

Public Administration and Constitutional Affairs Committee

Oral evidence: Parliamentary and Health Service Ombudsman Scrutiny 2019-20, HC 843

Monday 23 November 2020

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Members present: Mr William Wragg (Chair); Jackie Doyle-Price; Mr David Jones; Tom Randall; Lloyd Russell-Moyle; Karin Smyth.

Questions 1 - 53

Witnesses

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

Examination of witnesses

Witnesses: Rob Behrens CBE and Amanda Amroliwala CBE.

Q1 Chair: Good afternoon. It seems like a long time since both of you gave evidence virtually in May. It is good to see you again. As usual, the Committee has allocated questions between its members and hopefully the technology will be running smoothly for you to hear those questions. The meeting is being broadcast live, so it would be good to keep going without any technical hiccups or misunderstandings, but if we encounter any of those we will try to get them resolved as soon as possible.

It is good to welcome Rob Behrens and Amanda Amroliwala to the Committee room this afternoon for a hybrid public meeting of the Public Administration and Constitutional Affairs Committee. Other colleagues are in their homes and offices across the UK. I will begin by asking Rob to introduce himself for the record.

Rob Behrens: Yes, Chair. It is good to be here in the House of Commons. I am Rob Behrens. I am the Parliamentary and Health Service Ombudsman.

Amanda Amroliwala: I am Amanda Amroliwala. I am the Chief Executive of the Parliamentary and Health Service Ombudsman. Good afternoon.

Q2 Chair: Thank you very much indeed. I will begin with a question to you,



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Rob. A common criticism we have received as a Committee is that the number of formal investigations the PHSO has conducted has fallen. Your 2017-18 annual report said that there were 2,348 investigations compared with 1,122 in 2019-20. Could you explain the reasons for that number?

Rob Behrens: Yes, Chair, thank you. That is a misunderstanding of what we have been trying to do since Amanda and I joined the organisation in 2017. Investigations are not an indication of the work of the ombudsman service. When we were created in 1967, the hallmark was doing a formal investigation as an indication of demand and throughput, but modern ombudsman services do not work that way. In the last three and a half to four years we have tried together to modernise the system so that we make decisions that are appropriate for people at the appropriate time.

Our ambition when we receive inquiries and complaints is to see whether there is a possibility of resolving them without having to go through an arduous and formal investigation. One of the things I noted when I came in 2017 was the complete absence of mediation or informal resolution of complaints, which are more effective and more satisfactory to complainants, because they are informal and more cost effective for resolutions. We have piloted mediation—as you will hear later perhaps—in a way that we can address issues before they have to go to a formal investigation.

The other thing that we do—Amanda can tell you about this—is to engage in assessments, which are a kind of investigation but they do not meet the tests of the formal investigation that we undertake. The core issue is that the demand for our service has not diminished in the last five years, but the point at which we address the issue has become earlier and earlier. This prevents us having to conduct long investigations that end up often being rejected, several thousand before we came, without any good reason except public expenditure.

Q3 **Chair:** Thank you for clarifying those figures for the Committee. You alluded to that difference of approach. What is the average amount of time that a caseworker may spend on a case that ends up with an assessment decision compared with one that leads to a full investigation? Amanda, are you best placed to answer that question?

Amanda Amroliwala: Sure. We have performance indicators that are pretty consistent across the entire ombudsman community. That is to deal with initial inquiries coming into our helpline in seven days, if we can. Then we have three further indicators—one at 13 weeks, so three months; one at 26 weeks; and then one at 52 weeks. We recognise in those indicators that a very small number of cases will go on beyond 12 months if they are very complex cases.

In the last year that we are looking at today, we have completed over 96% of those initial inquiries in seven days or less. For the next standard, we aim for 50% at 13 weeks. We got to about 48%, so just under last year, but we exceeded the 26-week target, so 80% of all cases coming to us we



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deal with within 26 weeks. We are just short of the 95% target, at 93% for the 12 months. What that means is that for the people who are having their cases assessed by us, more or less 50% of the time they will have a decision made in less than three months and those that take longer are obviously the more detailed investigations.

Q4 Chair: Coming back to the distinction between an assessment decision and a full investigation, isn't one of the issues with an assessment decision that the PHSO cannot see that there has been a service failure? How can that be fully determined without an investigation?

Amanda Amroliwala: As Rob said, an assessment now is a first look at the failings that are presented. In assessments we can do a lot of work, including taking some preliminary clinical advice to determine whether there has been the failing suggested. Where it appears to us that it is not as presented or that there has been a failing but the organisation has already remedied that to a sufficient level, we are able to make a decision about it at that stage without going on to a very detailed investigation to then come to a similar conclusion.

Q5 Chair: The annual report and accounts groups complaints that are "not ready to be taken forward" and complaints that are titled "should not be taken forward". Why are these numbers not reported separately, because they are distinct, aren't they?

Amanda Amroliwala: They are distinct. Our report suffers in some ways from historical comparisons. Every year we tend to group data in the same way as the previous year so that we can do year-on-year comparisons. This year, among all the other conclusions that we have reached, with the very serious challenges that we have all faced, we have taken another good look at how we present information about our service and just, frankly, how complicated it is to explain. We are doing a piece of work. We have commissioned a project to look at all the presentation of our data so that for next year's report we will come back with something that is much simpler in explaining the different categories and why we explain them in the way that we do.

Q6 Chair: In a similar vein, might we suggest that if you were to separate those complaints that are partly upheld and those that are completely upheld, that would ease our understanding and the wider public's understanding as well? Is that something that you could commit to perhaps?

Amanda Amroliwala: We can already separate those two out. I think part of the challenge of "upheld" and "partly upheld" is that people bring complaints to us that are often about a large number of separate issues. We can have up to 80 or 90 separate issues within one single complaint, so we might investigate and uphold a large number of those individual issues, but not some of them. That is still counted as partly upheld in the same way that another report that might only uphold one very small aspect is also counted. It is very difficult to distinguish between the two. That is



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why we are trying to pull the figures apart and think about what the public would like to understand from our investigations and how we make sure we give that.

Rob Behrens: We know from feedback we have had that complainants resent their complaint being partially upheld when a substantial part of the whole thing has been upheld. We need to take that into account moving forward.

Q7 Lloyd Russell-Moyle: You said in one of your earlier answers that you have taken more of a mediation approach, but the numbers for resolution and any action that is not an investigation per se, but a resolution that comes out anyway, is also going down. I do not understand how you can say that that is compensating for the lack of investigation.

Rob Behrens: I did not say what you suggested I had said. What I said was that we need to move to an approach that includes mediation in our attempt to make the right decision at the right time. You cannot introduce mediation without having a pilot, without training people to undertake what is a very different and complex set of skills associated with it and without finding what the impact is on the wider investigation process.

We undertook, after I came into post, a big pilot involving training to see whether or not this is feasible and whether we had the skills to do it. That has taken place over the last year. It has been a small pilot. The results have been modest, but they have been successful enough in individual cases to indicate to me and Amanda that this is an important way forward, as it is for our colleagues in other ombudsman institutions. You will see in succeeding years that it will play a bigger and bigger part of resolutions.

Lloyd Russell-Moyle: That is a nice answer for what you will do in the future, but that does not answer at all what you have done in the last year, which is what the question was.

Rob Behrens: I cannot hear the question, I am afraid. I am afraid there is a communications problem here.

Chair: It is quite a poor line, Lloyd.

Q8 Lloyd Russell-Moyle: The question that Mr Wragg put to you—not my question—was an explanation for why investigations seemed to be going down over the last few years. You answered with an answer that explained that you were moving to a mediation approach.

Rob Behrens: No, I did not, with respect. I did not answer that. I did not say that at all.

Q9 Lloyd Russell-Moyle: What is the answer to the reason that investigations have routinely gone down over the last few years? Resolutions that are queries and complaints that are resolved without investigation have also gone down over the last few years. Apart from people making complaints, all the numbers of what you have handled are going down. What is the reason for the reducing numbers?



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Rob Behrens: What I said was, if I remember correctly, that we had moved away from investigations and adopted a whole range of other devices to try to resolve cases at the right time. That includes assessments and early resolutions. The work of the office has not diminished in any way. The number of investigations has diminished, as we have explained.

Q10 **Lloyd Russell-Moyle:** Can you quantify that in any numbers? All the numbers that you have presented have gone down. Are there any numbers where you can say, "Here are the complaints that we have received that we have handled in a different way to previously"? The evidence is not pointing to that. Instead, what you said is that you want to do a mediation approach. Complaints via MPs have a mediation approach built into them already, so you are just duplicating what MPs do.

Rob Behrens: With respect, that is not the case.

Amanda Amroliwala: The first very important thing to say is that our job is not to uphold complaints. Our job is to independently assess a complaint and decide whether there has been a failing.

Lloyd Russell-Moyle: Yes, I realise that.

Amanda Amroliwala: To find a complaint has not been upheld is not a deterioration of service; it is simply a reflection of the assessment that we have made in that year. What we have done is to move away from—

Q11 **Lloyd Russell-Moyle:** Sorry, a complaint is not upheld or a complaint is upheld. Both those numbers together are reducing. It is the complaints that you have handled, investigated or that you have given a resolution to; all those numbers have reduced.

Amanda Amroliwala: No, the annual report demonstrates that the number of cases we have handled in the past 12 months has increased from around 30,000 to 31,000. What is different is the split within that.

Q12 **Lloyd Russell-Moyle:** In regard to the 55,000 of them that you said, "They are not relevant to be taken forward, in the bin," the ones that you have handled have gone down by about 8%.

Amanda Amroliwala: That is not what we have said at all. We have handled—considered, and given a full consideration to—over 1,000 more cases in the 12 months that we are talking about to the preceding 12 months. As I explained to Mr Wragg, a percentage of those cases have been assessed in some detail at assessment stage. We have concluded that those are cases that we can make a decision on at that stage without going to a full investigation.

In many of those cases, we will have spoken to the complainant and the organisation, we will have taken preliminary clinical advice and we will have made a determination. Many other ombudsman services would call that an investigation. It is the way our terminology describes it that says that that is an assessment. Overall, the combination of assessments and



investigations and resolutions, the totality of cases handled is over 1,000 more in the last year than it was in the year before.

- Q13 **Lloyd Russell-Moyle:** I think I understand now, and that is to Mr Wragg's point that complaints that are not ready or should not be taken forward include lots of complaints that you have handled and you have dealt with and you have dispatched but are hidden in that figure. It might be that we need to be able to delve a bit more into that figure, because that could be ones you have dismissed very quickly and it could be ones that have taken a lot of your time.

Amanda Amroliwala: That is right.

- Q14 **Chair:** Amanda, a final question from me on this section. In 2018-19, the average number of days taken to allocate a complaint to a caseworker was 30 days. Do you have the number of days it was on average for 2019-20?

Amanda Amroliwala: The average time of about 30 days is what we call a business as usual queue. That is around 350 cases coming in and moving out over the course of the 30 days. During 2019-20 we did a huge replacement of all of our technology and replaced all of the technical infrastructure and then separately and in addition replaced our main casework management system and database. Perhaps we can go on a bit later and talk about that, but for anybody who has experienced largescale technology change, you will understand there is an impact on productivity.

As we were coming towards the end of the year, we were anticipating a queue, a total number of cases of between 800 and 900, which we thought would be about six weeks to allocation as opposed to 30 days, so not a significant amount more time. As it happened, Covid started and that figure started to worsen, so because of the various challenges that we experienced in March, we concluded the year with about 1,000 cases waiting at that point.

- Q15 **Chair:** Do you know of a particular case or complaint that had the highest number of days—the longest wait to be allocated? Do you have that figure?

Amanda Amroliwala: We paused all of our casework in mid-March, so it is very difficult for me to give you a figure, but coming up to that, people would not have been waiting for allocation for more than about eight weeks.

- Q16 **Karin Smyth:** Staying with you, Ms Amroliwala, on KPIs. You suggested that the organisation's ability to affect the charter scores was limited because the complaint outcome could affect those scores, but the PHSO has made its target scores more challenging. How do you think you will succeed in reaching those more ambitious target scores?

Amanda Amroliwala: As we discussed previously, this is very difficult. We know, because of some detailed research that we have done, that outcome plays a big part in what people's views are about our service. We did some very detailed research a year or two ago that said that if we



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upheld a complaint, 86% of people said they were satisfied with our service, but if we did not uphold a complaint, only 47% of people said that they were satisfied with our service. We know there is a big difference, but as you will see from the service charter scores, there is also quite a lot of variation in the scores, with some up in the 80% plus and some much lower than that.

We are aiming to take action that impacts particularly on those lower scores. I talked with Mr Jones last year about particular scores, such as gathering information and explaining our decisions, which are lower than we want them to be and we have been taking action to try to bring those scores up. One particular piece of work that we have done is to devise and publish a guide for balancing evidence because complainants have said to us that they struggle with us appearing to pay much more emphasis to evidence provided by organisations as opposed to the evidence they produce to us in their testimony. We have published a guide—it is on our website and we are working to that—that sets out very clearly how we will balance evidence and the tests that caseworkers go through, what they will gather in, how they will evaluate and how they will explain to a complainant how they have used their evidence. That has seen a slight shift up in the score in that area. It is not enough yet but it is the start of the process. We have some additional training planned with our caseworkers through the winter months that I hope will continue to improve that score.

The other one that is low that we want to try to shift is in relation to explaining our decisions. Following the last hearing, we have been doing more work on the analysis of why we think that is. We have done a lot of work with our caseworkers on effective communications, but we ran a focus group with complainants to try to get under why that score was so low. Aside from the issue about outcome, which is definitely a factor, there is something about how we explain properly to complainants why we have come to a particular decision, what evidence of theirs we have used and if they have come back to us with extra representations to make sure that we deal with those properly. We spend a lot of time helping the complainant to understand, if we are not going to use that evidence, why we are not.

There is a lot of work in hand to try to help us with these scores, but I think the other challenge that we have is that nobody else does this across the ombudsman sector. We are the only ombudsman sector that surveys over 600 people a quarter, asks them their opinions and publishes all of these scores, so it is difficult for us to benchmark as to what the scores should be in any one of these particular areas.

Chair: Could Mr Behrens come in, Karin, please?

Rob Behrens: To add to what Amanda has said, I do not envisage that these scores will change dramatically in the next year or so. That is not because we are not trying. Indeed, we are trying extremely hard—commissioning research, thinking about what we are doing, being self-critical—but there are some key factors that will make it more difficult for



us to improve the scores. Amanda has already talked about outcomes. We also have to accept that we are at the very end of the complaints process, which means that all the frustrations that people have experienced all the way down the line are attributed to us. That has a negative impact on perceptions of all ombudsmen in this position.

It is also the case that one of the key issues about trying to improve these scores is the implementation of the clinical advice project, which Sir Alex Allan oversaw and which I am determined to implement. We are doing that. That will have a powerful impact on the way in which we communicate with and are transparent with complainants, but we have been handicapped by the pandemic in taking that forward as our resources have been taken away from that and put into dealing with the pandemic. On the positive side, there is more that we can do as an ombudsman service in explaining our decisions, writing our reports and communicating with people. I think that is very clear to us from the feedback we have received in the research and in the service charter scores.

Q17 Karin Smyth: I think colleagues are coming back to talk about the evidence a little bit more, so they will come back to you both on that. It might be picked up later but to follow up, given that you have started to put that new process in place—sorry, you may have just said this—when do you think you will have a sense of that change? What is a fair point at which to judge the balance of evidence?

Amanda Amroliwala: That is very difficult. We have seen a slight uplift in one of the scores, the gathering information from people. That has gone up by 3% in the last year, but if you look back at the scores—the service charter—we have been publishing data now for three years. If you track across those three years, there is not that much movement. The vast majority of the scores go up or down by 1% or 2%. A few of them have adjusted slightly more than that, up to 6% or so, but they change little year on year. It is quite hard to be able to give you a timescale of when that might shift in any significant way, because the history so far does not show that.

Q18 Karin Smyth: I think colleagues will come to it later, but it is useful for the Committee to record that and then perhaps come back to it. Those years will go past quite quickly for us all, I think.

I will move on to the charter scores publication. As I understand it, the scores for quarter 2 in 2019-20 is the last publication. When can we expect to see the next publication of scores?

Amanda Amroliwala: The scores for the 2019-20 year are published. Generally we have always published our service charter scores quarterly in arrears. We obviously have some real challenges at the moment and did have during the first quarter of this year and into the second quarter because, first, we paused our consideration of health cases, so we were not concluding that many cases through that period. We were also facing difficulties with Government cases. The sample size of complainants was



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very much smaller, so it is very difficult for us to do any statistical comparison to previous quarters.

We are hoping that by quarter 3 we will be able to get back into the full number of complainant surveys again. By the time we get to the end of this year we will be able to provide all of the data we have been able to collect, but it has been very hard to do the sampling through the last period.

Rob Behrens: Can I come in here? The scores are not changing dramatically at the moment but that does not mean to say that we are not convinced that we are doing important and effective things in improving the quality and effective communication with complainants. The training of staff to a professional level is now at its highest since 2017. Accreditation of staff is something that was not in existence before and is not used by any other ombudsman service in the United Kingdom.

As we hope we will be able to go on to say, we now have a new quality matrix to judge the quality of our decisions before they go out. That gives us assurance that we are trying our best to make sure that the decisions are as appropriate as they can be. These are things that any sensible person would do. The challenge is to see how long it takes for them to have an impact on complainant perspectives.

Q19 **Karin Smyth:** The annual report stated that there were issues extracting data from the new case management system, which reduced the number of people surveyed. We are keen to know have those issues been fixed now?

Amanda Amroliwala: Unfortunately it is not a case of them being fixed. It is the fact that we had a previous computer system that we had used for many years and we replaced that in December. From that point onwards, inquiries were not recorded on the system in the same way, so we are not able to do a like-for-like comparison back to preceding years on those four months of the year from December through to the end of March. From now on we will be counting inquiries in a different way. Previously every time a contact was made at the front end of our business—so that is a telephone call, an e-mail, a letter in the post—they were all logged as separate inquiries.

Our new system, which is much better for data capture, adds that inquiry to a previous person record if the person has contacted us in the past. That is why the numbers of overall inquiries have dropped off quite dramatically at the end of the year. For this year, Covid notwithstanding, we expect to see a similar fall because of the way we are now counting and recording individual records. As I said to Mr Wragg, we are going to do a complete overhaul of the presentation of our data so that we can be very straightforward and help people to understand what we are counting and why.

Karin Smyth: Thank you. I think that will be helpful for the Committee to



be able to do its work as well.

Q20 Jackie Doyle-Price: Amanda, could you advise the Committee when you plan to publish your report on complaints data related to Government Departments and all public bodies for 2019-20?

Amanda Amroliwala: As we went into this Covid period, as you will understand, we had to move from what was predominantly an office-based work operation to something that is very different now, along with many other businesses and departments across the country. A lot of the work that was just routinely happening through the course of the year has had to be changed and reprioritised as we have changed the way that we work. We have taken the opportunity to take stock, among the changes that I have already mentioned that we had to our main casework system.

We are doing a review of all of the documents that we publish with a view to moving to a different way of communicating from next year, where our intention is still to publish the vast majority of our casework online. We have been developing a digital publishing platform and that is currently in proof of concept stage. It is being tested internally and externally and we hope to conclude that testing by the end of December. We are on track to be able to start publishing all of our assessment decisions and investigation reports from April onwards.

That means things will be very different for what we communicate and how we communicate, because the platform is designed so that individuals, members of the public but also academics and researchers, will be able to go on to our system and filter data so that they can make searches about individual organisations or individual medical complaints or individual types of Government service delivery and extract data and use it. With that system coming and all of the other pressures that we are facing, we have sort of stepped back and said, "What information are we putting in the public domain? How can we make that as straightforward as it can be?" We are reviewing all the documents that we previously published to ask whether they are necessary, straightforward and appropriate going forward.

We will come back to you. I can write to you with more information, if that would be helpful, about the plans and the trajectory towards publication, but we are, along with everyone else, faced with the same challenges of trying to produce things that were historically quite simple to do and no longer are because of the ways of working.

Q21 Jackie Doyle-Price: That is helpful. Sometimes producing lots of material and data in the interests of transparency ends up being less than transparent. Reviewing how you are putting this data out to make it tell a better story at least offers us an opportunity for that kind of review. I am assuming that is the principle behind the delays also in producing the data for 2018-19, which has only been put on this month, I understand.

Amanda Amroliwala: Sorry, I am not aware of the data you are referring to for 2018-19.



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Jackie Doyle-Price: The complaints data for Government Departments for 2018-19. I understand it was published earlier this year but taken down and has only just been uploaded on 10 November.

Amanda Amroliwala: If you recall when we came before the Committee in May, we had just had an issue where a spreadsheet had been uploaded that was associated with that data, I think. We had taken that down and done an investigation, because there was some data that should not have been uploaded at the same time. All of that data has been cleansed and now the report has been loaded back up again.

Q22 **Chair:** It was personal data that was published, wasn't it, inadvertently?

Amanda Amroliwala: That is right.

Q23 **Jackie Doyle-Price:** From the Committee's perspective, obviously we want to encourage the maximum amount of openness. Recognising that the current working environments are challenging in maintaining the integrity of your data plus being compliant with the legal framework, we are looking for reassurance that material that will be helpful will be published as soon as possible.

Amanda Amroliwala: I can give you that assurance. This is a very challenging time for us, as you would expect, along with everyone else, but we have quite advanced plans to be much more transparent with the publication of all of our investigation reports or essentially the vast majority of them. That will make a real difference because people will be able to see in some depth the sorts of investigations and case considerations we are doing. Coming back to an earlier point that was raised about the difference between assessment decisions and investigations, you will be able to see that an incredible amount of work, effort and detail goes into the assessment decisions as well.

A lot more information from our service will be out there in the public domain and, importantly too, information about where things have been found to have gone right as well as gone wrong. A lot of the time the only information that comes into the public domain is where there have been failings, either in the health service or across Government Departments. What our investigations and our assessments show is that a lot of the time the health service gets things right. I think it is important for that information to be in the public domain and for people to be able to see that too.

Rob Behrens: I would like to pick up the point about publication that Ms Doyle-Price raised, which I think is absolutely at the heart of public trust. I accept the argument of Baroness O'Neill in her Reith Lectures that just because you publish something does not mean to say that it is valuable. We have that challenge, which I think you are pointing out. As Amanda has said, one of the key points of our strategic plan for the last three years has been to get to the point where we could publish summaries of almost everything that we have done in order to reassure people that we are looking at things in a rigorous and systematic way. That will be very



important in increasing people's understanding of what we do. In a study that I have just completed of ombudsmen in 38 countries around the world, we know that people do not properly understand what ombudsmen do. We need to increase that understanding. This will be one key way of us doing that. We are not just going to do it blindly; we need to do it intelligently.

Q24 Mr Jones: Mr Behrens, you have published a document setting out the way that you balance evidence that is provided to you. Your guidance says that on request you will share the evidence that you have considered. Can you say why you do not, as a matter of course, routinely share the whole body of evidence with the complainants and the organisations complained about?

Rob Behrens: Yes. I can say that we are following very closely the recommendations of Sir Liam Donaldson and Sir Alex Allan to make sure that we put as much material with complainants and bodies in jurisdiction as is appropriate. As a result of that report, we have trialled the issue of showing clinical advice to complainants and bodies in jurisdiction before we reach provisional views to make sure that people feel involved in the process. Liam Donaldson said he thought that people felt excluded by the work that clinical advisers did.

That is very important, but it is also important, as I hope you will accept, that sometimes complainants feel overloaded by the information that they are given. In our pilot, we discovered that it is not always welcome that people get the clinical advice in advance of the provisional view. My answer to your point is it is an important principle that we share information with complainants and with bodies in jurisdiction equally, but we need to be careful, first, to make sure we do not unnecessarily lose time in conducting the investigation and, secondly, are carrying people's confidence that it is worthwhile.

Q25 Mr Jones: What is the response of complainants to that method of operating? Has anyone expressed any concern that their evidence has not been properly considered?

Rob Behrens: We have conducted work and research on this and it is not an easy issue. We commissioned ORS to have a look at why people question whether or not we are impartial. It has done a lot of focus groups and in-depth interviews on this. Some people argue that we do not sufficiently take into account the imbalance of power between complainants on the one hand and bodies in jurisdiction on the other and that we need to make sure that we properly inform people in the light of them not having access to the kinds of resource like lawyers and other people that bodies in jurisdiction have. There is a big job to be done on this and I am not confident that we are at the heart of the matter yet.

For example, another instance of this is that we are required to issue a provisional view before we issue a final report when we do an investigation. Some of the research findings from Opinion Research Services said that people feel we need to talk to them on the telephone about this rather than



just sending it to them, asking for their comments on it. That is a very significant thing to do. It is probably a sensible thing to do, but we have to make sure we have the time and resources to apply it properly. That is about effective communication with complainants. Some people, as you will know, have said in their evidence that we do not communicate effectively enough yet with complainants and I accept that.

Q26 Mr Jones: Is it a matter of concern that complainants may not necessarily be in a position to confirm that they are entirely satisfied with the evidence provided? If there is a body of evidence that has not been disclosed to a complainant, that must always be a concern. It seems to me that it is very important to go the extra mile to ensure that complainants fully understand that there is further evidence available and that it is there to be produced should they so require.

Amanda Amroliwala: Perhaps I can step in. We will produce all material evidence that we have relied on to a complainant or a body in jurisdiction in order for them to see what we have taken into account for the decision. Part of our balancing evidence guidance that I mentioned, which we published this year, sets out that not only will we produce that material evidence and explain how we have used it, but if we have not relied on something that has been provided to us, we will also explain why we have not relied on that evidence.

As you will understand, Mr Jones, we are often sent a huge amount of information for our inquiries and investigations and not all of it is directly relevant to the allegation of either a failing or an injustice. We have not necessarily always been great in the past at explaining why we have not relied on something. The new guidance is designed to address that fact.

Rob Behrens: Mr Jones, one of the challenges for us is that as part of the Donaldson reforms in showing people the clinical advice in advance of the provisional view, some complainants are returning to us and rejecting the clinical advice and demanding that we dismiss the clinical advisers, who they do not agree are impartial. That was not expected when we undertook this pilot. It leaves us with big questions about ensuring the impartiality of what we do without giving the decision about what should be upheld to the complainant rather than to the ombudsman, so we need to be careful about this.

Q27 Mr Jones: The same guidance notes that you apply a balance of probabilities test, a civil standard of proof. In cases where that balance is very fine or even equal, to which side would you give the benefit of the doubt?

Amanda Amroliwala: As you will be aware, Mr Jones, the civil test, the balance of probability test, is one of more likely than not. Therefore, we take, as I mentioned, a huge amount of evidence into our organisation. That is from testimony to clinical records to expert advice from clinicians that we employ or legal advisers. We bring that information together and we try to triangulate it to see what corroborates against the other evidence.



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Having taken all of that into account, we have to make a judgment about the event that was alleged to have happened and was that more likely than not to have happened based on the evidence that has been presented to us. That is really tough as those who have worked in the civil space will understand.

Perhaps an example of how tough that can be, if an individual had a consultation with a GP and was told that the GP had observed them and had recorded their observations that everything seemed normal and sent the individual home, if that person then presented later that day at an accident and emergency department terribly unwell there is a question about whether the GP's judgment and observations were right. We would, for example, call for evidence from the A&E department and look at the symptoms that were detected at the time and the advanced state of whatever the illness was. We would take information from our clinical adviser and expert adviser about what a GP should have witnessed, based on the subsequent presentation at the A&E; if they had done the observations that they were supposed to have done, would they have detected that illness? Then we bring all that information together, including what the GP said, and make a balance of probability judgment based on whether that should have been detected and was missed or whether it was entirely reasonable to make those observations at the time.

Rob Behrens: Could I add two points, Mr Jones? First of all, there is of course the ombudsman's standard, which we publish and use as a device to enable us to decide how we apply the balance of probabilities in cases of maladministration. The courts have been importantly involved in making sure that we use existing guidance for GPs and clinicians to ask them whether or not they use that advice and if not why not. That is an important discipline that we have to use. We are not just using common sense when we apply the balance of probabilities.

The second point is that historically in two big cases—the case of Titcombe and the case of Powell—documents went missing or were tampered with or both. In both those cases my predecessors decided that on that basis they would not be able to look at the case because the documents were no longer there. I would not or the modern Ombudsman Service would not take that judgment now. The fact that a document has gone missing or has been tampered with is a material consideration in deciding whether or not something has happened. That is one of the reasons why I have supported Will Powell in his argument for a public inquiry into his case, which is now 30 years old.

Q28 **Mr Jones:** In your written evidence you said that the use of the early resolution procedures had received positive feedback from complainants and organisations. Are you in a position to quantify the positive feedback you have had?

Rob Behrens: Yes, but the quantification is less important than the success of the project. The amount of cases done in the pilot period is comparatively small, less than two dozen cases. The reports on the



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outcome of these cases show that there has been a profound effect in almost all the cases on the parties to the dispute in coming together, having been appropriately prepared by trained mediators in our office, to try to resolve issues that you cannot resolve just through formal investigation. I have a lot of feedback from participants to the process who say that they found it rejuvenating and it built their trust in the health service by being able to talk to people face to face and to understand the challenges that members of the health service had to face in dealing with their case.

Q29 **Mr Jones:** For clarification, that is over and above the two dozen cases you just mentioned?

Rob Behrens: No, that is part of this pilot programme. That is very important. We also have learned some important lessons for how we can apply the mediation process to our wider investigation process, so that there is read across between mediation and investigation, which I think is very important. I am now confident that we can go into the position of incorporating this mediation process into business as usual and expand the team, which is quite small at the moment. There are between eight and 10 people in the team, all of whom have been fully trained. As is done in European ombudsman services and the United States, we can make this a significant part of the way in which we create resolutions. I think it is very significantly important.

Q30 **Mr Jones:** It is quite a small sample, though, isn't it?

Rob Behrens: Well, it is, but that is what pilots are about, Mr Jones. We need to do this rigorously—

Q31 **Mr Jones:** What I was going to go on to say was: do you intend to expand that, maybe next year, with a larger sample?

Rob Behrens: We have reached the end of the pilot. I am convinced that it is in the public interest to expand this. I have, as a basis for supporting it, ombudsman services in other countries that predominantly use this technique and we will be significantly expanding it in the next financial year.

Amanda Amroliwala: Perhaps to add to that, Mr Jones, we take a little while to build up the skills. Mediation is a skill that has to be learned. It is trained first and then has to be learned in practice. Our mediators have gone from a standing start to becoming very proficient now at using this skill set. As Rob said, we are getting very positive feedback. We have a number of other mediations already underway now that we have built it into business as usual. Of course we have had to adjust to these different ways of working in mediation terms.

The view before Covid from large numbers of those doing mediation was that it was much better to be in a room with people and you were much more likely to get success if you got the parties together in a room. What is really interesting from this period and a conversation I had with the chief



executive of the Centre for Effective Dispute Resolution recently is that things have changed quite a lot since the world has moved online to video-type conversations. Some early findings from that organisation are that having a mediation facilitated by a video call can be more successful than an in-person conversation. What they are finding in some cases is that individuals feel that there is a very different power balance from them having to go, for example, back to a hospital trust where something bad has happened to them or their family member. They feel much more able to articulate how they feel about things and what has happened from the safety and comfort of their own home. They are finding that people are much more open about what has happened from a more secure, safe environment, and, therefore, they are getting to the heart of what the issue is more quickly and are able to get a better resolution.

We are also exploring that. We did not do these type of video-call resolutions before we went into this period but are now thinking about how we can exploit the use of technology to do more and I hope in doing so we will be able to increase the numbers. It is much easier and quicker to get people together on a video call than it is to try to get people together in person.

Q32 **Lloyd Russell-Moyle:** This pilot sounds very good and positive. Not on the health side but on the parliamentary side, is there any consideration about involving MPs' offices in skilling them up in some of that mediation so that they are able to deal with it before they have to make the referral to you?

Rob Behrens: I think that is an outstandingly good idea. We have not thought of it and we will address it. Thank you very much indeed.

One final point, Chair, in response to Mr Jones, and also Mr Russell-Moyle, is that the big choice for us was whether or not to train our own people as mediators, which is very costly, or to bring in outside firms to do the mediation for us, as other ombudsman services have done. We took the view that in the culture of the organisation it is much better to train our own people so that their understanding can be disseminated across the whole office, rather than to rely on external firms to come in and go out but not capture the expertise associated with it.

Q33 **Mr Jones:** How many cases in all were closed using mediation in 2019-20?

Amanda Amroliwala: Just 17 cases were closed using mediation and 14 of those were resolved fully.

Q34 **Mr Jones:** You indicated that you had had a positive response. Have there been any negative responses, any complaints by any party about this process?

Amanda Amroliwala: Not complaints, but 14 of the cases were resolved to the full satisfaction of both parties in the mediation. In three cases we were not able to resolve the issues through the mediation and so we took those cases into our standard assessment processes. That is the model



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that we have adopted. If people are prepared to go through mediation and it does not succeed, it is not their only shot at getting their case considered. It would then go through a standard consideration process.

Q35 Mr Jones: You have had no negative response at all about the mediation process?

Amanda Amroliwala: No, not at all, because it is a voluntary process. We do not force anybody into mediation. The success of it comes from people being willing to participate within the process. It does not always work. People do not always feel that they have been able to communicate their point of view or help the other party understand their position and in the small numbers of cases where that has happened we have had an alternative method of dealing with them.

Rob Behrens: We do not just put people in a room together and hope that it goes well. There is a disciplined process in this in which we spend a lot of time with people separately before we invite them to engage together. I think it is very important to understand that. It is not a lottery. We will only do that if we believe that people have the commitment and are prepared to take the risk associated with it.

Q36 Lloyd Russell-Moyle: I think you have touched on this slightly, but I will ask it. Has progress been made on the recommendation of using clinical advisers? Has that been delayed at all by Covid-19?

Rob Behrens: Yes and yes. We have made progress in this critical project but it has been delayed by the resource available, which has had to be put into managing the pandemic. We are not as far along the line as we would like to be but some key things have been done. As I explained to you, we now make sure that people have sight of the clinical advice on both sides in advance of the provisional view being made. We now have a system of ensuring that clinical advisers are not just asked questions about the case but they participate in a discussion of issues that might be outside of the original complaint. We hold multi-team meetings of clinical advisers and case handlers, internally and externally, in very complex cases to make sure that there is a conversation between the clinical adviser and the caseworker. Liam Donaldson said that he picked up an overwhelming view that our case handlers deferred to the clinical advisers unnecessarily and that that was not a good thing.

We also make sure that both sides are peer reviewed. Clinical advisers give feedback to the case handler and the reverse is the case. We have appointed a new lead clinical adviser who will take the lead in this process, but there are some things we have not done. We have not made progress, which is very significant and needs to be addressed—as Alex Allan has pointed out to me—in looking at, as Liam Donaldson requested, holistic approaches to investigations that perhaps other patient safety bodies do and we do not. We think there are things we can learn from that. We have not had time to incorporate that.



We have not been able to talk to regulators about the issue of naming clinical advisers. This is a very sensitive issue. Liam Donaldson understood that some clinical advisers were fearful that if we named them in the process they would be chased after by disaffected complainants in a way that might impact on their careers. We do not want to leave ourselves in a situation where we do the right thing but we have no clinical advisers to help us do it. We need to pilot that, or think about it and talk about it. We have not got round to that yet. It is a central part of improving trust in the organisation and I am not going to let it go.

Q37 Lloyd Russell-Moyle: That is really good to hear. You touched earlier on a bit about the clinical adviser that the complainant might want to choose and the clinical adviser that the organisation might want to choose. What progress or extent have you had in balancing that, particularly around where complainants might say a different sub-specialism is required rather than the one that the organisation may be suggesting?

Rob Behrens: This is a very difficult issue and it happens in a small number of complex cases. Our approach is to be as pragmatic as possible without just bending to the will of a complainant who might not like the view of the clinical adviser. We will ask our lead advisers whether it is appropriate to take a second view from other clinical advisers in the light of what might be either ambiguity or a difference in opinion between one clinical adviser and another. We do not uncritically just accept the views of the clinical advisers that we have and we will ask for additional advice if we think it is in the public interest to do so, but we cannot adopt a position of dismissing clinical advisers because they do not come up with the view that the complainant wants to hear.

Q38 Lloyd Russell-Moyle: If a complainant is adamant that they wish to get a second clinical opinion, is that something that you always lean to or are you saying that you take it case by case on what your clinical lead is saying?

Rob Behrens: We take it case by case on the evidence.

Q39 Tom Randall: Mr Behrens, in the previous scrutiny session you said the ombudsman had experienced an increase of 13% in demand compared to the previous year. My understanding is that figure cannot be fully evidenced because a new IT system was introduced. Can you tell us at what point you discovered that that suggestion could not be evidenced?

Rob Behrens: We came to you in May before we had the full account of the whole year's increase in inquiries, the total figure. The figure that I gave to you in May was from the first eight months of the calendar year, which had shown a 13% increase. We then changed the way in which we counted inquiries, as Amanda has explained, by moving from the total number of inquiries to looking at which inquiry came from individuals. If there were two inquiries from one individual that was not two new inquiries, it was one. That is what the new ICT system enabled us to do. We had been encouraged to adopt that by the peer review system and, as a result,



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at the end of the year the number of complaints that we received increased anyway. I have given you the best account of the available information that I have had. There has been an increase in the number of complaints that were received in-year to the tune of in excess of 7%.

Q40 Tom Randall: You are able to give us a revised figure now based on the report. In your letter of 12 October you wrote that you had received 31,365 complaints in 2019-20. The annual report and accounts says on page 31 that you had handled 31,895 complaints, of which 28,103 were new complaints recorded that year. Could you tell us where the figure of 31,365 comes from?

Amanda Amroliwala: The figures in the annual report are the end year figures. We count in a very complex way, as I have already explained. We count the number of complaints received and we count the number of complaints handled. Those numbers are different because we receive complaints and some of them are rolled over into the next financial year. The number of complaints we receive and the number we handle can often overlap two different years, so the preceding year and the subsequent year. Sometimes there is a slight variation in the numbers because of those differences, depending on whether you are talking about cases coming in or cases that we have considered.

We do not have in the annual report a figure for new cases received into the system. As I explained to Mr Wragg, this is one of the problems of why we are revising all of the data. The figures that have been historically rolled forward each year in the report are cases handled. That then does not give you a figure for the number of new cases that are created on the system and that is where the 31,000 figure comes from.

Q41 Tom Randall: Looking forward, issues and re-evaluating the data that you will be putting in is something that can be considered.

Amanda Amroliwala: So that it can match.

Q42 Tom Randall: Can I ask about inquiries and complaints? When does an inquiry become a complaint?

Amanda Amroliwala: An inquiry is a front-end contact, essentially, coming into our system. That can be a contact about an existing complaint, a new complaint, a request for information or to give us information about something. It can be a variety of things and historically those have been classified as an inquiry but, as I have explained, because of the change in the way our IT system works we are now logging those in a different way.

Once we have looked at something that we believe is a new complaint and can see that there is substance insofar as they may have already gone through the local resolution system and they have given us an indication of why they think there are still failings, that becomes a new complaint. Then we say, "We will have a look at that a bit more" and bring that into the system and give it consideration.



Q43 Tom Randall: On peer review and value-for-money studies, our previous report recommended that the next value-for-money review should include specific assurances on the quality of the ombudsman's casework. How do you think the panel could best accomplish this?

Rob Behrens: I am very heartened by the progress that we have made as an organisation in thinking about incorporating systemic approaches for value for money as part of our approach of business as usual. We now have, as a result of work undertaken by our audit and risk assurance committee a methodology for addressing the routine approach to value for money, which incorporates the public value framework of the National Audit Office and enables us to take a view about how we pursue goals, manage inputs, address our relationship with citizens and look at system capacity. We will be producing a balance score card as far as value for money is concerned, which will be given to the audit and risk committee quarterly and we will publish it. This will enable the peer review team, which will be commissioned from the International Ombudsman Institute to be able to take a view about whether or not that is rigorous in understanding value for money.

I am very confident that this is an approach that is leading the way in peer review. There is no other ombudsman scheme in Europe that is now heading towards its second peer review. We have addressed the issue of the members of the peer review by ensuring that the International Ombudsman Institute validates any member of a peer review, so you cannot just have your chums appointed. We now have a methodology that we will use and invite the international peer review panel to comment on when they do its peer review in 2021. I think this is good news and it has certainly been extremely well appreciated by the international ombudsman community, which has adopted guidance based on the first peer review and the writing up of it as a result of a conference in 2019.

Q44 Tom Randall: On the composition of that panel, because it contains, as I understand it, two ombudsmen and an economic expert to review an ombudsman, do you think there should be an auditor on the panel with experience of complaint handling organisations to provide a degree of independent assurance on the work?

Rob Behrens: It is a good question. I am very happy to listen to your views and I have listened to the views of the Committee on it. The key thing is to have people on the panel who understand the issues and can contribute to an effective audit of what we are doing. That is why we want it. We do not have a lot of money to commission management consultants to do it. I am not convinced that they would provide anything better than what we already have, but I am very happy to think about the inclusion of an auditor, providing that we do not undermine the principle of peer review, which is about using people who are independent but understand the issues because they are ombudsmen in other schemes. I would be very relaxed about having that additional member.

Q45 Mr Jones: We received evidence from a number of complainants about the



disparity of treatment between them on the one hand and trusts on the other. One witness said that as a complainant who was extremely distressed they received no support whatsoever, whereas they knew that trust staff were receiving support. Does your office provide or signpost any support to complainants?

Rob Behrens: Absolutely.

Amanda Amroliwala: With complaints about the health system, there is Government-funded advocacy support for people who wish to make a complaint about the health service. If people come to us and need support, we can direct them to a local provider near to their home and to the organisation that they have complained about to help them through the process. Very many people that bring complaints to us are supported through the process by an advocate from one of those organisations. That is not the same for people bringing complaints about Government Departments and of course they bring those through their Member of Parliament, so they are supported by the Member's office in bringing their complaint to us.

There is a separate issue about how people feel and we have talked about this in the context of the independent conversations that we have run with complainants. They very much feel that there is a power imbalance between them and a huge organisation with a huge litigation or complaints department behind it. They really feel that difference even if they are supported by an advocate.

There is a separate set of issues for people who have particular requirements. They may need adjustments due to either a particular characteristic or a particular vulnerability and we have a separate process for those people where if they tell us that they need extra support or they need things dealt with in a different way or they need to be communicated in a different way we will take that on board and consider how we might do that for them. Then we play back to them what we have heard from them and what we are proposing to do in response, to give them another chance to say, "No, that is not enough" or, "That doesn't work for me" to give them a chance to say that they need to be, for example, communicated with in a different way.

We have a series of different offers, but there is always the backstop of advocacy support in health cases.

Q46 **Mr Jones:** We have also had complaints from complainants who said that they frequently found that they had to work hard to provide information and evidence to your office to sometimes challenging deadlines. Can you explain how your office sets and applies deadlines for the provision of evidence?

Amanda Amroliwala: We have a series of stages, depending on whether it is an assessment or a formal investigation. There are specific timelines for the formal investigation. Those are there really to help us move through



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cases. I know that people write to the Committee to complain how long their cases take, but often that can be because people want more time at all of the various stages. We give a complainant the same amount of time to respond as we give the organisation that we are investigating. If somebody makes representations to say that it is very difficult for whatever reason to respond in those timescales, we try to be as accommodating as we can but within the context of us trying to move through a complaint investigation and to come out and conclude it in the best interests of both parties.

As well as the people who write to you often to give evidence that is complaining about aspects of our service, in the memorandum that we submitted to this Committee we provided just a handful, a dozen or so examples, of people who—and I think it is a really important point to make—in the last 12 months have sent us information about what a fantastic service they believe they have received from caseworkers across our business. Those are contemporary, current reviews and we can provide more of those if you require, saying quite the opposite of the things that you have also heard. I am not saying that people do not feel that way. People do and we do not always get it right but there are an awful lot of people who feel very supported by our service and feel very much as though they have been listened to throughout, and we have lots of testimony to support that.

Q47 Mr Jones: Thank you. Mr Behrens, your 2018-21 strategy set out an ambition to routinely publish most casework online. Are you still expecting to be in a position to do that by the end of March next year?

Rob Behrens: Absolutely. We are on course to do that and that will be a significant achievement, given everything that has happened in the last three years. We are now in a position where we have trialled the necessary information technology, we are training people to use it and we are trying to use the publication to improve the report writing skills of case handlers. I think we are in a good position to be able to move forward at the beginning of the next financial year. As you say, this was a key element in strand 2 of the strategic plan, along with other things that we have also done.

Q48 Mr Jones: is it your hope to publish information about the extent of compliance with recommendations made in your casework?

Rob Behrens: Yes. Amanda?

Amanda Amroliwala: It is. We published an initial cut of compliance data and that was with the last annual case report. Once we get through this challenging period that we have already talked about with our statistics, our intention is to do that again. If somebody has complied with a recommendation or if they have not that, information will be in the public domain. If you are a member of the public and you are intending to go to a particular organisation, you will be able to look through and see whether



organisations have followed through with the things they said they would do.

Rob Behrens: Can I add to that, Mr Jones? We know from the conversations we have had with complainants that if we are not able to demonstrate that bodies in jurisdiction comply with our decisions, they think that is an indication that we are not impartial. It is absolutely crucial to get out the message that the vast majority of bodies in jurisdiction do implement our recommendations. This is not easy. I know from recent work I have done that sometimes compliance does not take place willingly and it is only sometimes when one has to explain that one will lay a report before Parliament or publish material about it that the body in jurisdiction suddenly changes its mind and implements recommendations.

Q49 **Chair:** That leads neatly on to my next few questions, which are on the effectiveness of the recommendations and follow-up. Amanda, you previously told us it is not your remit to follow up with organisations on long-term recommendations. Is it not possible for an organisation to simply produce, for example, an action plan in response to the PHSO but then quietly side line it?

Amanda Amroliwala: We spend a lot of time when we are in the final stages of our report and going through the provisional view stage in agreeing the recommendations with the organisation concerned. Obviously we want them to implement the recommendations and if we know at that stage that they are railing against them we put a lot of effort in to try to get them to a place where they understand that it is important that they implement them. That effort can go from the conversations between caseworkers and complaints teams all the way up through a hierarchy of people to myself and a chief executive having a quite serious conversation. A lot of effort goes in beforehand to give us more confidence that people will implement the recommendations.

We also ask every organisation, certainly in the health space, to provide a copy of our report and recommendations to the Care Quality Commission. It is the regulator and we know because of the working relationship that we have with the CQC that it uses our reports in formulating its inspection plans and inspection activities. It is able to use those to follow up and see whether recommendations have been followed through.

Q50 **Chair:** What would happen in the case of recommendations you have made about the CQC itself?

Amanda Amroliwala: Those are very public, as you know. We have laid reports about the CQC and so the CQC is held to account through the public process of our publication.

Rob Behrens: The CQC is a body in jurisdiction and it is treated no differently from anybody else, although in other circumstances we might want to work with the CQC on policy development. We have not shied away, and it has not liked it, from the view that we will insist on our



recommendations being implemented and shown to be implemented. It does not have a special place of being exempt from that.

Q51 **Chair:** Is there a particular example you would care to give?

Rob Behrens: Whistle-blowing is a very sensitive issue and I know you have had some evidence about that. I believe that we have shown in two cases that we have published that the CQC at the time—and it has made progress since—has failed to carry out its responsibilities on whistle-blowing. I am absolutely clear that publishing that material has moved CQC on to address those issues.

There is an issue about what constitutes an appropriate apology. I know you have had some evidence about that and we are looking at that as part of our complaints standards framework, which you may come on to ask me about. What constitutes an appropriate apology is a very sensitive issue for people who primarily believe that that is the most important part of the outcome.

Chair: Indeed, and it is a neat chronology to our questioning because for that we will go to Jackie Doyle-Price.

Q52 **Jackie Doyle-Price:** Mr Behrens, you have indeed pre-empted my question. You mentioned that you intend to publish the final complaints standards framework for the NHS early next year. Could you advise us also what the timescale is for the version related to Government Departments?

Rob Behrens: Yes. This is a very exciting development. We sent this Committee the report, which I believe is an authoritative report. It has involved 100 visits to bodies in jurisdiction. It comes up with comprehensive findings about the state of complaints handling in the NHS. It has had an overwhelmingly positive response from the consultation that we undertook with the health service and complainants and advocacy groups. We have a steering committee consisting of advocacy groups, regulators and people who are stakeholders in the system and we have had an enormously positive response that enables us to refine the complaints standards framework.

We need to do this rigorously and not too quickly. We are going to move not into the direct adoption of the complaints standards framework but we are going to undertake pilots in the New Year to address some of the issues that we need to make sure we can demonstrate accountability and how it is working. There are some people who—mistakenly in my view—have argued that this is a burden on the NHS. I take comfort from Dame Jackie Daniel saying on Radio Ombudsman that she thinks that is not the case, that this is essential work that the NHS should be undertaking.

We will need to learn in the pilots how to effectively monitor the complaints standards framework so that it demonstrates that it is making a change in leadership, the training and skills development of complaints handlers and changing the defensive culture that we think exists in complaints handling in the NHS. The pilots will be very important.



At the same time we have done this, we were thrilled to find that central government departments were responding to our consultation on HMRC, the Home Office, DSS and a number of other Departments to say that they wanted to be associated with it too and they are in full support of adopting something similar for central government departments and public bodies. We will do that and we will move towards it in the same way, but we have only so much capacity and we cannot rush it while we are trying to make sure that we implement effectively the complaints standards framework for the health service. We can do all of this without the legislation that we have been asking for, for a long time, and which self-evidently is not now going to come to address this issue. We have to make sure that we have the support and trust of bodies in jurisdiction without being bossed around by them. It is a PHSO-led enterprise.

Q53 Jackie Doyle-Price: Excellent. That is very encouraging but in a way it is not unsurprising to hear your enthusiasm for this. As you say, this will only have teeth if it is embraced by those organisations. There is a cultural issue that needs to be challenged in the sense that complaints are intelligence about how you do things better and how you learn from mistakes. By definition, they are a fundamentally important aspect of properly serving the public. My plea to you is that as this is rolled out I would be very interested to hear about just how far it has been embraced by those that should be doing so, particularly in respect of the NHS where I think culturally it is becoming an increasingly defensive set of organisations. There is a risk that the pandemic will only seek to underline that. Do you have some observations on my observations?

Rob Behrens: Yes, I agree with you. That is the short answer. The longer answer is that the difference between this approach and previous ones—and there has been a whole stream of reports in the last 10 years that have argued for an initiative similar to what we have done—is that there has been no effective proposal for monitoring to see the outcome of what is happening.

We know from talking to complaints handlers that they feel as if they are the neglected underclass of the NHS who are not able to challenge clinicians. They say that leaders of their organisation insufficiently come to their rescue in investment and supporting their challenge of clinicians. This is not just about the complaints handler. It is, as you say, about the culture of the organisation and we will make sure that this continues to be addressed in the public domain.

I was frankly disappointed that the Select Committee did not take this as an inquiry. I think it is a big step in the development of public administration and I hope that at some future point you will be able to do that. It is a big issue and it will change things when it works.

Jackie Doyle-Price: It is not that we are not interested. As the Chair will confirm, I often bang on about behavioural culture within public service, leadership being my top one, but very much complaints handling and that whole culture also. I think this is something that we will want to come back



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to in future sessions with you. Thank you for that.

Chair: Thank you and echoing Jackie's closing points there, we will be taking it very seriously in the work that we do going forward.

Rob Behrens and Amanda Amroliwala, thank you for your attendance at the Committee this afternoon and for answering our questions. If you wish to write to us about anything in more detail, please do so and we will gratefully receive that correspondence. Thank you to colleagues and staff, particularly those in the broadcasting unit who facilitated the meeting. I thank them for their work.