HOUSE OF COMMONS

Public Administration and Constitutional Affairs Committee

Oral evidence: Parliamentary and Health Service Ombudsman Scrutiny 2020-21, HC 721

Tuesday 14 December 2021

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Watch the meeting

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

Questions 1-87

Witnesses

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

Examination of witnesses

Witnesses: Rob Behrens and Amanda Amroliwala.

Q1 **Chair:** Good morning and welcome to the Public Administration and Constitutional Affairs Committee. Today we will be hearing evidence from Rob Behrens CBE, the Parliamentary and Health Service Ombudsman and chair of the PHSO, and Amanda Amroliwala, the chief executive officer of the PHSO and Deputy Ombudsman. Welcome Mr Behrens and Ms Amroliwala. I wonder if you might introduce yourselves for the record.

Rob Behrens: Thank you very much. It is good to be here. I am Rob Behrens, the Parliamentary and Health Service Ombudsman.

Amanda Amroliwala: I am Amanda Amroliwala, the chief executive of the Parliamentary and Health Service Ombudsman.

Q2 **Chair:** Thank you. Mr Behrens, the Committee has previously examined your casework performance by comparing the volume of cases you have handled against past performance. Although we note the real challenges of the pandemic and, in light of the new reporting methods, what assurances can you provide that you are continuing to deliver high-quality casework? How can you evidence that?

Rob Behrens: That is a very good and important question. The answer in general terms is that we have responded to PACAC and to the peer review in their suggestions about how we should be more modern and transparent in the way that we log cases and report them. The peer review study of 2018, which this Committee endorsed, criticised our old case management system for being out of date and not assisting effective case handling. We responded to that by commissioning a new system and the only downside of it was that, as we alerted you at the time, it constrained a year-by-year comparison.

Secondly, in response to PACAC's clear view that our annual report could be sharper and clearer, we have changed a number of things, including the name "assessment" to "preliminary investigation" because that gives a much more accurate description of what happens at that stage. Thirdly, all ombudsman schemes throughout the world have had to meet the unprecedented challenges of covid, which has made the year you are looking at the most difficult in the history of the PHSO. It is not surprising that the figures are very different from what they would be in a normal year. Fourthly, again because of constructive and helpful criticism from PACAC, we have changed the matrix against which to assess the quality of casework performance by introducing new quality standards to replace measurements of process that you were very critical of. So our measurement of performance is now more useful, real and relevant than it was before, notwithstanding some difficulty in comparing year on year. We anticipated that that would happen, and I think we gave good notice of it.

Q3 **Chair:** You mentioned the move to more modern online casework and the movement online of information and resources relating to the PHSO. What actions are you taking to ensure that you are accessible to those that lack digital skills or face barriers to digital participation?

Rob Behrens: I know that the Committee received a copy of the study, "The Art of the Ombudsman: leadership through International Crisis", that I carried out with the International Ombudsman Institute. It is a study of 57 national ombudsman schemes and the challenges they have had going through covid. This is a really important piece of work that shows that the question you raise is one for all of us, particularly in countries where modern IT systems are not available—for example, in parts of Africa and Latin America.

We have talked about that—it is in our new strategic plan—and, like other national ombudsman schemes, recognise that it is not enough to put things on the internet or publish them in reports. We must significantly reach out to vulnerable communities and explain what we do in person through meetings, understanding how we are misunderstood by a whole range of people.

We have a lot of work to do, but that is in our new strategic plan. Three years ago, we could not have said that we exploited the internet properly in publishing case summaries. I am proud—a dangerous thing to say—of our record now in regularly publishing a whole tranche of summaries of

casework to enable people to understand what we do and to demystify what we do.

Q4 **Chair:** Can you give a couple of examples of how you are demystifying?

Rob Behrens: There are so many, but do you want to start, Amanda?

Amanda Amroliwala: Just to do a little bit of backtracking about accessibility, one of our priorities when the lockdown happened at the beginning of the last financial year was to ensure that we could keep our telephone lines open. We did that throughout. There was a short break in service, but essentially we were able to continue to respond to telephone calls. You will see from the figures that we still dealt with around 80,000 inquiries from members of the public. That is a very important part of our service. We give a lot of information online, but we are conscious of the fact that lots of people who come to us are not confident in using technology systems and want to be able to telephone and talk to us. We maintain that offer and that service.

With regard to demystification, as Rob said, we have started to publish our reports. One of the things that we talked about before this Committee last year was that we were developing the new digital publishing platform so that all our reports would be available to all members of the public and to academia—researchers, and so on.

We had to deconstruct our reports and put them on to our systems so that they could be uploaded and be accessible to people, who can, for example, search for a particular hospital trust and find out what is known about it, or for an issue such as orthopaedics, and they can go in and see what is known about that.

We designed the system to make it as accessible as possible. In the first six months, over 25,000 people have accessed it, which is really encouraging as it is brand new. We are putting more and more information on it all the time.

Rob Behrens: If you look at "Radio Ombudsman" on our website, you will see that I recently interviewed Derek Richford, whose baby grandson died at East Kent hospitals. My conversation with him gave him the opportunity to disclose what it felt like to be the family of someone who was let down by the NHS. That is not comfortable, but it is real and it is demystification.

Q5 **David Mundell:** You and your co-witness touched on some of the issues I am about to raise. With the move to greater online casework and the movement online of information and resources relating to PHSO, what actions are you taking to ensure that the PHSO is still accessible to those who lack digital skills or face barriers to digital participation?

Amanda Amroliwala: The start of that is what I was saying about telephone access. Our legislation requires people to put their complaint to us in writing, but we help people to do that. If they call us, we take them through their complaint. We collect all the information for them and send it back out to them, and we enable them to put complaints to us not only

by calling us, but in writing. They do not have to complete a form online in order to come to us. When they ask us about contact, we are led by them and what works best for them. If they prefer to be emailed, we will email. If they prefer to be written to, we will write to them. Or we will telephone or use whatever other form of communication they feel suits them best.

Rob Behrens: I have been out to schools in Manchester with a heavily ethnic minority composition to talk about what we do, and pupils do not understand what an ombudsman is and need it spelling out to them, because it is not part of their world view of what would be an important career to pursue. The kinds of people that I talk to are brilliant students, but they want to be lawyers or doctors; they do not necessarily want to be ombudsmen.

We have to face the fact that if we do not go out and communicate with people face to face and change the way in which we communicate, we will have an over-representation of the people who are least likely to need us. That is true for all ombudsmen throughout Europe; it is not just about us. There is a big challenge there, and we are up for it.

Q6 **David Mundell:** In 2020-21, at least 17,000 inquiries submitted to you were deemed not ready for PHSO's intervention. In what way are those inquiries not ready?

Rob Behrens: If you start, Amanda, I will come in.

Amanda Amroliwala: Sure. It can be for a number of different reasons. One is that we have a requirement in our legislation that people will go first to the body that there was a problem with. Particularly during this time, we found an increasing number of people who have not been able to get the answers that they want from frontline services, particularly in health, and therefore have tried to come to us before they have given the organisation concerned the chance to address the issues, so some of the complaints are premature.

For others, for example if it is a complaint about a Government Department or agency, as you will be aware, the requirement in our legislation is for that individual to go first to their Member of Parliament and the complaint to be put to us. Lots of people do not understand that, and so try to come to us directly and then we give them the details of their Member of Parliament if they do not know them, and we signpost back to their MP so that they can come back around the loop to us again. Those are two of the big reasons.

Rob Behrens: To add to that, Mr Wragg's predecessor called these 17,000 inquiries a public service by PHSO in directing people to where they needed to go but did not understand. This is a function not of a lack of capacity, but our system is the most overcomplicated ombudsman system in Europe. There are so many routes and byways that have to be navigated in terms of a different system for health compared with Parliament in terms of the MP filter—

Chair: There will be questions on that as we go through the session, so if

you could bear with us, we certainly have questions on that. Mr Mundell, did you have anything else?

Q7 **David Mundell:** Just one follow-up question. Does accessibility contribute in any way to that 17,000?

Rob Behrens: I don't think so.

Amanda Amroliwala: No. If we take an area of people with protected characteristics, the number of people with disabilities who access our service is far higher than in the general population, so I don't think that that is the issue.

Q8 **John McDonnell:** Can we talk about the backlog? What is the current status of the backlog at the moment? What are your plans for clearing it?

Amanda Amroliwala: At the end of the year in question in our annual report, the queue of unallocated cases was around 3,000. That figure carried on going up as we were still in lockdown to a peak of about 3,200-plus. Right now, it is down below 2,500, so we have made a big inroad into that over the past six months. It is very challenging is the answer. We continue to face real challenges all the time and obviously from the things that have happened this week. The pressures on the health service are enormous and, throughout this whole period, we have had to be very aware of those pressures.

We paused our service last year for a period of three months at the height of the pandemic, but the honest answer is that there has been a real challenge in terms of response times from colleagues in the NHS, as you would expect. Those are increasing. Certain parts of the health system are really struggling to respond to us. Because 80%-plus of our work involves the health system, that creates pressures. We are doing everything we can to minimise the impact that the inquiries we make have on the NHS and to do as much work as we can without having to go back and forth to those in the health system.

We are making as many inroads into the backlog as we can. As I said, we have brought it down by about 700 over the past six months but, depending on what happens with the NHS, I cannot say that the figure will continue to go down with that sort of rapidity. We will work to continue to achieve that, but it will be some time before we can bring the number down to what I would call a frictional level.

Q9 **John McDonnell:** We all accept the exceptional circumstances. It is a difficult question but, in your assessment, what would be the normal level of an acceptable backlog?

Amanda Amroliwala: What I would describe as frictional is cases that can be allocated to a caseworker within 30 days of their arriving. In any system that is demand led, you have to have some flex. In my judgment, 30 days is a reasonable amount of time for a new complaint to be allocated to a caseworker. That is what we aim for and we were at that point at the end of our 2018-19 financial year. We then made a big technology change that we have talked to this Committee about in the

course of 2019-20, so we had a bit of a queue coming toward the end of that year and then, of course, covid happened. We all know what happened after that. I hope that, over the course of certainly the next two years, we will bring the queue back down again to what I would call a less-than-one-month wait time.

Q10 **John McDonnell:** How are you doing that without affecting normal service?

Amanda Amroliwala: We are doing a lot of work to try to increase productivity internally—lots of efficiency work. We have done a complete review end to end of our processes to see whether we can take out any down time as it were. How can we make ourselves more efficient in any way? We have also moved—and we have been doing this over the past few years—to a sort of right decision, right time. Instead of spending lots of time doing very detailed investigations in cases where there is no obvious sign of injustice, we are giving people an indication as early as possible of that.

We are also trying to do more and more resolutions with people and to talk to the individual and to the organisation to see whether we can resolve the problem. Sometimes things are of a nature that they have just become stuck in a conversation between the organisation and the individual. With a third party in the middle and intervening, we are able to break that open and find a resolution without doing a detailed investigation. A lot of different things are being done to make our system more efficient while, at the same time, recognising that detailed investigations with the health system are going to be a challenge.

Q11 **Mr David Jones:** Yes thank you. Mr Behrens, as Ms Amroliwala just said, in the early days of the pandemic you paused health-related complaints for three months. What is your assessment of the impact of that decision on your casework?

Rob Behrens: First, I think it was the appropriate decision to take. Our intelligence from the NHS was that it was in crisis and it was disbanding its complaints teams and moving them to things like bereavement counselling. It told us very clearly that it was in no position to handle complaints for a period of time. It was about the same time that the NHS said there would be a pause on complaints that we also decided that there would be a pause. I don't think we had a choice about that. It led to consequences in backlogs, and there is no getting away from that, but it seems to have been the responsible thing to do.

We did not stop all casework. We did not stop our parliamentary casework. We looked at health cases that did not need further contact with clinicians or trusts. We created an opportunity for our staff to increase their professional skills by using the "downtime" to increase their professional knowledge, giving them opportunities to do training and development. It was the right thing to do. We kept our lines open and talked to people on the telephone and to those whose cases we had paused to explain the difficulties. People responded very well.

Q12 **Mr Jones:** But I take it that there has been an impact on your casework that will continue for some time.

Rob Behrens: Not just because of the pause but for the reasons of the pandemic in general. The dislocation—the remote working—meant that very quickly we had to move our operations out of Millbank and Citygate and make sure that people were properly equipped, resourced and supported to work at home.

I think that we did that very successfully. At the beginning of the pandemic, around 20%—

Amanda Amroliwala: Less than 20%.

Rob Behrens:—of people had the opportunity to work at home with technical support. Within a few weeks, more than 90% of people had that possibility. We have become more flexible as a result of the pandemic, and that is a good thing.

Q13 **Mr Jones:** You have processed fewer cases than in previous years—probably inevitably. What has been the effect on those with health-related complaints and on the bodies that they wish to complain against?

Amanda Amroliwala: I think that, as Mr Behrens said, initially people were very understanding of the fact that things would take longer because of the real pressures at the beginning of the pandemic. As time has worn on, people have become less understanding and less tolerant. We are seeing and hearing from front-line health colleagues and our own team that an increasing number of people are coming to us who have mental health issues arising from the pandemic, and an increasing number of people who are intolerant and are becoming more and more challenging, demanding and abusive of our staff because of the delays in frontline health provision for complaint handling or actual service, and in our own organisation, that they are having to experience.

It is a real challenge and we are trying to do everything we can to understand that and to help people. My team are absorbing a lot of the anxieties that people have experienced from issues with front-line provision. They are talking to them, trying to reassure them that we will get to their complaint but that it might take longer than it would have before.

Q14 **Mr Jones:** That must be very difficult for your staff.

Amanda Amroliwala: It is incredibly challenging. The thing that I find most difficult is that often they are having to take these telephone calls in their own home. We have put a big support network in place, with managers checking in with them all the time and with peer support. It is really difficult, though. If you are sat in your sitting room and someone is giving you a huge amount of abuse for something that is out of your control, often including threatening behaviour and threatening all sorts of things, that is a real challenge. It is something that our team has dealt with magnificently through this period.

Rob Behrens: There is no magic wand here. This is not going to go away very quickly. There will continue to be a backlog, as Amanda has said, and we have had to make a very difficult decision to announce that we will not look at the least serious cases that come to us, as defined online in terms of seriousness. We are not in a position to guarantee that we could look at those cases for a long time, and because they are not serious or life-threatening, we have made the decision that we need to focus on the very serious cases.

We consulted very widely on this. We had big discussions in the office and I talked to all my ombudsman colleagues, and in fact we were out of line with other ombudsman schemes in the United Kingdom who all had provisions to enable them to say, "This case is not serious enough for us to take it. It is less serious, and we have the rules to enable us not to look at it." Because of our history, we were slow coming to that, but we have come to it now and it is one of the reasons why the backlog is manageable and credible in a way that it would not have been if we had included all the less serious cases.

Q15 **Mr Jones:** Are you communicating that to the complainants in less serious cases?

Rob Behrens: Absolutely.

Amanda Amroliwala: We look at every complaint that comes to us, even if it is one of what we call very low severity cases. We look at every one and consider whether it is something we might be able to resolve for that individual with the organisation. If we can, we will, but if we cannot resolve it very quickly, we say to those members of the public that we will no longer be able to look at their case. Mostly, people are quite understanding of that, with all the pressures on the health system. We are talking about things such as a missed appointment at a GP, or a repeated delay in prescriptions where there has been no clinical impact but it has been inconvenient, distressing and so on. People have generally been understanding, although some less so.

It is worth noting that notwithstanding having done that—we took that decision back in April, and have been applying it since—the numbers of complaints coming to us since April have risen dramatically. We are now seeing complaints coming to us in the last six months in numbers that are over 25% higher than in pre-pandemic years. We took a big fall last year because of the pandemic and everything that you would understand, but the numbers are rising and rising significantly. They are rising in cases of more complexity. Even though we have stopped looking at those that, as Rob said, are of a less severe nature, the numbers coming are rising, and they are rising for very challenging cases.

Q16 **Mr Jones:** Mr Behrens, you mentioned that NHS staff had been redeployed from dealing with complaints to other duties. That will inevitably have had some impact on their responsiveness.

Rob Behrens: Yes.

Mr Jones: Do you think that that will have in turn an impact on your own responsiveness going into the future?

Rob Behrens: It does already. We know because we have a liaison team that is in weekly contact with NHS trusts and GP surgeries around the country. We know that trusts are telling us that it is taking them longer to get the information, to find clinician time and to turn requests from us round. That has already had an impact on the time it takes for us to conclude investigations, which increased quite a lot in 2020-21 compared with in the year before. There is no sign that that is going to change; in fact, it may get worse now that we are into the next phase of the pandemic.

Q17 **Mr Jones:** Is it fair to say that as a consequence of that, your backlog will continue to grow?

Rob Behrens: We hope not. We are doing our best to do everything we can through productivity improvement, recruitment of new staff, prioritising cases, end-to-end reviews—all kinds of things. We are looking at this creatively to manage the backlog, but there are no guarantees here.

Q18 **Mr Jones:** You previously wrote to the Committee about the decision not to process level 1 and level 2 complaints, and said that you would review the impact in the autumn. Have you conducted that review?

Amanda Amroliwala: Yes, we did an initial review, and we will be doing have a further review in the new year to look at whether we should continue, going forward after next year. We have already committed to keeping this way of working over the course of next year.

The initial review found that the number of cases we had decided not to investigate was around 640, but we have managed to resolve for the individuals concerned a further 40-plus. There were another six cases for which we determined that, notwithstanding the fact that the case was of low severity, the issues raised were of a systemic nature. Therefore, they were important for us to investigate and we decided to take them into the system.

That is another really important point about the low severity cases. Because we look at all of them before we make a decision, we are able to see whether the issues raised are of importance—a general public concern—or is a repeated problem from the same organisation. While for the individual it may not be serious, if it is happening repeatedly to lots of individuals, then it could be a serious issue in the organisation itself. We do take those cases into our system.

We had that initial look at all of our casework and got that information; we are will do the same in the new year, and we will continue to do that. As Rob said, all of the evidence is that this is standard practice for other ombudsman services; it is just something that we did not do. However, with the huge pressures and the resource pressures we all face, we want

to make sure that we focus on the individuals who have had the most serious issues happen to them.

Q19 **Mr Jones:** Are you satisfied that you have the necessary controls in place to ensure that cases are properly classified?

Amanda Amroliwala: I am. We have a specialist team that does this work and looks at those cases. If people challenge it and say that they do not accept the classification of their case, they are able to speak to a manager to discuss it with them and explain why they think the case is perhaps more serious than we have assessed. If there is a case for which we genuinely cannot assess the level of injustice, we take that case into our system and complete an investigation of it.

Q20 **Mr Jones:** How do you communicate the change to those affected by it?

Amanda Amroliwala: It is a combination of a written response or a telephone call, depending on the nature of the complaint and how the complainant has been in contact with us.

Mr Jones: Thank you.

Rob Behrens: Could I just say that there is no complacency? We realise that the backlog is too big, but in comparison with other public services in the UK— say, the Courts Service and its backlog—it is not big at all. We are not complacent, but the backlog is not a disaster for the credibility of our service at the moment.

Q21 **Lloyd Russell-Moyle:** You mentioned that with your triaging system you communicate with the members of public whose cases you are not going to take on. For non-health complaints, what communication do you have with the Member of Parliament who recommended that case to you—if you feel that it is trivial, but the MP felt that it was serious enough to send to you?

Amanda Amroliwala: We are only applying this to health complaints. We have separate teams to deal with parliamentary work, and those complaints all go through to them.

Lloyd Russell-Moyle: All of them?

Amanda Amroliwala: All of them.

Lloyd Russell-Moyle: Fantastic, thank you for that very clear answer.

Q22 **Jackie Doyle-Price:** The annual report documents that you have seen an increase in cases from more diverse communities. What action are you taking to maintain that trend?

Amanda Amroliwala: We have a new strategy coming next year, part of which involves a significant amount of outreach into communities. That is a big thrust of what we hope to do over the coming years. Obviously, the pandemic and whatever happens with that could have an impact, but we bid for additional funding from the Treasury and we were successful in getting it, which was great. We want to do extensive work whereby, as

Rob said, we go out into communities to talk to people about our service, their rights to complain about public services and to help them understand what the system is and how they can assert their rights. We want to open up our service to all communities. Rob mentioned going out to schools, and that is another important area. We want to engage with our local communities. Our main base is in Manchester, so we try to do that. We have a liaison team who go out to talk to people in GP surgeries, health trusts and so on. We want to do as much as we can over the course of our next strategy to maintain and improve our accessibility to all people with diverse characteristics.

Rob Behrens: Let me add a couple of points, as this is important. There is no point in going out if you don't have a representative workforce. We have to make sure that the people who represent us reflect the communities that we are reaching out to. There is an HR dimension to this and we are doing everything we can to make our board and executives as representative of the communities they serve as they can possibly be. We are pleased that we do not have a gender pay gap at PHSO. That is unusual and important, but we have more to do on minority ethnic groups and we are doing that.

To give you an example, I have dealt with a number of Windrush cases in the past year. I published two very critical reports of the Home Office when people's human rights were neglected. We had a request from the Windrush support group to meet it to explain what we did—the group was not aware that we existed. That was significant in terms of demystifying what we do and showing them that we are there to help. As it stands—I realise, Mr Wragg, that you will come to this—its members did not like the MP filter. They felt intimidated by it, but it was important to us to demonstrate that we were there and were prepared to help and to listen to them if we possibly could.

Q23 **Jackie Doyle-Price:** I think you illustrate the cultural differences that affect how individuals engage with the institutions of Government. That is perhaps something that Governments could reflect on when they are thinking about things like vaccination, but I digress.

Rob, you obviously have ambitions to speed up your decision making notwithstanding the pandemic which has brought delays. What do you plan to do perhaps to introduce targets for quicker decision making?

Rob Behrens: The big answer to this is that Amanda and I inherited an organisation that was a series of Balkan states that operated within their own hemispheres and did not have sufficient contact with other parts of the office. Gradually over the past five years—particularly in the last two—there has been integration, conversation and consultation between different parts of the decision-making process, coming together and talking about issues. That was encouraged by Sir Liam Donaldson when he carried out a clinical advice review for us, but it applies across the board. We have a legal team, an operations team and a covid team. They are all talking to each other in a way that speeds up the process and makes it more people oriented and less bureaucratic. That will inevitably increase

our efficiency in the way we do business. We also have the end-to-end review that Amanda can talk about, which is specifically about speeding matters up.

Amanda Amroliwala: It is about taking things out of the system that do not need to be done. It is about small, incremental efficiency gains that will lead to faster processing times as I explained previously. It is also about early consideration, talking to people and trying to resolve things as quickly as possible.

We are also looking to expand our mediation capability. At the moment we have a small mediation team who do full mediation; we are going to train more people in the coming year and try to spread those skills across the wider workforce to enable people to do that. We have just started a new process where our mediation team look at all the cases coming in to see if they can lift out those ones that they think they may be able to resolve really quickly, to help us overall and stop extra cases adding into the queues. There are lots of different ideas at the moment as to how we can continue to speed up casework, notwithstanding the delays in the system.

Q24 **Jackie Doyle-Price:** Do you need to impose targets on the organisations that you are dealing with to speed that up?

Amanda Amroliwala: We already have requirements for people to send information back to us within certain timescales, but this is incredibly difficult at the moment. Through the height of the pandemic some of the main Government Departments that were dealing with universal credit, the furlough scheme and so on also experienced a lot of challenges. For ourselves, we have set of performance indicators on how many cases should be dealt with within certain periods of time. They are pretty standard across the ombudsman sector, so periods of seven days, three months, six months and 12 months. We were doing really well against those standards until the pandemic, but obviously everything has gone by the bye as it were over the course of the past 12 months. Notwithstanding that, we are doing everything that we can to respond to people as quickly as possible.

Q25 **Karin Smyth:** We want to talk about quality of outcomes. Your annual report detailed the number of recommendations you have made and how many are closed. We are interested in your explanation of the processes you have in place to monitor the recommendations of those that are still open.

Amanda Amroliwala: When we make recommendations, the process is that we have a provisional view stage in our reporting. When we have done an investigation, we get together everything we think and the sorts of recommendation we will make. We share those with the complainant and the organisation to say, "This is what we heard from you both. This is what we understand. This is what we think happened, and this is where we think the shortcomings are. These are the recommendations that we are likely to make." We give the organisation and the complainant the opportunity to say, "Okay" or "No, you've got that wrong." That is a really

important stage for our interaction with the organisation, because we are saying to them at that stage, "Tell us if you think what we are saying is wrong." If we say, "You need to do this differently," they need to tell us now if that is wrong.

By the time we get to the final report, we have generally agreed those recommendations, because we have given the organisation the opportunity to say "I do not agree with what you are suggesting" or not. If they say they do not agree and we believe that it is still the right thing to do, we will still recommend that. But generally, the organisation knows what is coming, so they are already preparing to make whatever change it is that we have said, or to pay compensation to the individual, to give an apology, to make the system change, or whatever it is that we have told them is coming.

Once we have issued our final report, we follow up with the organisation afterwards, and we ask them to provide evidence that they have completed that recommendation. For example, it might be a copy of a letter that they have written to an individual apologising, setting out how they are going to compensate them, or evidence of the change in system that they have made as a result of what we have identified in terms of a failing. There is a system of both agreeing, if we can, up front and then following up afterwards. We have the ultimate sanction: if an organisation refuses to comply with our recommendations, we can lay a report before Parliament so that this Committee can call the head of that organisation to account for failing to comply with one of our recommendations.

Q26 **Karin Smyth:** At that pre-final report stage, are those recommendations closed? At what point are things closed and open?

Amanda Amroliwala: No. In the course of our investigation, we may say that we have identified a particular failing in the way that that organisation has behaved, and we might make a recommendation that says, "In order to not have that type of failing happen again, you need to change your system to do something different." We are giving them advance warning that they are going to have to change.

Q27 **Karin Smyth:** So that stays open.

Amanda Amroliwala: That stays open. Once we have issued the final report, it might say, "You need to make that change within three months," and we then follow up with them to ask for evidence that they have arrangements in place to make that change.

Q28 **Karin Smyth:** Is it still open until they come back to you to say, "Yes, we have"?

Amanda Amroliwala: It is open until they come back and give us the evidence of what they are doing to make the change. Part of the challenge is that we are not a regulator, so we cannot go in and inspect the system.

Q29 **Karin Smyth:** You cannot go back to audit that they have done what they said they were going to do, or indeed what you asked them to do. You have to take their word for it. Let's just be clear: the letter that comes

back saying, "Yes, we have agreed with these recommendations, and we have taken this action"—that is then closed for you.

Amanda Amroliwala: It is closed.

Rob Behrens: Provided that they provide the evidence.

Q30 **Karin Smyth:** But the evidence can be a letter to the said complainant to say, "We have taken note, and we have done x, y and z." You cannot evidence whether they have done x, y and z.

Amanda Amroliwala: No, but we share our reports with the Care Quality Commission, which use our reports as part of their inspection process. When they are going into a particular organisation to do an inspection, they will look at the recommendations we have made, to see whether those recommendations have been followed through.

Q31 **Karin Smyth:** So the expectation of anything outstanding is audited, checked and used as part of the CQC's follow-up to that particular organisation.

Amanda Amroliwala: It is, because we do not have regulatory powers. But another important point is about the public pressure, and moving towards publishing all our reports in the way we have done means that individual members of the public can search and look at all the reports that we have written about a particular health body. They can look at the recommendations we have made and they have the ability, as a member of the public, to ask questions about whether those actions have been followed up.

Q32 **Karin Smyth:** Ask questions to whom?

Amanda Amroliwala: To the individual body concerned.

Q33 **Karin Smyth:** To the trust itself. In terms of closing recommendations, how has the pandemic impacted on how fast you can do that?

Amanda Amroliwala: Again, everything is delayed. As I say, we try to give people an indication of the sorts of recommendations we will make at the provisional stage, so by the time we get to the final stage, the trust or GP surgery are already aware of what is coming and have agreed that they will make that change, generally. But the pressures on the system are such that they have to make their own prioritisation of what happens in the face of their other pressures.

Q34 **Karin Smyth:** They would be picked up by the CQC as part of a CQC investigation.

Mr Behrens, you briefly mentioned the Donaldson review, and you talked about the progress when you last came before us. You have touched on it briefly. I am particularly interested in showing that the appropriate clinical advice is used to inform case decisions. Do you want to update us on that particular aspect?

Rob Behrens: I believe that commissioning the Donaldson review was one of the most important things that we did in the last five years,

because he produced a radical think-piece about the relationship between clinical advice and independent case handlers, which had not been looked at before at all. It was just assumed that we would take whatever clinicians could give us. Donaldson showed that the relationship between case handlers and clinicians was not optimal and did not lead to making best use of the time that we had from the clinicians. Some of the clinicians are in-house but a lot of them are external and we have to rely on them for their time and expertise in order to be credible with complainants.

We have done a lot, but not enough yet—we have had to delay things because of the pandemic—to introduce what Donaldson and Sir Alex Allan recommended in involving clinicians much more in conversations about where the case is going and what the difficult issues are, rather than, as we had done previously, to get the case handler to ask a series of questions of the clinician to get the answers and the clinician moving on.

We have multi-disciplinary conferences now. We have the possibility of showing clinicians the provisional views, which they will have an opportunity to see. As a result of what Donaldson asked, we show the complainant the clinical advice, which previously we did not do, if they wanted to see it. It has not always worked well.

Now, and this was a big thing for Donaldson, we are piloting a systemic approach to investigations. His view—and this is difficult—was that the concept of maladministration is too focused on individuals rather than systems. He encouraged us to look more widely at what is happening, in the same way as, from the expert advisory panel that I created, Dr Bill Kirkup has been doing—saying that you have to look at it systemically and not just from an individual's point of view.

We are doing feedback for our clinicians. We are explaining what we expect of them. We are having meetings between clinicians and case handlers so that they can give each other feedback. We have a new leadership in the clinical advice team that is forward thinking and is embracing this, and we are taking it forward.

Finally, although Donaldson did not recommend it, Amanda talked about a pilot in mediation. Our mediation is process related, but we think there is a possibility of including clinicians to look at clinical issues and mediate them, which would be another big step forward.

We have not got there, but we have made good progress. This is a key issue for me going forward.

Q35 **Chair:** Building on that, I have a question for Miss Amroliwala. Evidence submitted to the Committee raises concerns about the commissioning of clinical advice, including whether caseworkers are appropriately medically trained to know how and when to commission relevant external clinical advice. Is there on occasion a lack of expertise among case handlers? Can that sometimes be an issue?

Amanda Amroliwala: Our case handlers are lay investigators, but as Rob explained we have in-house clinicians. We have a senior lead clinician and

lead clinicians who work for us. They are now, with our new system, looking at all the commissions for clinical advice from our caseworkers. The caseworkers make a judgment based on the case of the issues that might need to be looked at. A lead clinician will look at the questions and advice and determine whether they have made the right judgement. It is done in partnership now, whereas before it would simply be the caseworker.

Q36 **Chair:** Perhaps related to that, what mechanisms do you have in place to ensure that institutional memory in technical disciplines is retained by the ombudsman, and that staff turnover does not impact on service delivery?

Amanda Amroliwala: Are you talking about clinical areas or more generally?

Chair: Both.

Amanda Amroliwala: I will give the example of the way we have approached cases relating to covid over the last period. We have created a system whereby we are collecting a huge amount of information. As Members might understand, the procedures in the health service were changing almost daily in some places at the height of the pandemic. Therefore, when we get a complaint many weeks or months after the event about what happened at a particular time and why somebody was not allowed to access a ward with their relative, or why a certain decision was taken, we have to know what was in place at the time.

Right at the beginning of the pandemic, we started to collect examples and evidence of all of those changes, which we log on to our technology system. All of our in-house clinicians were doing the same and collecting information from around those health organisations where they worked, so that we have a body of evidence of changes. Then, as we work through different cases, we are retaining and discussing the things that we are finding from those in group forums. We have a forum that meets every month to share information and to talk about the issues arising, so that everybody is aware of those and so that if somebody in one part of the business says, "I've had that", we can talk about what they did and what information they accessed. We have systems in place now where we have specialist teams who have built up knowledge, and then they share that knowledge across different colleagues.

Q37 **Tom Randall:** Mr Behrens, could we talk for a moment about quality standards and the service charter? At the beginning of this session, you touched on issues about transparency. Following our previous recommendations, we have noted that you have increased transparency and are publishing data on a more regular and comprehensive basis, and your annual report sets out a one-year business plan that commits to delivering priority organisational projects in areas including data. Could you tell us what further improvements are planned to improve transparency and openness in the forthcoming three-year strategy?

Rob Behrens: I am not sure I quite understand the thrust of that. One of the issues we have developed in the last year is developing quality

standards that we are applying and are going to put online, instead of the process standards that you criticised before. This is very important in terms of reassuring members of the public that we are looking at cases to make sure they are suitable for publication and dissemination.

Amanda Amroliwala: If I could just add, one of the parts of our new strategy, again, that we bid successfully for funding for is to develop our technology systems to enable members of the public to have access to part of their own records, to be able to track how that record is progressing through the system. That is in our plan for the new strategy, to give people more direct access to our systems, again on a transparency basis so that they do not have to wait in the dark until something happens: they can have a look for themselves.

Rob Behrens: We have also not been able to publish as many cases as we would have liked because of the need to focus on the pandemic. Part of the new strategy is to make sure that we publish as many as we possibly can, although there are issues around smaller public bodies such as GP surgeries where you can identify the person complaining. We do not want that to happen.

Amanda Amroliwala: A further aspect of the new strategy in relation to transparency is the creation of a public panel. Our intention is to invite a number of members of the public to form a panel so that they can help us by, for example, looking at some of our cases that we have closed to ask whether we could have done them better. Could we have been more empathetic? Could we explain things better? It is for them to give us their views on our casework, but also to help us when we are developing new policies and processes so that we can ask them for their input on those. Our aim is to bring the public into our organisation, and that is one of the key aspects of transparency going forward.

Q38 **Tom Randall:** With some of the data that has been published, there is sometimes not a lot of guidance on the methodology or how the figures were arrived at. Is that something you think you can improve? Can you include more information on that in future?

Amanda Amroliwala: I am not sure which figures you might be referring to. Can you clarify that?

Tom Randall: I will try to find an example—

Rob Behrens: May I give you one good example, which comes from your constant pressure on us over the past two or three years? We now publish metrics for impartiality on the basis of very careful research that we commissioned from ORS to make sure that we could get a rigorous understanding of what complainants thought about impartiality. All that information is now in the public domain. This year, we published the figure for impartiality, which will be the benchmark. At the moment, I think, that constitutes 73% of our complainants who believe that we are impartial. That is not good enough, but it is a rigorous metric adopted on the advice

of ORS. I am pleased about that, and I hope that you will be pleased that we listened to you on that.

Q39 **Tom Randall:** Thank you for that. May we look at service charter performance? The Committee has seen that some scores in some areas have remained constant, or possibly declined, over time—for example, on the criteria for explaining decisions and how they are reached, or for providing a decision as soon as you can. Can you explain what you are doing to improve performance in those areas?

Amanda Amroliwala: The service charter has been in existence for five or six years. The scores are largely constant and have been over that period, irrespective of what has happened. That is a real challenge for us, because our aspiration is of course to have those scores rise. We have not found that. For example, with the one you mentioned about speed of service—the final decision as soon as we can—you would expect that in a national pandemic, when we have been very delayed, that score would go down. I mentioned previously that at the end of 2018-19, we had no queue of unallocated cases at all, and our performance indicators for speed of throughput were all pretty much at where they should be in terms of things being dealt with quickly, and yet in the year after—so, in 2019-20—when everything was working well and there was no queue, the timeliness score went down, illogically. We cannot explain that.

What we have realised—in focus groups where we have talked to complainants—is that the way that the service charter questions are worded allows too much breadth to what people understand from them. So, over the course of next year, we are going to see whether we can explain better what we are trying to measure, to make sure we understand when we ask people questions.

For another one that the Committee has talked to me about before—do we gather all the information that we need, from the complainant and the organisation—the figures have been pretty static. They have gone up a little, but they have been pretty static. What we have understood in talking to people is that a number of people have a very different understanding of what we mean by gathering information. Some of them believe that we should have a more court-type process, in which we summon witnesses and interview everyone. That, however, is not our operating model. We do not work in that way. We interview sometimes, but mostly it is the submission of papers and a consideration of evidence on paper.

What we want to do, therefore, is to ensure that when we ask a question, we ask it in a way such that people understand the basis of the question. We are going to look again at the questions next year, because we cannot explain why some stay completely flat, irrespective of whether things get better or worse.

Rob Behrens: Mr Randall, it is very important to state three things again: first, no counterpart ombudsman organisation anywhere—as far as we know—does this as regularly as we do over the course of a year. I do not

think that we get sufficient credit for trying to do that. Secondly, we know from all other ombudsman schemes that people's reaction to the quality of case handling depends on the outcome of their case. If they do not get the outcome they want, they will not say that they were satisfied with the quality of the case. Thirdly—

Q40 **Chair:** But surely you should be aiming for that, shouldn't you? I am sure that you do strive for that.

Rob Behrens: Of course, but I am saying that it is a structural dilemma for all ombudsman services that if you do not give the complainants the result that they want, they immediately tend to say that it is because of the quality of the investigation.

Amanda Amroliwala: We conducted a survey in 2018-19 on exactly this point and asked people who had had their cases upheld if they were satisfied or not with the quality of the service. Of those who had had their cases upheld, 86% said yes, they were very happy with the quality. Only 47% of those who did not have their case upheld said that they were happy with the quality, so you can see the scale of difference.

Rob Behrens: One more point, very quickly. When I was the higher education ombudsman, I commissioned research that asked people how they felt at the point at which they came to the ombudsman. What we discovered was that they were completely fed up because of the process that they had had to go through in order to come to the ombudsman, which prejudiced their view about the ombudsman service. We do not do that at PHSO, but it is one of the methodological challenges that we need to look at to make sure that we are rigorous.

Q41 **Tom Randall:** Based on some of the feedback to my own casework correspondence, I am sympathetic to your point about outcomes and perception.

Your service charter shows that about three out of 10 complainants don't agree that you give them a good service, and a similar proportion say that you don't follow an open and fair process. Would you say that those particular aspects fall into the category of questions that you might want to improve on in terms of their meaning, or is that something that you think you can work on?

Amanda Amroliwala: I think that is definitely something that we would want to work on, because those are the summary sections of groups of questions. The questions within them are very different, so bringing them together often averages out things in a way that belies the changes that we would want to make.

We have recently published, as Rob mentioned, a small number of our quality standards, and we have tried to align our quality standards with some of the service charter questions. We published a set in the last quarter to see whether our version of the quality of our work is the same as the complainants and organisations' version. Of the half a dozen or so that we published, we found that it was about half and half. In some

cases, we have judged ourselves to be less good than a complainant has judged us to be, and in others it is the other way around. That gives us the opportunity to dig into these issues and say, "Why is there a difference either above or below? What are we doing that people think we are doing well but we think is less good, and vice versa?" It gives us a platform to try to develop our systems going forward.

Rob Behrens: I hear what you are saying, Mr Randall, and you are right. We need to look at it; we need to not be afraid to look at it. But the figures for "Following an open and fair process" and "Giving you a good service" show affirmation from two thirds of the people—thousands of people each year—whose opinion we ask for. It depends which way you look at it, and we need to make sure that we don't lose sight of that in trying to make it better.

Q42 **Tom Randall:** Sure. Just taking a step back and looking at your 2018-21 strategy—we are coming to the end of that period—it said that by the end of 2020-21 you wanted to improve the perception and experience of the service you provide, as evidenced through better charter scores. Reflecting on that period, do you think you have achieved that?

Rob Behrens: I think we have delivered our strategy very successfully. We have made the organisation more professional. We have provided training and professional development to people in a way they did not think would be possible. We have made ourselves more transparent in terms of the issues that we have discussed. We have reached out to communities through the complaints standards framework in a way that was not thought possible three years ago. We have also addressed the clinical advice issue, which I think is very good.

Those are real achievements. They have not kick-started the service charter scores, but as Nigel Wicks, who I used to work for on the Committee on Standards in Public Life, said, "You have to wait 10 years before you see whether what you have done is any good." I think there is an element of that here. We cannot say for sure that what we have done will be reflected in the charter scores, but we will try very hard to make sure that it is.

Q43 **David Mundell:** May I move on to the 2020 staff survey, and ask Amanda about that? Although you performed well in many areas, there remains room for improvement obviously. What actions are you taking to ensure that staff feel it is safe to challenge the way things are done in PHSO?

Amanda Amroliwala: The starting point is that the overall engagement index score went up slightly last year, which given that we were moving everyone to work online and at home, with all the challenges, was really pleasing. As you say, there were areas where the scores were less good. We have looked across the organisation and seen that those scores are very different in different parts of it. We asked each part of the business to look at their own scores and to ask, "What is this telling us about how we work and how can we improve that?", and to put plans in place for

improving their particular area of the business. We then got a group of staff together to ask, "What do these scores say to you about what we need to do differently?", and to give some recommendations about things we could change.

One of the big things they told us was that we were not very good at involving people in change and communicating with people about the changes we were making. Given that we were in a pandemic, and having to change things very rapidly, perhaps some of that was understandable, but it was really important feedback that we needed to do things differently and make sure that when we were making big changes to our processes in PHSO, we needed to make sure that people understood why and give them the chance to express their view. We are making those changes going forward as a direct response to the feedback we have had from staff.

Q44 **David Mundell:** Approximately a quarter of staff felt that their workload was too high. What was the reason for that response? Is there anything specific that can be done in that regard?

Amanda Amroliwala: I think that is the nature of a demand-led business. We have a constant stream of cases coming in and we have a queue of cases waiting to be allocated. I think that staff feel that pressure very acutely. They want to give a good service to people and they want to deal with cases as quickly as possible, but sometimes through the course of this year they have struggled to get responses back and have had to have difficult conversations with members of the public about that.

I think there has been a lot of pressure on individual staff members, both from the system because of the number of cases coming in and our collective wish not to have an ever-increasing queue, and from the struggles of being able to do their job in the environment in which they have been working. That is right at the heart of the pressure. We are in the type of business that when you have a big queue of people, you try to do everything you can to bring that queue down.

Rob Behrens: It is quite important to remember that 73% of my colleagues said that they were proud to work for PHSO in 2020 compared with 52% in 2016. That is a very significant change. Also, people's sense of being well rewarded was quite high in comparison to the previous year. It is a rounded picture that we have to understand.

Q45 **David Mundell:** Given the importance of minimising staff turnover and recruiting new, diverse people for the workforce, as you have touched on Mr Behrens, how do you ensure that there are development opportunities for staff, so that they can develop a career inside PHSO?

Amanda Amroliwala: Again, with the pandemic, we needed to move all of our training and development to remote delivery, and we have a small training and development team who are fantastic. They managed to translate all of that into either modular online workshops or workshops that they could deliver via Teams calls, and have created throughout this year a whole range of resources to be available to members of staff in the

organisation, including about 100 bite-sized modules that people can do when they have time.

The survey told us that career development was something that was really important, and when you are in quite a small organisation and you do not have lots of promotion opportunities to offer people, we thought about what we can do to help people think about their career—not just them needing to go up, but how they can expand their knowledge across different parts of the business. The team have created an "activate your career development" pathway where people can move through a set of resources, so we have tried to offer a range of things that will help develop people, both in their professional development and in enrichment terms as well.

Rob Behrens: I think we are the only ombudsman's service in the UK, and probably in Europe, that professionally accredits its senior caseworkers. That means that people get the opportunity to demonstrate their professional skills to lead them in a career path that goes outside the ombudsman's service in the UK if they do not want to stay with us.

The feedback from that was that less senior case handlers said, "Yes, but we want it. Why can't we be accredited professionally? That will help us develop our careers." We are now looking at doing that for regular case handlers, so that they will get an opportunity to strut their stuff in terms of their career development by showing other schemes that they have this professional accreditation, which is very rare. There are lots of ways in which we can look at this.

Q46 **David Mundell:** Your scores for staff consultation relating to decisions that impact them are one of the weaker areas. What more will you be doing to engage directly with staff?

Amanda Amroliwala: This goes back to my point about change, and this, I think, was specifically about that. We have made a number of changes in the course of the year that we had to introduce very quickly, and our staff did not feel consulted—in some cases, they were not consulted on those—and they were right to challenge us on that.

As such, what we have agreed is that when we are making change going forward, we will try to make every effort to involve people much earlier in the process. We have identified a method of having what we call key participants: we bring people out of the business to work on some of our big change programmes, and we ask those individuals to go back and communicate across their colleagues in the business all of the things that are happening, and to test out ideas with them. We will be using that key participant model more as we go into our new strategy.

Q47 **Lloyd Russell-Moyle:** In terms of staff spend and numbers, the initial phase of the pandemic necessitated a shift to greater home working, and you talked about that earlier on in your evidence: about how some of that was successful, actually, and how that was managed. Do you think this transition is something that you will permanently look to adopt as

part of your business model, and what effect does that have in terms of costs and overheads for the organisation?

Rob Behrens: I will let Amanda do all the costs and overheads, but on the issue of the policy, we talk to our staff a great deal about their concerns about returning to work, particularly because Manchester is a place where the pandemic has hit hardest compared with other parts of the country. People have been reluctant to come in, because of the problems with using public transport. We recognise that.

We also know that our younger staff have less space to work at home. Therefore, it is not so easy for them to work from home continually. There has been a kind of rejoicing of people coming back into the office over the past few weeks, which I have seen and participated in. That is not to be discounted. So there are different views on this.

We conducted surveys and consultations and came out with the view that we would pilot for at least six months from September the idea of asking people to come in to work for two days a week, one day as a team day, when they should meet their colleagues, and one day that they could choose as their own. In addition, we would pilot people coming in less frequently, so that we could have an accurate understanding of the impact on productivity. That has worked well, but it is now in doubt, because of the working at home that the Government introduced on Monday. We will be looking at this with care.

I think it is fair to say, however, that we are not afraid of being more flexible, that that is a good thing for the office, but that we do not want to lose our corporate culture. We think that having struggled so hard to change the culture in the organisation, and the collectivity and joint endeavour that that brings, we do not want to give that up by telling people that they can work from home whenever they want. We have to look at it carefully and with balance. Amanda knows about the costs.

Amanda Amroliwala: At the moment, as Rob says, we are piloting. The idea is to end that pilot and then to consider what to do about accommodation costs going forward. Our accommodation is leased, so we are talking to property consultants about options for reducing the size of our premises and what that might look like, should we get to that point. Inevitably, we will have more flexible working going forward. We were predominantly office based before, and now we have shown that we can work in this hybrid way of being partly in the office and partly at home, so I do not see us ever going back to the situation where we would be full-time in the office again.

We will need less accommodation, therefore, but because of the success of our bid for funding in the spending round, we are planning to recruit more staff into our organisation to help us with the queue of unallocated cases and with our new strategy. We have to balance those two things: we are growing in size, but reducing the number of days that we will be in the office. We are examining a whole range of options at the moment, but cost is obviously very much at the forefront of that.

Q48 **Lloyd Russell-Moyle:** I totally understand. I have a spare office block in Manchester if you wish to have a discussion. I am a Co-operative MP and we have just decided in the Co-operative Group to reduce our office space by half in Manchester. Lots of organisations are doing that now and looking to co-locate with people.

You have made a shift from London to Manchester—from one urban area to another urban area. Is there any opportunity at this moment to think about how you can use that mixed working model to get not just people who are based in urban areas? You might then have a slightly different way of thinking about or looking at things. We talk about diversity, but it is diversity from one urban area to another.

Amanda Amroliwala: That is certainly something we can think about. We have spent a lot of time and effort building our culture as an organisation. As you identified, we took a decision five years ago to move out of London—it was about 50:50—and to base ourselves predominantly, as part of the move to the northern powerhouse, up in Manchester. Now, the world has changed again, and therefore we will look again at the possibilities.

Being together in the office, for the type of work that we do, is important. Caseworkers are talking about cases with each other all the time and asking questions. Managers are supporting staff and sharing information. That is why the team day of our new way of working is so important and has been so popular. We do not want to lose that opportunity, and I know from colleagues who have a more dispersed model that that is quite difficult when you have very small numbers of people who are very remote. We will certainly consider it, but the model we are adopting is certainly looking very promising at the moment.

Chair: May I say that it is refreshing to have a public body extolling the virtues of people going into an office? I say that as someone who has quite a number of constituents who work for your organisation. I am quite sure that they appreciate that and that it is indeed beneficial to your activities.

Moving on, John McDonnell is poised to look at the impact on bodies reviewed by the PHSO.

Q49 **John McDonnell:** Rob, this is to you. This year you launched the NHS complaints standards. Could you tell us what impact you expect them to have on the NHS, the complainants and, of course, on your own work as well?

Rob Behrens: This is a three-year project, in which we have invested heavily. It was an idea that I brought from the higher education ombudsman, in creating a similar complaints standards approach for universities. The difference between that and what happens in Scotland is that in Scotland it is the law that public bodies have to accept the rules of the Complaints Standards Authority.

The Government are very reluctant to go down that path; they have not closed it off completely, but I am not holding my breath on this. We have

consulted hugely with the NHS, regulatory bodies, complainant bodies and complainants on the basis of the report that we put before Parliament last year on making complaints count. That report showed that there were no common understandings of what effective complaints handling is in the NHS. There was no investment in the training of people who were handling complaints—it was sitting next to Nellie. And leadership in the NHS did not see that embracing effective complaints handling was something that they ought to be doing.

On all three grounds we think that is unsatisfactory, and needs to change. We began consulting with a working group of around 15 regulators and advocacy groups to see if we could construct something that would allow trusts and GP surgeries to be able to understand what effective complaints handling looks like.

We were told by people who use the service, and also by people who delivered the service, that it was not about resolving issues, but quite often it was about turning people away in a manner that meant they might be pacified but they did not get a resolution to their complaint.

We have negotiated with a range of the NHS, including the Department of Health and Social Care, on a model framework to be adopted by trusts throughout England. This has been fabulously welcomed by the NHS. We currently have 71 bodies who are trialling the complaints standards that we set out. We hope that this will enable us to solve some issues about which there have been concerns. First, is this a regulatory issue that is a burden on the NHS? Secondly, how do you judge what is success and effectiveness? Thirdly, and this is a very difficult issue, because we cannot charge for training as the PHSO, is how do you deliver skills development for people who say to me when I go to hospitals, "Help us. We are the underclass in the NHS. You have to do something about it." We know that there is a big issue there.

It is going very well. There is more buy-in than I had ever expected, and coming along behind it is a framework for public administration in central Government as well. We have buy-in there from the big Departments, including the Home Office, where the Windrush affair has shown how much they have to do in order to get things right. Customs and Excise have joined, Work and Pensions is a very strong supporter of it, and we are developing an alternative but similar approach to this for public administration. This is very big stuff, and it addresses the issue that was raised at the beginning about people coming to us when, really, they should be going somewhere else. What we are hoping is that as the complaint standards are adopted, the quality of complaints handling in the NHS improves and the resolutions improve, so that fewer people will actually come to us, and only for the issues that are very difficult and need to be resolved by a more expert body.

I am delighted by this; I think it is making a difference. The reluctance of the Government is that they are not sure whether they want to make us into a complaint standards authority. It works in Scotland and operates in Wales, but it is smaller there. We have to continue to argue our case. It

would be better if we had legislative power, but if not, we are going to do it anyway, because the Office of the Independent Adjudicator—the higher education ombudsman—has a very successful non-legislative scheme.

Q50 **John McDonnell:** When are you going to review your progress?

Rob Behrens: The pilots are going on now. They have been delayed because of the pandemic. From the spring of next year, we will begin to assess what they have taught us about participation.

Q51 **John McDonnell:** The Committee will definitely be interested in the next review.

May I turn to you, Amanda? We want to turn to a specific topic that you have dealt with before and that the Committee has looked at several times in the past: the institutional response to eating disorders. Could you tell us what progress has been made against the PHSO's wider recommendations in the "Ignoring the alarms: How NHS eating disorder services are failing patients" report? Do you have a view of what progress has been made?

Amanda Amroliwala: Actually, this is something that Rob has been personally been involved in, so Rob may want to say something about it.

Rob Behrens: This is a very big piece of work. When we published our report, we made five key recommendations, as you know, about training, quality of services, co-ordination and serious incident investigations. It was warmly welcomed, and not only by PACAC. If you listen to Claire Murdoch on "Radio Ombudsman"—she is the mental health director of the NHS—she said that it was one of the most chastening pieces of work that she had ever read, and it made her angry that there had been a failure by the NHS in so many cases.

What the Committee said about progress in implementing was that it had been too slow. There were too few skilled people on anorexia, in terms of expertise. There was not enough co-ordination taking place, and serious incident frameworks were not properly attuned to this. You criticised the NHS for its slowness in adopting our recommendations. No one at any time, apart from a very small number of people—individuals, not organisations—criticised the quality of our recommendations. That is not the issue. The issue is a structural one, which the Government have responded to.

There are so many regulatory bodies involved in this area that it has not been possible to move as quickly as everyone would have liked in order to implement the recommendations. If you ask the question, "Who is responsible for the curriculum of junior doctors?", there is not a simple answer. It is not just about one body. There are lots of colleges and regulatory authorities that have an input into this. Because of that fragmentation, they have been slow in addressing that issue. There is also an NHS-led PHSO group of 12 regulators looking at this.

My sense is that this is a good report. It took too long to produce—we know that—but I commissioned a piece of work to see why that had

happened, and published it, and now progress has been made, but it is not fast enough.

Q52 **John McDonnell:** You are monitoring that at the moment?

Rob Behrens: Yes, but your Committee said you wanted to look at this again after the coroner's report was published, and that has now happened. I know you are busy and have other things to do, but there is an opportunity for you to look at that again, and we would welcome that.

Q53 **John McDonnell:** Just to get it absolutely clear, your view is that there is a fair amount to go on all of this.

Rob Behrens: Absolutely.

Q54 **John McDonnell:** You are monitoring, and that is the judgment from your monitoring.

Rob Behrens: We are monitoring but we are not regulating, and there are people—the PHSO group in the NHS—that are in a better position than us to monitor, and we rely on their integrity to deliver this.

Q55 **John McDonnell:** So it is time for us to call it in again.

Rob Behrens: I think so.

Q56 **Lloyd Russell-Moyle:** What is the role of a Member of Parliament?

Rob Behrens: I think maybe you should tell me, because I don't want to—

Q57 **Lloyd Russell-Moyle:** What do you think the role of a Member of Parliament should be?

Rob Behrens: You have a constitutional duty to represent your constituents and to bring their complaints to us on parliamentary issues if you believe it appropriate to do so. I think you do that honourably and in a way which kind of works, but there are downsides.

One downside is that there is no doubt that it chills people out of making complaints, because—the word is wrong, but I can't think of another at the moment—they are intimidated by the status of MPs sometimes, which makes them reluctant to be involved. Or they believe that their MP would have a partisan view about an issue that they are raising. I know, because I have talked to some people, that they won't bring their Windrush case to their MP because they feel the hostile environment is a party political issue. So, those are two things.

Thirdly, and I say this with a sense of frankness and with my experience, sometimes the Member of Parliament uncritically adopts a view of their constituent and will not accept where we have made an investigation and not come to a judgment that their constituent likes. That is difficult because you have status and prestige, and we also know that you have to look after the interests of your constituents, but sometimes I think that is counterproductive in terms of resolving cases.

At the end of the day, your Committee has time and again argued against the MP filter as being anachronistic or pernicious. I believe that is the case.

Q58 **Chair:** Is that the previous iteration of the Committee, and a previous Chair?

Rob Behrens: Yes, but you have also supported the removal of the MP filter, I think.

Chair: I don't think I have, Mr Behrens.

Rob Behrens: Well, you know better than I do.

Chair: I hope I would.

Q59 **Lloyd Russell-Moyle:** You and I have discussed this before, I think. Some of the discussions are about whether that filter should be expanded—whether it should just be exclusively MPs-only, or if you could include other public bodies, or other public organisations, citizens advice bureaux, or not. There is some discussion there. I have also definitely not supported the idea that MPs should be removed from the process entirely.

Rob Behrens: We are not—

Lloyd Russell-Moyle: I have a follow-on question; I asked you a bit of an open question there. I know that in the past you have called for the ending of the MP filter or the MP's involvement in this process. There might be some slight disagreement between some of us and you about whether it should end completely, but do you see a role for MPs being involved in cases or do you not see a role for us at all?

Rob Behrens: First of all, I apologise to Mr Wragg for misrepresenting his view; I think he came close to it but maybe he did not get there.

I have the highest respect for your constitutional position. I do not want you to be removed from the process. I want there to be conversations about this and am a bit concerned that we have been fobbed off for years when there has been no conversation. On the one hand, the Government say to us, "There can be no strategic reform, but we will look at incremental issues." When we raise incremental issues, they say, "Well, no, not this one." So nothing happens.

I would be in favour of a discussion about making the process more inclusive so that MPs are certainly not removed from the process, but the system becomes more accessible. That might protect your constitutional interests and resolve the issue of accessibility for us.

Q60 **Lloyd Russell-Moyle:** Might that mean that MPs are involved or informed of all cases, including health cases, but that they are not the only ones who filter the entrants to you?

Rob Behrens: There are MPs who are involved in health cases; there is no proscription on that happening. That surely has to be a good thing, to

make sure that you are aware of what is happening to the lived experience of your constituents.

Q61 **Lloyd Russell-Moyle:** Not just because an MP might have happened to pick it up, but an institutional link that says when you have cases concerning a constituent you automatically inform the MP and ask whether they want to make a representation? It might well be that part of the MP's role changes; it is not exclusive, but you expand it in terms of engagement and discussion. You can have both sides of the coin.

Rob Behrens: I understand that, but I am a bit tired of being treated like a public meeting by some MPs, who seem to think I am there just for their pleasure. That is not my constitutional role.

Q62 **Lloyd Russell-Moyle:** It might partly be your constitutional role in the sense that it was set up to alleviate MPs from always going directly to Ministers to try to solve public or parliamentary issues. The ombudsperson was set up partly because the Government wanted a process for MPs to be able to recommend cases and to review. But I understand that you do not want to be seen just as a punching bag—that is not fair on you.

Rob Behrens: The founding legislation is subservient and deferential; it talks about a procedure available for the little man. We have come a long way from that. It needs comprehensive reform.

Q63 **Lloyd Russell-Moyle:** That leads me to the next point. The predecessor Committee found that legislation governing PHSO was restrictive and prevented it from matching the standard of its counterparts—you have already mentioned Scotland.

In your view, which legislative changes are the most pressing, bearing in mind that it is unlikely that we will get a wholesale review of ombudspersons? I suspect that we would all quite like to merge different ombudspersons together and get them to co-operate better. What is the most pressing legislative change that is needed?

Rob Behrens: My answer is that the United Kingdom should come closer to adopting the key features of the Venice principles than it currently does. The Government have adopted the Venice principles and the United Nations endorsement of the principles—even been a co-sponsor of that—and then turned around and said, "I'm sorry but PHSO is going to be excluded from the safe space in the NHS." That is a violation of the very things they signed up to.

I am grateful to this Committee for giving support. There is not much support around on this, and it is outrageous that this has happened. That is one of the urgent things.

Q64 **Lloyd Russell-Moyle:** So one real example is the safe space in the NHS. Are there are other concrete examples?

Rob Behrens: Of course there are. First of all, there are the own initiative investigations. If you look at our study of the pandemic and 57

ombudsman schemes, the brilliant work done by my counterparts in Malawi, Ireland, central Europe and Finland using own-initiative powers to look at aspects of the pandemic and to report back on that—

Q65 **Lloyd Russell-Moyle:** This is where patterns have arisen, you have noticed things and the ombudsperson can say, "I need to look more holistically rather than just at one particular case."

Rob Behrens: Yes, where there is not a complaint. That is the key thing. We know that vulnerable groups are not likely to have their members bring complaints to us. Yet in terms of mental health and ageing, for example, and ethnicity, that is where we could be making a big difference. I think that is important. I have lots of other things on my list, but I realise that you are time limited. The big thing is that there are too many ombud schemes in England. That is why we are not terribly well known—because there are so many of us.

Q66 **Lloyd Russell-Moyle:** Even my office gets confused about which ombudsperson scheme to recommend to this week.

Rob Behrens: As a minimum—I have talked to Mick King about this, the local government ombudsman, who is a wise colleague and a friend—there should be a bringing together in a new institution of the remnants of the local government ombudsman and the PHSO to create a public service ombudsman for England. That is very important. It is common sense. It is adopted throughout the rest of the world, but not in the United Kingdom.

Q67 **Lloyd Russell-Moyle:** Are there non-legislative ways of achieving that through merging offices and co-operating? I understand that legally you would be separate bodies, but why is there not movement at the practical level?

Amanda Amroliwala: We have discussed this with the local government and social care ombudsman, and we have created a joint team with them. We have colleagues who sit together and work together on cases that cross over from the social care system into the health system and back again. We are working collaboratively with them. They sit on our board; we on theirs. We meet with them regularly to discuss process and practice, and how we can improve and share best practice. We do lots of work together and share lots of activity, but short of legislation—

Q68 **Lloyd Russell-Moyle:** It is very common for councils to share chief executives. It is very common for councils to share staff, even where staff are literally joint. I have some problems with that sometimes at the local level in councils. I would not say that it is all roses, but has there been consideration of that kind of level of integration?

Rob Behrens: We had a joint board when Amanda and I came, but that ran out of steam when the Government turned around and said, "We're not going to have the Bill anymore." We need clarity about the legislative state.

Q69 **Lloyd Russell-Moyle:** Or at least the political direction.

Rob Behrens: Yes.

Q70 **Lloyd Russell-Moyle:** So there needs to be more political direction, even if we are not going to get a full legislative programme on this.

Rob Behrens: Yes. Political direction is something that I do not get involved in, but it would be useful to see the Government come into line with the rest of Europe.

Chair: We are going to take a short break. Ms Amroliwala, thank you for your attendance this morning. Mr Behrens, we will continue with a brief session. We will just suspend proceedings for a few short moments.

Sitting suspended.

On resuming—

Q71 **Chair:** Welcome back to the Committee. The following questions are for the ombudsman, Mr Behrens, and cover the last five years of his tenure in the round, after which the Committee will make its representations to the Government regarding the proposed extension of his tenure. You have been in post for almost five years. It is our understanding that you hope to remain in post for the full seven years envisaged under the legislation. What do you feel you still have to achieve in the role, and how do you plan to achieve it in the next two years?

Rob Behrens: I want to take the national ombudsman service further down the improvement road, which we began five years ago with demonstrable success. Specifically, the things to be done are, first, to continue to build on the professional development of our staff. That is absolutely central to quality casework, to better decisions and professional development in the ombudsman sector. Secondly, we need to improve further our complaints process itself. I have already talked about clinical advice. We have a very important project on balancing evidence between complainants and bodies in jurisdiction. That is important in terms of our credibility with complainants, and we now have guidance and training to support that. We want more mediation. And critically, we are close, but have not got there, to balancing empathy with impartiality. I think that goes to the heart of what an ombudsman should be doing. Thirdly, as you heard, we have not embedded the complaints standards framework across the NHS, but we are getting there. I want to see that.

I want to integrate PHSO more closely with the communities that it serves, so that we can reach vulnerable groups. I want to encourage what has been a resurgence of parliamentary cases during my tenure. In the last year, we have taken on very big cases involving Windrush, which I have talked about, but also women's state pensions, which is a very big issue that your colleagues are interested in.

Next, as I have also mentioned, we need to align the UK even more closely with its international counterparts in meeting common challenges, particularly upholding the Venice principles and endorsing the United Nations General Assembly resolution. Finally, I would like to stay, and my

colleagues across the organisation, on the board of PHSO, in the devolved nations and internationally have appreciated what has been achieved in the past five years, and they have told me that they would like me to stay the full term.

Chair: Thank you very much.

Q72 **David Mundell:** What have you done to increase transparency in the light of the Committee's findings over the past five years?

Rob Behrens: We have done a lot. You heard before about our strategic plan, making sure that we now have the capacity to publish complaints online. That means a demystification of what we do, and it puts into the public domain issues that need to be discussed and learned from. That is important and we have made big progress on that.

I launched "Radio Ombudsman"—there is one in Canada now, following me—in 2019. It is one of the few internet podcasts by an ombudsman, certainly in Europe. That enables people to hear conversations between me and complainants, such as Scott Morrish, James Titcombe and most recently, Derek Richford, whose grandson died in mid-Kent. It also enables me to have public discussions with leaders such as European ombudsmen, and regulators like Victor Adebowale, David Behan and Robert Francis. That is a way of reaching out to people to show what are the dilemmas of the ombudsman. As a result of a pandemic, we now have a "Radio Ombudsnet", which is an internal "Radio Ombudsman", so that we can look at issues that are more of interest to our own staff.

I introduced annual open meetings, which did not exist before. There was a lot of suspicion about these and whether it was bringing us too close to complainants. It is not necessarily pleasant, but it is important that they get an opportunity to question me and my colleagues.

We have an annual ombudsman lecture, which was interrupted by the pandemic. We have had two at the LSE, including a brilliant lecture by Liam Donaldson on what he had done. We have very extensive social media activity, both the office and me personally, which has been commended by the OECD's study on open government as a model to go forward with. So I think we have done a lot.

Q73 **David Mundell:** In terms of resourcing, what are the major challenges that you have faced in your role in the last five years and how have you responded to them?

Rob Behrens: When I arrived there was a comprehensive spending cut of 25%, which was a huge challenge to the service. We were determined not to cut our frontline capacity, but to make cuts in terms of the costs of our buildings and of our support services. We moved to Manchester, which has been brilliantly successful, and brought in a whole tranche of people who would not otherwise have worked for the ombudsman—young, thrusting graduates from the north of England who give vitality and enthusiasm, and have a thirst for knowledge, which may not have existed before, so that is important.

We have put at least 60% of our costs into frontline case handling, and I hope that will grow. Where we have made cuts, they have been to corporate services rather than to frontline services. We are now in a position where, with a better comprehensive spending review settlement, we can expand our case handling to deal with the backlog and the challenges of the pandemic. It has not been easy, but I think it has been well managed. That is a tribute to Amanda. It is not a singleton here; it is a team effort.

Q74 **David Mundell:** What actions have you taken and what processes have you put in place to deal with some of the concerns raised by the public in relation to the organisation's case management and response backlog?

Rob Behrens: I think you heard about that before. We have gone out of our way, first of all, to consult and be transparent about what we are doing and what our dilemmas are, to talk to complainants about the difficulties we have in handling the backlog and the implications of that, and to make the critical decision, which is well demonstrated on the website, that we have changed our demand-management approach in order to preserve the current size of the backlog.

I think we have met the challenge of the dilemmas we experience as a health service ombudsman, which makes us different from elsewhere in Europe where health is not the main issue for national ombudsmen. We have demonstrated the dilemmas that that brings and our solutions to them.

Q75 **Mr Jones:** Forgive me if the questions are repetitious of questions raised in the first section of this session, but the pandemic has clearly had a large impact on how organisations have carried out their everyday activities. How have you used your position as chair of the PHSO to ensure that your organisation responded effectively to these challenges? What process have you put in place to ensure this is sustainable for a potentially longer period of uncertainty?

Rob Behrens: Because there was a bomb in Manchester in 2017, very close to our office, we were aware of the need to scope crisis management for the organisation before the pandemic came. Therefore, when it happened, we were in a good place to decide in a very determined fashion that we would need to move to remote working and change the scope of what we were doing.

I am not sorry to come back to this: the art of the ombudsman created a huge body of evidence for us to judge how we should respond in a pandemic, what we could do, and the difficulties associated with it. For example, you cited some criticism from staff members about us not being as consultative as we should be. Remote working brings that into all organisations, if they are not very careful, and so we have gone out of our way to be as accessible and consultative as we can be with our staff throughout the pandemic. This was done at first by recognising that productivity was not the key issue—it was staff wellbeing—and then by thinking of ways to getting back to effective productivity without losing the

flexibility of remote working. We have also created specialist teams that handle covid, so that we have expertise; some of the things that Liam Donaldson proposed about incorporating clinicians into our general casework is happening because of the covid teams who, as you heard Amanda say, hold forums. There is a conversation about the implications of clinical issues on case handling that has taken us down the route that Donaldson had proposed, without us really thinking that that was what we were doing.

The whole experience of the pandemic, despite the tragedy associated with it, has been a productive one for our organisation. We have kept the morale of our staff, and their engagement with the office, at a high level. I think that is a sign of some success.

Q76 **Mr Jones:** The pandemic will also inevitably have had an impact on the organisations that the PHSO investigates. How have you adjusted the work of the organisation to take that into account?

Rob Behrens: To give you an example, one of the things that happened was that, for a period of time, we were not able to access paper files in the office when there was remote working. That led to delays that reminded us of the importance of moving to non-paper files in casework—that is important. We know that complainants want face-to-face conversations; if they do not get that they feel like they are being treated by a bureaucracy. We have tried to keep going with face-to-face conversations through Teams or the internet. I have had a number of immensely difficult meetings with bereaved parents who have lost their children, for whom having a meeting with the ombudsman is an essential that, even in a pandemic, they insist on—quite rightly. We have had to be creative about finding ways to make this happen. I think it has worked quite well. Our whole approach to collaborative engagement has been threatened by remote working, and we have had to think very carefully about how to support people, in the way that Amanda described.

Q77 **Mr Jones:** Has the pandemic hindered the implementation of any of the plans that you put in place for the PHSO during your tenure—and to what extent?

Rob Behrens: Yes, it has undoubtedly. I regret that, but I do not apologise for it, because our key issue is to resolve complaints where we can and to make sure that the backlog does not get too great.

One of things that has been adversely affected is the approach to mediation. During the past year, we found that clinicians and trusts were reluctant to engage in mediation, because they were under pressure in hospitals, so we did not conclude as many mediations as we would have liked. Because of the backlog, we also had to ask people doing mediation to be case handlers on investigations—to have a dual role, because we were short of people. Those are things to be regretted. Also, publication onboarding was slowed down. We hoped to be further along the way than we are.

Finally—but these are just illustrations—I used to go out to trusts on a regular basis to meet staff and patients and to make sure that I understood the lived experience, because you cannot just sit in Manchester and expect to understand things. That continues with our liaison team, who have remote discussions, and it has not stopped the complaints standards framework from progressing, but it is less satisfactory to have meetings with trusts online than it would be if we were there. The complaints standards is delayed as a result of that as well.

Q78 **Mr Jones:** Overall, would you say that your role had been changed by the pandemic and, if so, in what way?

Rob Behrens: I have thought about this. The core answer is that when we asked the 57 ombudsman schemes what the key challenges of the pandemic were, they gave us four headline points: first, the public's lack of knowledge and understanding of the ombudsman role across Europe; secondly, a lack of appropriate resource; thirdly, disruption from international crises, of course; and, fourthly, meeting the expectations of complainants and service users.

Three of those four things are routine ombudsman challenges, which existed before the pandemic. The pandemic exacerbated those, and made them more pronounced and bigger challenges than they were before. Fundamentally, therefore, I do not think that the pandemic has changed what we need to do; it has changed the way in which we need to do it, and required us to be more flexible and less routine in the way we do it.

Q79 **John McDonnell:** Moving on to the point about challenges and leaving aside covid, what are the main challenges you have faced in the past five years that you have had to deal with?

Rob Behrens: I think there are seven. To start off, very poor staff morale—you cannot be a general without an army. If you do not have your people on side, you cannot do anything with the resources that you have. Secondly, a big weakness in PHSO of programme and change management skills to move forward. People said to me, "You may have all these plans, but we will not be able to implement them, because we don't have the capacity to do that."

Thirdly, the public spending cut, which I have talked about. Fourthly, a lack of clarity about vision, values and strategy. I held meetings with all staff in 2017 and I found that nine people in the organisation could name the core values of PHSO, which was worrying, because it meant that we were living off the integrity of individuals and insufficiently off the corporate input into that.

There was a breakdown of relationships with stakeholders, particularly the Secretary of State for Health, who was extremely critical of the way we had handled complaints, and a general breakdown of relationships with stakeholders, particularly the Patients Association.

Lastly, there was complete isolation from UK and international ombudsman partners. The office had not paid sufficient attention to what

you could learn from the free learning that is available from talking to other colleagues.

Q80 **John McDonnell:** During that period, you had the big move to Manchester. What role did you play in persuading staff about that move?

Rob Behrens: We had about 80 people who left the organisation because either they did not want to go to Manchester or their families were so tied up in London that they could not go. As a result of that, we lost a significant body of expertise in case handling, which is regrettable.

On the other hand, the positive thing is that as a Mancunian I was able to demonstrate that being in Manchester was a great asset rather than some second-class opportunity. I just held a big conference in Manchester a couple of weeks ago for international ombudsmen. I took them to the Free Trade Hall, Mrs Pankhurst's statue—all the great things. I also took them round where the Peterloo massacre had taken place. This is a great place for having a national ombudsman service and we had the opportunity to create something very special there. I think we have done that. And people like the fact that I am happy with that.

I will just say that when I had my interview, the chair of the panel said, "I'm afraid you will have to go to Manchester occasionally", and I said, "Well, that's fine by me, because I've been in exile for 40 years". So, hopefully, that has created a bond with the people in Manchester without losing it in London.

Q81 **John McDonnell:** I am a born Scouser; that is the sort of thing we would say. But there you are.

There has been technological change in dealing with casework. How have you dealt with that change? How have you managed it?

Rob Behrens: I have to thank the colleagues doing the peer review in 2018 for—frankly—criticising us and saying, "This isn't good enough. And if you don't do something about it, you're going to not have an accurate system. It will take too long. You will deflate the morale of your caseworkers."

We listened to that and we commissioned expert advice, but we had a user group that made sure that what we were producing was sensitive to the needs of people using the system. That proved to be a very effective way of handling things, because, as you know, quite often in big public service IT projects, for example for the Post Office, you do not get what you wanted. However, we got what we wanted and I think that is very good.

Q82 **John McDonnell:** Can you give us an example of where you have brought about substantial change within the organisation itself?

Rob Behrens: Yes. First of all, I felt—and I told the office this—that they were too inward-looking, too balkanised and fearful of having contacts with the media or engagements with individual complainants. In one case that I remember, a woman whose child had died was refused a visit to the

office because it was thought that it would not be productive. I said, "This is not acceptable. We don't do that." Even if there are nuances around this, we have to be much more effective at dealing with individuals. There is a big question in the staff survey about whether the ombudsman lives the values of the organisation. For me and Amanda, that score is over 80%. I am proud of that, because if you do not lead from the front in a values-friendly way, people are not going to go with you. I have spent a lot of time trying to meet our vocal critics; I can come on to talk about that. I have tried to be the public face of the ombudsman. I have been on television and radio. I have done "Radio Ombudsman". I have tried to be accessible to people. I have come, as a previous ombudsman, with lots of ideas about how to make things better, and I think they have made things better, through the complaints standards, for example, or the clinical advice review, or the expert advisory panel, which I do not know whether you know about. That enables me to commission very celebrated people or experts by experience to give us frank views about how we are handling cases.

Q83 **John McDonnell:** Can you give an example of where, under pressure from yourself, you have brought about change in an external organisation?

Rob Behrens: There are lots of examples of that. The Home Office has just appointed me to be the chairman of a panel to recruit their second-tier complaints handler as a result of our searing criticisms of the Home Office over Windrush. That is one good example. I have regular bilaterals with the permanent secretary in DWP, who despite our disagreement over women's state pensions—that is not yet resolved, and that may be a big one to be resolved—has welcomed that dialogue and discussion as a way of enabling him to improve his organisation.

There are lots of examples. The HS2 case that we laid before Parliament was a disgrace of handling, in which a complainant was traduced—however challenging it was—in a way that did not show the system at its finest. Another example would be continuing healthcare. We produced a massive report and showed that the system was not working for individuals. We gave a couple of awards of £250,000 to people who had been let down by the system because it was not properly followed. Those are big things for individuals and for the culture of organisations.

Q84 **Tom Randall:** You may have addressed part of this in your answers to Mr McDonnell. Your staff survey shows a strong level of support in the PHSO for your vision of the future, your visibility and your ability to demonstrate the values of the PHSO. How have you gone about creating and maintaining that level of trust within the organisation?

Rob Behrens: If you compare the staff surveys from 2016 to 2020, the scores are now between 15% and 20% better than they were. That has not happened by accident. It is a deliberate policy of Amanda, me and the senior non-executive of the board to be seen, to be out there talking to people, to listen and to engage in dialogue at every opportunity, so that

there is not a barrier between the ombudsman and the people who work for the ombudsman.

I learned that, if people made a mistake, they did not like that they were criticised by the organisation when things were very difficult. They did not like being criticised if they did not have the necessary professional skills and those were not provided to them. The key thing is that sometimes the ombudsman is wrong. It needs to admit that it is wrong and not to think that it always gets things right. I have found that to be very important, in terms of surviving in the office, but I genuinely love the engagement and learn from it. It makes me a more competent ombudsman if I understand what people are thinking.

Q85 **Tom Randall:** Looking forwards, do you think there is more that could be done to encourage a greater culture of engagement and trust between the senior leadership team and the wider organisation? Do you have any ideas or thoughts on that?

Rob Behrens: There is so much. Two years is not going to do it. Actually, the key issue is that every competent organisation has to be constantly thinking about succession planning. In two years, there will be a new ombudsman, and someone will take it in a slightly different direction, but there are lots of things that need to be done. I have been elected the vice-president of the International Ombudsman Institute, and I am on the world board of that body. That gives me a two-year window to create significant changes to the way we look at ourselves and hold ourselves accountable through peer review and using the Venice principles.

When people come to Manchester internationally, I always make sure that they hold meetings with our staff, not just with the leaders of the organisation, because our staff are our greatest asset. They want to know what these people are doing and what they can learn from them. For example, we have a link with a South African health ombuds. Although that has involved me and the health ombudsman having bilateral discussions, most of the discussions are between the staff of both offices—learning about the differences and how to cope with them. My job is to enrich the experience of the people who work for us, and to try to bring them with me in adopting a more international approach.

Q86 **Chair:** A couple of final questions from me, Mr Behrens. By what criteria should we evaluate your success in the role over the next two years?

Rob Behrens: We have a new draft strategy, and there are big things to do in that in terms of continuing professional development and—this is critical—reaching out to vulnerable communities. We have already started to do that. I have a relationship with a Dutch ombudsman who is further along the way, to show us how that might be done—that is something else. In terms of the complaint standards framework, has that been put to bed and is it useful? Is the corporate culture vibrant, and does it encourage people to be proud to work there and to have a high engagement score? There are a lot of things that you could judge me by,

but I basically want a vibrant organisation that is well able to move forward and to appoint a successor in two years' time.

Q87 **Chair:** Reflecting on your time in the role overall, what do you think is the key thing required to be successful in the role of chair and ombudsman?

Rob Behrens: Again, I have seven points that I would like to make, if I may. First of all, it needs a clear understanding that the essence of being an ombudsman is balancing impartiality with empathy, and an understanding of the power imbalance between bodies in jurisdiction and complainants. That is a key issue for ombudsmen. We are not the people's champion, whatever a Select Committee report says about that.

Secondly, I have learned, although I knew it before, that without coercive powers—without binding powers—an ombudsman must have public trust in order to use their authority and influence. That means honesty, competence and reciprocity in respect. If we want complainants to respect us, we have to respect them. I think that is very important.

Thirdly, you need understanding that, while all national schemes are different, they find common purpose in the Venice principles. I nail my—something—to the mast on that, because I think they are very important.

Fourthly, being an ombudsman is a very lonely job, so networks of national and international counterparts are critically important.

Next, they need a Government that understand that mandates need refreshing from time to time—that is not the case in the United Kingdom.

I have two final things. Succession planning is everything and you have to know when to stop. If I had thought that now was a good time to go, I would have gone. Lastly, you need a thick skin because—as you know better than I do—this is not an easy option. There is a lot of abuse and challenge out there, which you have to be prepared for.

Chair: Thank you very much indeed, Mr Behrens. With particular reference to the first part of our session today, if there is anything you wish to write to us about, in addition to those answers, it would be gratefully received. Thank you very much indeed for your attendance in both parts of this morning's proceedings. Thank you for your public service. You will be hearing—I am quite sure—from the Committee in due course, but for the meantime, thank you very much indeed.

Rob Behrens: Thank you for your time.