keep a low profile.

Q86 **Lloyd Russell-Moyle:** You do not have complaint standard compliance powers, but we can always call Departments in to ask why they are not co-operating with you or developing those standards. The power of embarrassment is sometimes useful. It would be useful to have not just clear publication of the names of members who have attended the working group but, "Here are the Departments we are working with. Here is the dashboard. It is green if there has been that first engagement; there are two ticks for enhanced engagement," or whatever. That would probably make it easier for us to be able to delve into that on your behalf.

Rob Behrens: We will do that, thank you.

Q87 **Ronnie Cowan:** In July 2021, you produced a report. The header is, "Investigation into complaints about the adequacy of DWP's communication of changes to state pension age." In that, you said, "The maladministration led to a delay in DWP writing directly to women about changes in state pension age." You also said that DWP did not appear to have adequately investigated or responded to the complaints it was considering. You said, "We think maladministration in DWP's complaint handling caused complainants unnecessary stress and anxiety."

You also said, "Finally, ICE"—the Independent Case Examiner—"appears to have acted within the scope of its remit, which is set out in its contract with DWP. We note, however, our view that the contract meant ICE could not address complainants' key concern that they did not have as much personal notice of changes to their state pension age as they should have."

Well into the report, on page 29 you say, "DWP did not find failings and so did not uphold the complaints. Had it considered all the evidence it should have, it is possible it would have reached a different conclusion."

That is all good stuff, but what does this report do apart from lead on to a second report?

Amanda Amroliwala: When we started this significant investigation into changes to state pension age for women, we said we would adopt a very different approach to our standard investigations and that we would split it into stages because of the importance and the scale of the investigation.

Stage 1 of our report, which you mentioned, was the stage that looked at the communication of state pension age changes. We did find failings, in that the Department could have and should have communicated a minimum of 28 months before it communicated with women personally to tell them about those changes. That was stage 1.

We always made clear that we would investigate this in three ways. Stage 1 was the communications. In stage 2, we said we would look at changes to national insurance contributions and the complaint handling of both the Department and the Independent Case Examiner. We have not finalised that stage of the report yet. We are in the process of receiving and analysing the very extensive comments that we have had from the Department and from the complainants who have brought the complaints to us.

Stage 3 is about the injustice we have found, what the remedy is and what we will recommend to the Department. Due to the time this event is taking—we are evaluating many thousands of pages of evidence that have been supplied—what we have said is that we will aim to move very quickly to the stage 3 remedy. We are hoping to do that as early as possible in the new year, so we will then publish the entirety of our findings, including the recommendations that we will make to the

Department for the failings we have already found and any we will find in stage 2.

Q88 **Ronnie Cowan:** When will report 2 be produced?

Amanda Amroliwala: As I say, I am hoping it will be early in the new year.

Ronnie Cowan: I thought that was stage 3.

Amanda Amroliwala: For stage 2, we are finalising the response to the comments from the Department and from complainants on the provisional views. We are going through, as I say, very extensive comments. We are looking at how those will need to change the provisional views that are not yet public but that some individuals have had sight of. We will do that as soon as possible.

I do not want to commit to doing that before Christmas because the views we have been given are extensive and we want to make sure we take what people have said to us into account. We are aiming to do that as soon as we possibly can with a view to finalising the whole report as early as possible in the new year.

Q89 **Ronnie Cowan:** Is that stage 3?

Amanda Amroliwala: We have brought stage 3 forward.

Ronnie Cowan: Stage 3 is when we get to the crux of the matter. Stage 3 is when you will wrap up the whole thing and say, "Here are the recommendations."

Amanda Amroliwala: That is right.

Q90 **Ronnie Cowan:** It looks like that will be early next year. Do you have any idea of when that will be? Will it be in the first three months?

Amanda Amroliwala: I am hoping it will be within the first three months, yes.

Q91 **Ronnie Cowan:** At that stage, you can recommend compensation.

Amanda Amroliwala: What we cannot do—the courts are very clear—is recommend that women will be able to go back to having a pension age of 60. The courts are really clear about that.

Ronnie Cowan: That is not what I am talking about. I am talking about compensation for those who have missed out.

Amanda Amroliwala: We can recommend compensation for the maladministration. First of all, we have found maladministration in communication. We are finalising the second stage. There may or may not be maladministration in that second stage. We can make recommendations for compensation based on the maladministration.

Q92 **Ronnie Cowan:** If I am hearing you right, you can say, "There was maladministration. Here is some compensation." On the back of that, the

next stage will be to say to those women, "You have missed out on thousands of pounds of pension over the years." Is it your job to say, "We recommend that you pay this"?

Amanda Amroliwala: No. The law is the law. Parliament made changes to pension legislation to say the pension age would change. They did that over an extended period. The courts have been very clear that this is the decision of Parliament. Parliament decided to change the pension age.

There is nothing we can do that would say or recommend to the Department that the pension age should be changed. What we can say is, "By not notifying women when you should have done, they had a lost opportunity to make different plans to prepare for that retirement."

Q93 **Ronnie Cowan:** When it comes to recommending compensation for maladministration, do you have a sliding scale? You have the severity of injustice scale, which would say that for a level 6 it would be over £10,000? I note that there is no compensation for a level 1. On the level 2s, which are not taken forward, you can get up to £450. Those are not happening. Level 6 is £10,000-plus. Does such a thing exist for maladministration?

Amanda Amroliwala: If you read the scale, we have given indications within the severity of injustice scale about where maladministration sits. Level 6, which is the £10,000 you quoted, is generally for issues such as death or serious harm.

Q94 **Ronnie Cowan:** Is there a similar scale for this type of process? I am not expecting you to use that particular scale for this.

Amanda Amroliwala: That scale is the one we will be considering for this process too.

Q95 **John McDonnell:** Where the confusion might be is that, when you reported before, you said, "The next stage of our investigation will consider the impact that injustice had." You have clarified a bit more this morning. What people were expecting in the second stage of your report was that assessment by you of that impact, which could be translated into compensation, if recommended.

I take it that what you are saying now is that early in the new year, which in most people's view would be in the first three months, you will bring together a report that assesses the impact and then suggests, if possible, a remedy related to the scale you have.

Amanda Amroliwala: That is exactly right. We have done the first stage; the second stage will be about complaint handling and the injustice; then stage 3 will be the remedy, which will bring them all together.

Q96 **John McDonnell:** You can understand the scale of interest and concern there is amongst Members of Parliament. You will have seen that from the early-day motions. There is not an MP without a constituent who has been affected. The concern that people have is because of the age of

many of our constituents. Some of them have already passed away. Others may not be here to receive any form of redress, if we delay beyond the next quarter of next year.

Amanda Amroliwala: I understand that. I can assure you that we are working as quickly as we can to bring this to a conclusion. The scale of the evidence we have had to examine has been extensive. We want to ensure that, when we produce the report, everybody can be completely confident in the findings.

Q97 **Lloyd Russell-Moyle:** You indicated that maladministration was already on that table. Where is it on the table? What level is it?

Amanda Amroliwala: It is through all of the levels. Maladministration itself generally goes up to level 4. When you go into level 5, you go into more serious harms.

Q98 **Lloyd Russell-Moyle:** Level 4 would be the maximum you would expect for maladministration.

Amanda Amroliwala: We have not made that judgment yet. We want to take all the factors into account and then we will make a recommendation.

Q99 **Lloyd Russell-Moyle:** Maladministration is normally that, but you are also taking into account the wider losses people might have made for not being able to adjust their plans.

Amanda Amroliwala: That is part of the maladministration consideration. It is about the lost opportunity to consider plans.

Q100 **Lloyd Russell-Moyle:** That is fantastic. It was meant to be published at the end of this year. That has slipped by a few months then.

Amanda Amroliwala: What do you mean when you say it was meant to be published then?

Lloyd Russell-Moyle: In your annual report, you said the next stages would be published by late 2022. It is clearly already late 2022. It has not been published. It is going to be slipped back a few months. Is there a particular reason for that slippage or is it just that the issues have become more complex?

Amanda Amroliwala: There was quite a long delay in getting all the evidence back from the Department for Work and Pensions. We had to take all of that very extensive evidence into account. We are still working really hard. If we can come to the second stage this side of Christmas or within this calendar year, we will do that. We are doing everything we can to do that, but I do not want to give a guarantee at this stage because of the amount of comments we have received on stage 2.

Q101 **Lloyd Russell-Moyle:** You have been very good at explaining that to us here on the Committee. Is that something you have communicated beforehand to the complainants? As this is of a wider public interest nature, have you expressed that slight change of timescale on your

website? Would you consider doing that so the people who are following this could know where it is? The deadline has been missed, effectively.

Amanda Amroliwala: The deadline has not yet been missed. We explain this to all of the complainants who have complaints with us. We have an ongoing dialogue with them. We are speaking to many of those individuals regularly.

We do not want to commit to a specific date, because we do not want to raise expectations and then miss it. We are trying to do everything we can to deliver the second stage of this report before the end of this calendar year. I am very happy to update the website to say that.

Lloyd Russell-Moyle: It would be great to put the statements you have made here on the website. That would bring people with you on that journey.

Q102 **Beth Winter:** Just very quickly, I would reiterate the urgency on this, as others have. We all have constituents. Once the third stage is completed, there is the issue of implementation and for those recommendations to turn into reality. Can you give any insight into that? That is the key.

Amanda Amroliwala: It is. We will make recommendations as part of our final report but, as we have talked about previously, it may be that the Department follows through on those recommendations. As we have experienced with other cases, sometimes Departments do not. That is where this Committee and the Work and Pensions Committee might have a real role to step in in terms of holding them to account.

Beth Winter: If you can keep us updated on this issue, that would be really useful.

Q103 **Karin Smyth:** I am interested in the measures around compliance of other public bodies with your recommendations. We have had some issues with that before. Could you just talk us through the work about maximising the impact of your reports with wider public bodies?

Amanda Amroliwala: As we mentioned earlier, compliance with our reports runs really high. Overall, it is about 99%. When there is not compliance, it is often for things that impact large numbers of people.

We mentioned in particular a report that related to an investigation into a complaint from a very vulnerable individual. It was about changes to employment support allowance. When people converted from one benefit to another, the conversion did not happen properly and people did not get the right amount of payments.

In the particular case we investigated, it was a substantial amount for the individual. It ended up meaning that she could not heat her home properly; she could not eat properly; she had a lot of consequential health impacts.

We said to the Department that the particular conversion that had not worked had affected more than 100,000 people. They agreed to pay

compensation in the case of this single individual but did not agree to pay compensation for the failing to those other 100,000-plus people. They said they would address the shortfall but not proactively compensate.

For cases like that, we rely on Parliament to hold to account those Departments and to scrutinise why they are making those decisions.

Chair: Thank you. That concludes our session this morning.