

Committee of Privileges

Oral evidence: Matter referred on 4 September 2025: actions of the Charity Commission, HC 1524

Wednesday 26 November 2025

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Members present: Alberto Costa (Chair); Paula Barker; Gill Furniss; Gareth Snell; Michael Wheeler.

Questions 1-47

Witnesses

[I](#): Saira Salimi, Speaker's Counsel, House of Commons.

[II](#): Karl Banister, Director of Operations, Legal and Clinical and Deputy Ombudsman at Parliamentary and Health Service Ombudsman (PHSO).

[III](#): Mark Simms OBE, Interim Chair at Charity Commission for England and Wales; David Holdsworth, CEO at Charity Commission for England and Wales; and Felix Rechtman, Head of Litigation at Charity Commission for England and Wales.

Examination of witness

Witness: Saira Salimi.

Q1 Chair: Good morning. This is a meeting of the Committee of Privileges in respect of a matter referred to the Committee on 4 September 2025, involving the Charity Commission. Our first witness to give oral evidence is Ms Saira Salimi. Will you please outline who you are and the position you hold and, if you wish, make an opening statement about the events leading up to this matter?

Saira Salimi: Thank you very much, Chair. I am Saira Salimi, Speaker's Counsel of the House of Commons and the head of the legal team here. I have held that office for nine years. I have been involved since the summer of this year in the underlying proceedings that have led to this hearing. If I may, I will make a brief opening statement outlining how we have got to where we are.

By way of background, the Parliamentary and Health Service Ombudsman is a single individual appointed under two Acts to carry out statutory functions under those Acts. This case relates to her functions as the Parliamentary Commissioner for Administration, which are conferred under the Parliamentary Commissioner Act 1967. That Act confers on her the power to investigate actions of public authorities where a complaint is made directly to her by a victim of maladministration or referred to her by a Member of the House of Commons.

Under section 10(3) of the Act, the commissioner has a discretion to make a special report and to lay it before both Houses of Parliament if she considers that injustice has been caused to the person aggrieved in consequence of maladministration, and that the injustice has not been or will not be remedied.

Special reports are rare. Ordinary reports by the commissioner under section 10(1) of the Act are not laid before Parliament, although if the complaint has been referred by a Member of the House of Commons, a copy of the report is provided to the individual Member.

The commissioner also makes annual reports, which are laid before Parliament and considered by the Public Administration and Constitutional Affairs Select Committee. She also has a general power under section 10(4) of the Act to make such other reports from time to time as she thinks fit.

I will not go into the detail of the underlying dispute between the Charity Commission and the commissioner, but in this instance the commissioner proposed to lay a report under section 10(3) concerning the Charity Commission's handling of two cases involving anonymised individuals known as Miss A and Mr U. The Charity Commission objected to the proposed report on the basis that it was outside the commissioner's statutory powers, and commenced legal proceedings for judicial review.

The claim sought a declaration that the decision to produce the report was unlawful, and it also sought an order quashing that decision. The House authorities had serious concerns about the legal proceedings, because they appeared to be an attempt to inhibit the commissioner from laying a report before the House of Commons.

As I have said, the commissioner's work is overseen by the Public Administration and Constitutional Affairs Committee, which has responsibility under Standing Order No. 146 for considering the commissioner's reports. That Committee would consider a special report made by the commissioner, and the Chair of that Committee raised the Charity Commission proceedings as an issue of privilege before the House in early September this year. The House of Commons subsequently made an order that required the commissioner to lay the report and, importantly, the report was therefore laid in accordance not with section 10(3) of the Act but with the order of the House dated 4 September 2025. The laying of the report, as it therefore fell out, was unquestionably protected by parliamentary privilege, as the House itself required it to be laid.

However, the Charity Commission is proceeding with its claim on the basis that the initial decision to report is separable from the laying of the report before Parliament, and that that decision is not subject to parliamentary privilege. The administrative court has made an order for a preliminary hearing but as yet, to my knowledge, no date has been set for that hearing.

Chair: Thank you very much for that statement, Ms Salimi.

Q2 Gill Furniss: Thank you for attending today. The courts have considered previous actions taken by the PHSO, or the PCA, to be amenable to judicial review. Why might the Charity Commission's legal action in this case be considered a breach of privilege?

Saira Salimi: I have already explained that the commissioner produces multiple types of report, and not all of those are laid before the House. The earlier cases involving reports by the commissioner, which do indeed find that the commissioner is, in principle, amenable to judicial review, do not relate to special reports under section 10(3). Those cases, particularly the leading case of *Dyer* in the Court of Appeal, related to the commissioner's powers to make the initial reports on maladministration, which, as I noted earlier, are not laid before either House of Parliament.

The question in this case is whether it is a contempt to attempt to inhibit the commissioner from laying a report before the House of Commons, and that question has not arisen in earlier litigation.

Q3 Gareth Snell: You have answered most of my questions, Ms Salimi, but I am interested in the phrase "contempt of the House", which is quite significant and obviously comes with a level of seriousness that should not be underestimated. It seems the Charity Commission was surprised that you thought this was in that realm. When you wrote to them and included

those points, what was your thinking behind that? What led you to the point of thinking that this was genuinely in the realm of potential contempt of the House?

Saira Salimi: I wrote initially to the Charity Commission in July to explain that the commissioner has a very close connection with the House of Commons—she is an Officer of the House—and that connection is particularly with the Public Administration and Constitutional Affairs Committee. I explained that the courts have repeatedly recognised the importance of parliamentary accountability alongside legal accountability.

Parliamentary accountability may take place in a number of ways. It may come through an order of the House, as it did in this case, in the end, or it may come through legislation that requires or permits a body to report to the House. I explained to the Charity Commission that attempting to inhibit somebody from providing to the House information that it has indicated it would like to have is a potential contempt, and that the commission had a political remedy in the form of the provision of evidence to PACAC, if it considered that the commissioner had acted improperly.

Q4 **Michael Wheeler:** This is a straightforward question. Is there merit in the Charity Commission's suggestion that Parliament might be better served by awaiting the outcome of its action to quash the PCA's decision that injustice had occurred, and that she would report that to the House?

Saira Salimi: By the outcome, do you mean the outcome of the legal action?

Michael Wheeler: Yes.

Saira Salimi: I think in all the circumstances of this case, and particularly in the light of the House's order for the provision of the report, it would be better if the court were to allow the House's procedures to work their way through before it can be considered by a court.

My reasoning is this. It is usually the case that the exercise of statutory powers is justiciable by the courts, but that is not universally the case. There are legislative provisions that are not susceptible to review by the courts. An example is the provision for legislative consent orders under the Scotland Act, which is a provision of an Act of Parliament but which the courts have said clearly is not justiciable, because it is a political requirement. Earlier this year we had another case, involving the provision of environmental statements under the Environment Act 2021, where, again, the court found, at first instance, that the exercise of that function is simply not justiciable.

This is quite a difficult case, because it does raise difficult questions about the relationship between parliamentary and legal accountability. There is a power conferring a discretion on a public authority to report in certain circumstances, and the report is made to Parliament. Although it looks at first glance like a function that might be reviewable by the courts, the interaction of parliamentary and legal accountability may mean that the decision is not justiciable. I think there is a question of comity—of the



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House and the courts considering matters simultaneously—and, as the House is now seized of this matter, it seems to me that it would be better to delay the legal proceedings rather than ask the House to delay its processes.

- Q5 **Chair:** May I ask a follow-up question, given the final point you just made? How would the House be affected by waiting for the outcome of the case if the House had not ordered publication of the report?

Saira Salimi: If the House had not ordered publication of the report, the commissioner would no doubt have felt constrained to continue not to lay the report under section 10(3), and therefore she would in practice have been inhibited in the provision of information to the House, which would arguably create a continuing contempt.

- Q6 **Michael Wheeler:** The Charity Commission seeks a declaration that the PCA's decision was unlawful. In this context, what does the term "unlawful" mean? Are the things that a court would be deciding qualitatively different from what the relevant Committee might want to consider?

Saira Salimi: Judicial review is a supervisory jurisdiction, and the court's role in that context is to consider whether an action of a public authority, which the PCA is, is so unreasonable that no reasonable public authority could have done it; outside its powers, whether statutory or common law; or procedurally improper for some reason. In this context, the question is whether it is operating outside its powers set out in section 10 of the Act, and that is different from the question that the House has to consider, which is whether the matters that the PCA wishes to raise as a special report are in fact matters of concern to the Public Administration and Constitutional Affairs Committee, given its functions under Standing Orders.

- Q7 **Paula Barker:** The Charity Commission is continuing with its claim. If the court were to grant permission for the case to proceed, what action would you take?

Saira Salimi: We do not as yet have a date for a hearing, as I said earlier. We are seeking to intervene in the proceedings, and both parties have indicated that they have no objection to that. The question arises, as a preliminary matter, whether the claim is now academic, given that the disputed report has now been laid, and the court also wishes specifically to hear whether any question about parliamentary privilege remains an issue. Those two points will be heard as preliminary matters, and the decision on permission will depend on the court's findings concerning them.

If permission were granted, the House would continue to intervene in the case. Supposing the parliamentary proceedings are still continuing at that point, which of course they may not be, we might seek to ask the court for a stay of the legal proceedings until the parliamentary proceedings are complete, and then we would continue to make representations on the privilege issues in the litigation.

Q8 **Chair:** Do you think the House's decision to order the laying of the PHSO reports before the courts had taken any decision on the Charity Commission's claim will affect the relationship between Parliament and the courts?

Saira Salimi: It may do, of course. As I said earlier, this is an unusual case where Parliament and the courts are on the same territory at the same time. That is not unprecedented but is unusual, because of the self-denying ordinance that the House normally maintains in relation to matters before the courts under the sub judice resolution. It is my hope that our intervention in this case will assist both the courts and Parliament in carrying out their respective roles, which are constitutionally distinct and of equal importance.

Q9 **Chair:** Ms Salimi, is there any other comment or view that you would like to express before the Committee?

Saira Salimi: I believe I have had the opportunity to make all the points I wish to. Thank you, Chair.

Chair: This an open public session so you are more than welcome to remain in the Public Gallery if you wish, Ms Salimi. Thank you very much.

Examination of witness

Witness: Karl Banister.

Q10 **Chair:** Good morning. Would you please outline to the Committee who you are, what your position is and, from the point of view of the organisation that you represent, the circumstances that resulted in this matter coming before the Committee of Privileges?

Karl Banister: Hello. I am Karl Banister. I am director of operations, legal and clinical at the Parliamentary and Health Service Ombudsman.

I am going give a bit of the history of the matter; I think that is the easiest thing to do. This issue started with a complaint to the PHSO in late 2020 by Mr U, relating to an allegation of concealment of child sexual abuse by two related charities. Mr U felt that the Charity Commission did not investigate his concerns about that properly.

Miss A then complained to the PHSO in mid-2022. Her complaint related to alleged sexual exploitation by a charity trustee. She felt there was an inappropriate relationship with a volunteer, in the context of her vulnerability, when you consider the charity aims. She felt that the Charity Commission's response to her regulatory concerns was inappropriate, and that the commission did not communicate adequately with her.

We had those two complaints. We had a longer process than normal, because even at that point there were difficulties in the investigation—the commission had been clear that it had concerns about our jurisdiction—but we issued our final reports for both on 28 March 2024.



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Our recommendations, briefly, were that the commission should have an independent person review Mr U's case to consider whether the reasoning was adequately accounted for; consider whether the outcome would have been different; look for learning on how it engages in such cases; look at its risk guidance; and make a payment of £2,000 to him, to be shared with the Department for Education, which was also complained about in that case. On Miss A, we made similar recommendations, including making a payment of level 4 on our scale, which is between £1,250 and £3,700. She wanted the amount to remain unknown to the public.

The commission issued pre-action proceedings in April 2024. We agreed to mediation—both parties did mediation. That was a confidential process, and it happened in June 2024. The outcomes were that we agreed to modify some aspects of the recommendations. We removed the requirement for an person independent of the commission to carry out the review. The particular agreement was: "The commission will accept the revised recommendations but will maintain its position that in the first report it does not accept the specific findings, whether intentional or not, relating to the reasoning behind any of its decisions. On the basis that the commission accepts the recommendations and implements them in the way that is agreed, the PHSO will not proceed to lay the report at Parliament. Should the commission fail to complete the agreed recommendations, the PHSO may at that point proceed to lay the report." That was the agreement.

The commission undertook the review work, which concluded in November 2024. We did not feel that the commission had fully complied and, after further negotiation and discussion, we felt that we were apart. On 14 March 2025, I wrote to the commission setting out our intention to lay the reports for non-compliance. In brief, the reasoning was that, in relation to Mr U, the commission had apologised, paid the financial remedy, undertaken a review and taken learnings, but the reasoning for the decision was held in a confidential log that Mr U could not see. The conclusion was not clear on the implications of some of the areas that the review found. That was Mr U. For Miss A, the commission had again apologised, paid the financial remedy and done a review, but there was again a confidential log with operative parts of its thinking in it, and we felt that the reasoning in it was self-limiting.

We said that we planned to lay the week commencing 24 March. On 19 March, the commission issued a letter before action under the pre-action protocol for judicial review. In particular, it suggested that it had carried out the required reviews. It felt that the PHSO was looking at the merits of its decisions. It said that the reviews did not relate to the injustices experienced by the complainants. It said that no maladministration had been identified in the reviews and, therefore, we were outside our jurisdiction. It invited us to agree not to lay. I will read out that part: "We therefore invite the PHSO to confirm in the first instance that it will not lay a special report before Parliament next week and that the PHSO will provide a full pre-action response to this letter and provide the commission with a further period of 14 days to consider its response to



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that letter, including proceeding with a claim before the report is laid in Parliament. We require that confirmation by Friday 21 March”, and so on. “In the event no such confirmation is provided, the commission reserves the right to issue proceedings forthwith and without awaiting a pre-action response.”

My assessment was that it was better not to provoke the commission to issue legal proceedings. It is obviously unattractive for two public bodies to be litigating. Were they to do so, they would likely get an injunction, and that would be an additional cost to the public purse. We therefore wrote on 21 March confirming that we would pause until legal issues were resolved. Given the interest of Parliament, we informed PACAC on 26 March and we served our response on 27 March, in which we made it clear that we considered parliamentary privilege a bar to the claim. We rebutted the grounds and noted that we had agreed not to lay and would not do so until PHSO understood whether the commission intended to withdraw or pursue the claim. We updated Parliament that we had cited privilege in our response as well.

On 11 April, the commission replied saying that it intended to pursue the judicial review. It did not consider that privilege applied and noted that PHSO would not lay the report until the determination of the claim. The judicial review was issued on 7 May. It sought “a declaration that the decision of 14 March 2025 is unlawful”—that is, our decision that it was not compliant—“that the 14 March decision is quashed, that the defendant pay the claimant’s cost of the claim or any other order the court considers appropriate.” That is what the judicial review sought.

We served our acknowledgment of service on 30 May. We repeated the point about privilege. In particular, we noted: “The submission that the laying of a report before Parliament cannot be the subject of a judicial review claim is supported by the fact that the laying of a special report has no legal consequences for the commission, but only the practical consequence that PACAC will be apprised of the issues that have arisen and might, but equally might not, wish to inquire further into them as part of its wider supervisory functions.”

Some of the other events have been covered. Speaker’s Counsel first became involved on 23 June, as you have heard. On 4 July, the commission wrote confirming it intended to carry on, and it noted, “The commission is not seeking to frustrate or delay the laying of the reports before Parliament”. There was then an exchange with the Speaker’s Counsel, and on 22 July, the commission wrote, “As we made clear, we have not applied for either interim or final relief in the claim to prevent the reports being laid”. It referenced the PHSO voluntary agreement to delay laying.

On 4 September, the commission wrote to the court suggesting, “The commission is not seeking an order to prohibit the PHSO from laying the reports by the declaration that the PHSO’s decision is unlawful and should be quashed.” The motion was then passed ordering us to lay the reports. There was further correspondence, which I do not need to go into. The

final point is that the court has told us that it will undertake an oral permission hearing not before January 2026. That is where we are.

- Q11 **Chair:** Thank you very much, Mr Banister, for that full opening statement giving some background. Was the decision of 14 March just that injustice had occurred, or that there had been a decision to lay?

Karl Banister: The decision of 14 March was that we felt that while the commission had done many—perhaps the majority—of the things that we sought in our recommendations in the reports, it had not fully complied. As such, we did not think it would comply with our reports, and as such, it was our intention to lay the reports.

- Q12 **Paula Barker:** Thanks very much for being here, Mr Banister. Thank you for setting that out so comprehensively; you have answered one of my questions already. Why did you share the report in draft? Have you shared previous reports in draft at any earlier date?

Karl Banister: Our procedure is that when we are doing a detailed investigation, we call it into a complaint. We draft what is called a provisional view. The provisional view is exactly what it says it is. It is equivalent to Maxwellisation in inquiries. The aim is to present the information in a form that can be understood. It is our provisional thinking about the matter. We then present that to both the complainant and the organisation we are investigating, and we seek their views on it. We always do that. At that point, we receive or do not receive, depending on the position of the parties, feedback on the report. We then go away and take that into account, and very often we change our conclusions on the back of that. That is the process we have gone through.

- Q13 **Paula Barker:** The Charity Commission has argued that it is challenging the lawfulness of the recommendations. What legal advice have you taken on the matter? Can you share that with us?

Karl Banister: We have an internal team of lawyers. I am a lawyer myself, but I do not legally advise on this case because I am the decision maker; I take legal advice from my colleagues. We also have, as you might expect, a counsel team including a KC, who has, fortunately for him, unfortunately for us, just been elevated to the High Court. We think we have taken full legal advice on this.

- Q14 **Michael Wheeler:** I think you have touched on a few of these points already, but I want to tease them out. It is about the decision to hold off on laying the report. From what you have said, there were two points, one resulting from mediation and giving time for a resolution to be found and then later there was a point at which you made a different decision to lay it and there was legal action, following which you withheld laying the reports. Is my understanding correct of the decision-making process at those two points? At each stage, was the decision not to lay the reports either an offer from your office or a request from the Charity Commission?

Karl Banister: There are two key decisions. One decision was to make the reports. The reports were made. That was when the mediation followed as to how to comply with the reports, and thereafter the Charity



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Commission sought to comply substantially with many of the recommendations in the reports, as I have made clear. At that point, we were not going to lay, because we were in a conversation about compliance. We would never lay a report while we thought there was still a realistic prospect of compliance. The only time we would lay a report is when we think there is no prospect of compliance.

We then got the point where we had been through that quite extended compliance process. We would normally allow three months for compliance; we allowed considerably more, and had some bespoke agreements about how we were to work on compliance. We were intending to lay. We felt it was fair to the commission to tell it that we were going to do that.

In judicial review, the normal process is that you receive a pre-action protocol letter. That is normally required. The normal requirement is to hear what the party that receives that has to say. The commission made it clear that, if we did not agree not to lay the report, it was going to issue forthwith. My assessment, under legal advice, was that we were in a position where if we carried on, it was extremely likely that the court would grant an injunction. To obtain an injunction in relation to a judicial review, you have to have a substantive claim—you cannot seek an injunction without a substantive claim, and it had a substantive claim—and you have to have an arguable case in that claim.

In an injunction like this, the jeopardy for the court is very low. The court is not stopping someone flying somewhere or anything like that; it is saying, “Don’t lay a report.” So the advice was that it will get an injunction. For us, there were two problems with that. One, which I have set out, was simply the cost of proceedings that we felt we would lose. Another was the loss of the opportunity to write a response, which may or may not put off the proceedings. I had hoped that when we responded, the commission would draw back. Also, there is the oddity that, if an injunction had been granted, it would have started to determine the point about privilege before the point about privilege has been properly argued. I felt that we had no choice but to agree not to lay the report.

Q15 Gareth Snell: Thank you for coming, Mr Banister. Given that the Speaker’s Counsel advised the Charity Commission that it would be possible for it to challenge your decision via the normal processes of the Public Administration and Constitutional Affairs Committee, what conversations and correspondence have you had with that Committee about matters covered in this hearing, other than your letter informing it that there was pending legal action that you thought might be an impingement of privilege?

Karl Banister: That is it, essentially. I am not saying that we do not have contact with PACAC—it is our supervisory Committee—but on this matter, that is basically it. We just informed it of what happened.

Q16 Gill Furniss: Thank you for attending today; it has been interesting. In your letter of 9 September to the administrative court office, you took the

position that the Charity Commission's proceedings are now academic. Why, in your view, would that be so?

Karl Banister: In our view, the proceedings are academic because we felt that the real point of the challenge was about the reports being laid before Parliament, and that has happened. To our way of thinking, there is nothing left in the proceedings. The remedy that was sought was a declaration that our decision of 14 March was unlawful and would be quashed, but the substance of it was that the reports will not be laid. That was the thing that was at issue when we had the conversations with the commission. That was why we thought it was academic.

- Q17 **Gareth Snell:** I appreciate that you may not want to speculate, but had the House declined to make that instruction to report, would that have changed the way that you thought about future decisions, how they may end up being involved in justiciable processes, and how you reported back to your supervisory Committee—to avoid, as you rightly say, two public bodies litigating in a public forum about the contents of reports?

Karl Banister: In one way, I do not have to speculate. I can tell you what we thought at the time, which was that it has an effect on our decision making. Instead of simply thinking, "Shall we lay this report or not? Is it the right thing or not?", because we knew there was potential for litigation in this case about that, we thought about the desirability of entering into that for the office—the significant cost to the office of defending the proceedings. There is an element of it becoming another consideration in whether you are going to lay a report. That is not to say that is wrong, because we should think about the lawfulness of our approach—that is important—but if the House had not made the motion, I do not think that would have made an immediate difference to our thinking, because the next thing would be the court proceedings, which is what would turn on what we should think about it.

- Q18 **Chair:** Are there any other views or comments you might like to express to the Committee?

Karl Banister: No.

Chair: In which case, thank you very much for giving evidence to the Committee this morning, Mr Banister. You are at liberty to remain in the Public Gallery, given that this is a public evidence session.

Examination of witnesses

Witnesses: Mark Simms, David Holdsworth and Felix Rechtman.

- Q19 **Chair:** Good morning. We now have our third panel before the Committee this morning. Would you all introduce yourselves first, and then outline from the Charity Commission's point of view the circumstances that led to you challenging the PHSO's decision of 14 March to lay a special report before Parliament?

David Holdsworth: Thank you for the opportunity to make some brief opening remarks. I want to start by acknowledging that the two PHSO cases at the centre of this issue—

Chair: Can you tell us who you are first?

David Holdsworth: Sorry, I am David Holdsworth, chief executive officer and principal accounting officer for the Charity Commission.

Mark Simms: I am Mark Simms, the interim chair of the Charity Commission.

Felix Rechtman: I am Felix Rechtman, the head of litigation at the Charity Commission.

Chair: Forgive me, Mr Holdsworth; please return to your opening statement.

David Holdsworth: Thank you, Chair. I want to start by acknowledging that the two PHSO cases at the centre of this issue relate to safeguarding concerns within charities, and both cases include really difficult personal experiences for those involved. We admitted that there were lessons for us to learn as an organisation, as already set out by previous witnesses, and that is why we paid compensation and apologised in 2024 as per the PHSO's recommendations. The challenge to the PHSO decision, set out in its letter to us of 14 March 2025, is about the need to get a definitive answer from the courts on a point of law about our jurisdiction. Our desire throughout has been to ensure we deliver on the statutory remit and the exercise of powers that this House has granted to us, but, importantly, that we do not go beyond them and infringe on the rights of citizens.

Our public guidance has since 2012 made clear that we do not administer safeguarding legislation—a position that was recently reiterated in the final report of the independent inquiry into child sexual abuse, which, in October 2022, explicitly noted that we are not an inspectorate. That does not mean that we do not have a role where safeguarding complaints are raised, but in doing so, we must act as the civil regulator that this House created via statute. We cannot exercise powers over criminal matters in the way the PHSO proposed, as this House has not given us the statutory remit or powers to do so.

As CEO and principal accounting officer for the Charity Commission, I take extremely seriously my accountability to this House and to the wider public we all serve. It is for that reason that I am determined that we comply with our statutory duties but, importantly, do not overreach the remit granted to us. Indeed, were I or any officer of the commission to authorise an action that I knew to be ultra vires, I would expect to face the consequences.

As a quasi-judicial regulator, it is of paramount importance that we uphold and enforce the law using the powers that this House has granted to us, not impose our own views or opinions beyond the law. As a civil regulator, it is also important that the sector we regulate is clear on our remit and



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can rely on consistent regulation. The 780,000 volunteer trustees who give their time freely to our country to make it a better place deserve to know and understand what regulatory remit they are signing up for when they become trustees. Any changes to our regulatory regime should be consulted on and enacted in line with the law.

The decision of the PHSO in its letter of 14 March—that we should reinvestigate criminal matters already investigated by the police, the CPS or the wider criminal justice system but deemed not able to proceed—has grave implications, in our view, for anyone involved in running a charity and, indeed, for wider citizens' rights under the criminal justice process.

It is also our view that the ombudsman cannot retake regulatory decisions made by the commission to force a different conclusion, replacing our judgment with its own. It is for those reasons that we reluctantly sought to clarify matters through the courts, after many attempts trying to resolve the matter. I want to be clear, as I hope is reflected in our written submissions, that our concern throughout this process has been the underlying decisions of the PHSO and the significant consequences of them, not the laying of the reports before this House.

It is clearly disappointing that we were not able to resolve this matter before reaching this stage. Certainly, from our perspective, it is regrettable if any confusion has arisen about our intentions. We are grateful to be able to attend today and explain ourselves.

Q20 Chair: Thank you very much, Mr Holdsworth. Do any of your colleagues also wish to make an opening statement?

Mark Simms: If you don't mind, Chair.

Chair: Yes, please, Mr Simms.

Mark Simms: As a member of the commission's board since 2023, and as interim chair for the past seven months, I would like to say from the get-go that this action has been taken as a last resort. Absolutely no public body would take lightly the decision for a judicial review of another part of the state. The whole board has had oversight of this process, has scrutinised it diligently and endorsed the actions taken. At no point have we considered injuncting this process.

The commission, however, worked hard to avoid getting into this position. There have been six senior-level meetings between us and PHSO, held during 2023 and 2024, to try to find a way forward. When that failed, we agreed to enter mediation, and we came to what we thought was a reasonable agreement with PHSO last year, enabling us to end our legal action at that time. Sadly, that was reneged upon when they sought to replace our regulatory judgment with their own.

Let me be clear: I want justice to be done in these cases for all those involved, but the PHSO's approach risks confusing complainants about the extent of our remit and how we would be able to serve justice. The ombudsman's attempt to force us to act outside our jurisdiction in turn

takes them out of theirs. As David has said, these issues are not academic but are fundamental to the proper statutory role of the commission, and how vulnerable complainants understand our role.

Throughout this process, the board has been mindful of its responsibilities to Parliament in this regard, not least a responsibility to ensure that the commission carries out its statutory duties appropriately. I want to reiterate strongly that it has never been our intention to prevent Parliament from receiving information. We are very grateful for the opportunity today to state that to this Committee.

Chair: Thank you, Mr Simms.

Felix Rechtman: Nothing from me, Chair.

- Q21 **Gareth Snell:** Thank you, Mr Holdsworth and Mr Simms, for those opening statements. What you have produced there is an incredibly interesting point that the Public Administration and Constitutional Affairs Committee could have considered, had you allowed those reports to be published in the usual way and through the political route that was advised to you very early doors. Although I understand the general sense of disappointment that we have reached this point, it feels as if that could have been solvable elsewhere.

If you disagreed with the original report from the PHSO, why did you not seek judicial review at that point? Instead, you agreed a set of actions, including the review of the handling of your original complaints. Why did you agree on 17 June not to go to court but to implement those recommendations, even if, as I now understand it, you were in disagreement over whether that report was overstepping what you believed to be its regulatory function?

David Holdsworth: I think that centres on the subsequent decision of 14 March in the letter that was sent to us, where the rationale and reason behind the PHSO's belief that we did not comply was in relation to the merits of our decision, rather than the manner. Their belief, as set out in pages 40 to 41, paragraph 32, in annexe C, was: "What the commission is required to do is to make some assessment as to the nature and credibility of the allegations in so far as they are relevant to allegations of misconduct." I think that was the issue for us.

By accepting that position of the PHSO, we would be accepting, in every case going forward, that it was our duty to investigate individual allegations even where they are criminal, and that it would be for us to determine the validity of such allegations, when our power and ability to do so is not granted by this House.

- Q22 **Gareth Snell:** Just so I am clear: your argument is that although you accepted the actions asked of you by the PHSO, you felt that the subsequent arguments that there were other things that you should be doing overstepped the mark, and therefore you could not support the report in its entirety? Or was it the report even being laid before Parliament?

David Holdsworth: It was the content of the decision letter, rather than the report. May I hand over to my colleague Mr Rechtman, who is the head of litigation for the commission?

Felix Rechtman: To clarify, last year we challenged the findings in those reports. We said that the PHSO exceeded their jurisdiction. We were ready to issue a claim on that basis, and then we went to mediation. At mediation, the PHSO expressly promised us, going forward, to stay out of our regulatory decisions and confirmed that in a letter to us, which can be found in annexe C at pages 2 and 3, in which the PHSO expressly stated that they will, going forward, stay out of the commission's regulatory decisions.

We agreed to implement the recommendation in those reports while not agreeing the findings, but on the basis that, in future cases, the PHSO will stick to their jurisdiction—that is, looking at the manner in which we make decisions rather than the merits of those decisions. It was only on that basis that we decided not to proceed with the challenge, because we have a number of other cases in the pipeline where we have the same issue. Because of that letter from Mr Banister, we thought we had reached an agreement, and on that basis we decided not to proceed.

Q23 Paula Barker: Thank you for being here this morning, gentlemen. On 19 March, by your account, you asked the PHSO to delay laying its report before Parliament. Why did you wish to prevent that report from being laid before Parliament? What was your thought process?

David Holdsworth: Our thought process was that, as it was a matter we were putting before the courts, it would be helpful for the courts to determine the points of law and then for the House to take up its interrogation of whether we had acted correctly, whether there were further matters of concern or whether there was any point of administration.

I think our thought process was, "Let the law points be determined by the courts, as per the constitutional arrangements, and then the Committee would have at its disposal the full view and opinion of the courts as well as its own views to take into account at that point." It was a preference and, as you will see from our application for judicial review, we never sought injunction or interim relief, which we could have done at that point, and at no point did we. It was a preference.

Q24 Paula Barker: Do you have anything to add, Mr Simms?

Mark Simms: At no point did the executive come to the board or, through our internal governance process, to our case review committee to seek injunction, or permission to seek injunction. I am very sure that it is not one that would have been granted. Although you might have heard today that people felt that an injunction was likely, it was never considered by the commission—we never sought to prevent the laying of these reports.

Q25 Paula Barker: You have been very clear on that, so thank you. Mr Rechtman, is there anything you would like to add?



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Felix Rechtman: At that point, on 19 March, we had never heard the PHSO raise parliamentary privilege as a defence. The first time that it raised parliamentary privilege as a defence to an injunction was on 27 March. It did not raise parliamentary privilege as a defence last year, so all we asked them to do on 19 March was comply with the pre-action protocols in the CPR, which requires the parties to try to narrow down the issues. That is very clear from our pre-action letter, which is in annexe C on pages 19 to 31. Also, on the pre-action letter, if a party wishes to seek interim relief by way of an injunction, they must, under the rules, mention that in the pre-action letter. We never raised the possibility of an injunction in our pre-action letter, because we never intended to seek an injunction.

- Q26 **Gareth Snell:** We heard from the PHSO that the Charity Commission required confirmation from it that it would not lay the matter before Parliament. I appreciate that technically there was no injunction sought through the legal route. Would you at least accept that the practical outcomes of what you were putting to the PHSO were almost identical to what would have been achieved through an injunction—in other words, that a public body with statutory responsibilities to report to Parliament was denied, or requested to deny, that opportunity to put its report before Parliament?

Mark Simms: We were referring to the agreement that we had already reached. You have heard that we had agreed not to lay, so we were referring back to the agreement that we had reached.

- Q27 **Gareth Snell:** I understand that, and we can argue about the different wording for how it is achieved, but would you accept that the practical outcomes of that is a statutory body that normally has rights to lay reports before Parliament did not do so at the request of another body?

David Holdsworth: I think it was our request, but it is their internal decision whether they acquiesce to our request or respond in the negative.

Gareth Snell: But the practical outcomes are basically the same, aren't they?

David Holdsworth: I cannot answer for the PHSO's internal decision making.

Gareth Snell: I am not asking you to; I am asking about the practical outcomes of whether a report reaches Parliament or not. Whether it is through an injunction or your request, the practical outcome is that the report, which could have come to Parliament, did not.

David Holdsworth: We have no authority or power over the PHSO; we simply made a request and a preference.

- Q28 **Gareth Snell:** Again, that is not necessarily the question I am asking, Mr Holdsworth. The question I am asking is: would you accept that the practical outcome, or what physically happened in the real world, is almost identical between what you asked of the PHSO and what an injunction

would have required of the PHSO?

Mark Simms: I would agree with that, except—

Gareth Snell: Thank you. That is all I wanted.

Mark Simms: Except that the reports have been laid.

Gareth Snell: Yes, because the House required them to be laid, Mr Simms. It is not because of the benefits that you allowed the PHSO to do; it is because the House commanded them to be laid.

Mark Simms: We did not seek an injunction to do that.

Gareth Snell: I was asking about the practicalities of what you asked for against what you say you could have asked for, which were identical in my opinion.

Q29 **Chair:** To take that further, how could PACAC assess the argument between the PHSO and the Charity Commission, if the decision to lay the report was quashed?

David Holdsworth: As an organisation, we are really clear on our accountability to this House. We regularly appear before Select Committees, and I regularly meet Members. Even if the reports were quashed based on the initial decision, there is nothing to stop any Committee of this House calling us before them to consider matters in relation to any action of the commission.

Q30 **Michael Wheeler:** On the lack of an injunction, we have heard previous evidence, and your evidence clearly, but on a narrow point, did you at any point tell the PCA or the PHSO that you were not seeking an injunction, that it was not in your mind that it was not something you were seeking? Did you communicate that?

Felix Rechtman: First, as I have mentioned, if we want to seek the remedy specifically, we are duty-bound to mention that in our pre-action letter. We never mentioned that in our pre-action letter.

In the response to the pre-action letter, Mr Banister expressly said—on page 44 of bundle C—“even if and in so far as the commission seeks interim relief, PHSO’s position will be that parliamentary privilege prevents the court from making an order which restrains the PHSO from taking action within Parliament.” The response says that if you apply for an injunction, we will resist it on the basis of parliamentary privilege. We never indicated an intention to injunct in our pre-action letter. We then issued a claim, and we did not seek an injunction. It was very clear to the PHSO, at the very least on 7 May, when we issued the claim that did not include an application for an injunction, that we were not applying for an injunction.

Q31 **Michael Wheeler:** Okay, but that is a couple of months later than the decision making on the other side, at the beginning of this—for clarity’s sake, thank you.



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On a slightly more general point, picking up on my colleagues, you understand why this Committee and the House at large might have an interest in, or concerns about, any action that deliberately, or through practical, real-world implementation of that action, interfered with our ability to receive information and communication.

David Holdsworth: Absolutely. As I hope you will see from our evidence and the evidence that we are giving today, we are clear about our accountability to this House. As a non-ministerial Department, our links to this House are significantly important to us as an organisation. I am clear on my accountability, as a principal accounting officer, to this House, so yes, absolutely.

Q32 **Michael Wheeler:** In general, many matters of dispute are in the public domain. If the report were published, it is open to you—as suggested—to dispute its findings publicly and, specifically in this case, before the PACAC. What is the public interest in suppressing the report in its entirety?

David Holdsworth: It comes back to the initial decision. As we have said, it is not about the report itself; it is the decisions set out in that 14 March letter, which set out the rationale behind the findings. The significant public interest there is in our regulatory remit. The guidance, published since 2012, has been clear: that we are not an investigator of individual allegations of safeguarding matters.

The decision of the PHSO stretches our remit beyond that and expects us to determine the validity of any allegation. That specially extends our remit beyond what I have been advised we can lawfully do, and beyond that set by this House. Fundamentally, it alters the oversight and regulation that we would apply to the trustees and the charity sector as a whole.

Q33 **Michael Wheeler:** If you allow me to push gently on drawing these together, do you accept that they might be points of dispute—ones that might well be argued publicly in a court and do not necessarily chime with actions to prevent the report being tabled and published?

David Holdsworth: The advice that I have been given is that, rather than this being a disagreement, it is a matter of law. The advice I have been given as the accounting officer by eminent King's Counsel—indeed, from the actions of our previous chair, too, who was an eminent King's counsel—was that, as this is a matter of law, it is therefore a matter for the courts.

Q34 **Gill Furniss:** You have answered quite well one of the questions that I was going to ask, but I want to probe a bit about 4 July, when you wrote to the Speaker's Counsel that you believed that "Parliament would be assisted with a court's judgment on the subject." How would Parliament have been assisted if the PCA decision had been quashed and Parliament had never seen the report at all?

David Holdsworth: From our perspective, it was never the intention for Parliament not to see the information. The important point is that the

initial reports and maladministration that the PHSO found had already been published the year before—they were already available and had been supplied to PACAC. It was the decision of 14 March 2025 that went beyond the initial reports and, we believe, extended our remit beyond that which statute gave to us.

Q35 Gill Furniss: What precisely was the decision of the PHSO that you challenged in your claim?

Felix Rechtman: This year, we challenged two things in the PHSO decision. First, we challenged the PHSO's decision about the conclusions of the review. The recommendation was for us to carry out a detailed review, and we have done that. There is no dispute that we have done the detailed review; what the PHSO disagrees with is the conclusion of the review that there is no need for further regulatory action. That goes into the merits of the decision.

The second point is, as David mentioned, that the PHSO went further and said that in cases where the police decide not to proceed with allegations of a criminal nature, such as rape, the commission must—the PHSO used the word “must”—still determine the credibility of those allegations, without specifying how we are supposed to decide on the credibility of allegations of rape. Our jurisdiction is limited to matters in the administration of a charity. It did not specify how rape applies to the administration of a charity and how it falls within our jurisdiction.

Q36 Paula Barker: In your letter on 4 July to Speaker's Counsel, Mr Rechtman writes that your conduct cannot amount to contempt of Parliament. What internal discussions took place when the possibility that you may be committing contempt was raised with you?

David Holdsworth: We took it very seriously. I will hand over to Mr Rechtman to talk through the details. I had an advisory session with eminent King's Counsel and internal legal advisers, including Mr Rechtman and other lawyers. Of course, the board and our interim chair were involved in those deliberations and the legal advice provided to us.

Felix Rechtman: I am not sure what else I can add on that point. We took advice, and we have covered the point in our response to the Speaker's Counsel. On page 11, we set out very clearly that we are concerned about the mention of contempt, and we specified that we do not believe it applies to us. In response, the Speaker's Council said, “If you seek to challenge the decision but not to impede the laying of the report, the question of contempt of the House may no longer arise.” That was in response to our letter, in which we set out our position very clearly.

Q37 Paula Barker: Do you accept that the effect of your action would have been to prevent the House from receiving information from a statutory body that sought to provide it? This follows on from Mr Snell's question earlier.

David Holdsworth: We first wrote to the Chair of PACAC on 14 April this year—this is pages 2 to 3 of our annexe B submission—following



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notification from the PHSO that they had already briefed PACAC about the matter. In that, we set out our grounds for challenging the PHSO while noting, "The commission will, of course, be happy to engage with PACAC as appropriate and as you see fit. If possible, we would consider it preferable for any formal steps not to take place until the legal process has been concluded." We proactively reached out to PACAC, set out our rationale and reasons, and submitted some of our advice and considerations.

Q38 Paula Barker: Do you appreciate that whether contempt has been committed or not is a matter for the House, rather than you?

David Holdsworth: Absolutely.

Felix Rechtman: Absolutely.

Q39 Paula Barker: The Speaker's Counsel pointed out that the proper mechanism to challenge a report with which you disagree is through a political process and PACAC. You have spoken to this quite a bit, but is there anything else that you wish to add about why you did not think that was sufficient? I just want to make sure that you have every opportunity to state your case.

David Holdsworth: As Speaker's Counsel pointed out, this is a unique situation. It has been very difficult. I have found, as the new chief executive coming into the middle of this, that it has been a very challenging process to navigate. As an accounting officer and a public official, I am duty-bound to act on the legal advice and within the parameters of the law that is given to me. I have been advised, and the board were advised, that this was not a matter of disagreement; it was a matter of law and a matter of jurisdiction, and therefore the appropriate place for that was the courts.

I think we have always accepted that, regardless of the action in the courts—regardless of the courts' findings and position—it would always be the right of Committees of this House to interrogate our actions and processes and hold us to account for anything they find deficient in that. We have always been clear that, regardless of the court action, we are accountable to the Committees of this House, and they have every right to interrogate and hold us to account.

Q40 Paula Barker: On a point of clarity, you said that you were appointed midway into this; just remind us of your appointment date, please.

David Holdsworth: I was appointed and took up post in July 2024, so this had already been going on for about a year and a half when I arrived. The mediation had happened prior to my arrival and the agreements were in place.

Q41 Paula Barker: Did you say that you were interim chair for seven months, Mr Simms?

Mark Simms: Yes, but I was on the board for a couple of years before that.

Paula Barker: Thank you.

- Q42 **Michael Wheeler:** I want to tease out something you just said. You talked about your accountability to the Committees of this House regarding your operation, your remit and your jurisdiction. Would the same not also be true of the PHSO and their accountability? Does this not come back to the point that there were political remedies available—if, with all the concerns that you have expressed to us here, you felt that they were going beyond their jurisdiction or requiring you to go beyond yours—that did not include seeking to prevent publication of this report or legal action?

David Holdsworth: I think we do accept that there is a political remedy available through the Committees. I think the advice I was provided was that, on the points of law, rather than any administration or process issues, I should seek clarity from the courts, due to the implications for our wider casework and operations, and the difference it would require us to adopt in our regulatory interactions and remit.

Felix Rechtman: We are not saying that the PHSO decision is just inappropriate. We go further: we say it is unlawful, and matters of law are reserved to the courts under our constitutional arrangement.

- Q43 **Chair:** Further to Paula's questions, what discussions did you have internally after Speaker's Counsel wrote to you on 23 June to point out that parliamentary privilege is an effective bar to your claim?

David Holdsworth: The correspondence from Speaker's Counsel of 23 June was considered carefully by the senior team and advice was obtained from a specialist public law KC and junior counsel. We responded to Speaker's Counsel on 4 July—that is on pages 9 to 12 of annexe B—making it clear that the commission had not made any attempt to disrupt or prevent Parliament from fulfilling its role, and going on to explain the legal position in detail, confirming that the commission would not object should the Speaker apply to intervene in the claim.

Speaker's Counsel then responded on 11 July, seeking clarity about two further issues, and concluded in response to us by saying: "If you seek to challenge the decision but not to impede the laying of the report, the question of contempt of the House may no longer arise, although there may still be reasons for us to wish to intervene in the proceedings." We responded on 22 July 2025 to the further issues raised in that letter—on pages 14 and 15 of annexe B—and we acknowledged that Parliament may well decide to proceed to debate the reports if they were laid.

There was no further correspondence from Speaker's Counsel on the topic of privilege between 22 July and the end of last week, when they confirmed they would seek to intervene in the case, to which we will have no objection.

- Q44 **Chair:** You have repeatedly said that, as a professional chief executive, you are reliant on advice. You have referred to your lawyer as an "eminent KC". Of course, advisers advise; the decision ultimately rests with you and



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your management team. Equally, Speaker's Counsel is an eminent lawyer. Do you accept that the House's order of 4 September means that the reports you seek to challenge are proceedings of the House and can no longer be questioned or impeached by the courts?

David Holdsworth: We accept the position of this House. We accept that the reports have been laid. We remain concerned that our decision to challenge is the lawfulness of the decision, not the laying of the reports or the reports themselves.

- Q45 **Chair:** Forgive me, but can I just drill down? Do you accept that the House's order of 4 September means that the reports you seek to challenge are proceedings of the House?

David Holdsworth: We do, Sir.

Chair: In that case, what is the basis for continuing your legal claim?

David Holdsworth: As we have explained, it is not the reports or the laying; it is the decision of the letter of 14 March, in which the PHSO specifically require us—not just in those cases; it would apply to all future cases and all live cases in the commission—to reinvestigate matters of criminality where the police or the criminal justice system has deemed that they cannot proceed to court. In our belief, that is a matter of law that extends our regulatory remit beyond that which is clear to the sector we regulate at the moment and has significant ramifications for us and how we operate, for the sector we regulate and those subject to our regulation, and for the cost to the taxpayer of us as a regulator and our ability to deliver on that expectation.

- Q46 **Chair:** If PACAC had agreed with you, surely that would have modified the PHSO's practice, would it not?

David Holdsworth: In terms of the matter of law, what we wanted was to bring it to a conclusion from the courts, in a way that was enforceable for both parties, whereas a decision from PACAC would not set the legal precedent that the court would. We accept that PACAC absolutely has a role here. It can hold both of our organisations to account and it can set out its opinion, but it is for the courts to provide a determination on matters of law.

- Q47 **Chair:** Are there any other questions from the Committee? No. Are there any other points or views that any members of the Charity Commission might like to express to the Committee? Is there anything we have not covered?

David Holdsworth: No, Chair. Thank you for your time. I reiterate our apologies if our intentions in this issue have caused misinterpretation. We do apologise.

Chair: In that case, thank you very much, Mr Holdsworth, Mr Simms and Mr Rechtman, for appearing before the Committee of Privileges this morning. The Committee will move into private session. I invite those in the Public Gallery to clear the room, so that the Committee can discuss its



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next steps.