HOUSE OF COMMONS

Public Administration and Constitutional Affairs Committee

Oral evidence: Parliamentary and Health Service Ombudsman Annual Scrutiny 2016-17, HC 492

Tuesday 12 December 2017

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Watch the meeting

Members present: Mr Bernard Jenkin (Chair); Ronnie Cowan; Paul Flynn; Mr Marcus Fysh; Mrs Cheryl Gillan; Kelvin Hopkins; Dr Rupa Huq; Mr David Jones; Sandy Martin; David Morris.

Questions 1 - 94

Witnesses

I: Rob Behrens, Parliamentary and Health Service Ombudsman, and Amanda Campbell, Chief Executive, Parliamentary and Health Service Ombudsman

Written evidence from witnesses:

– Parliamentary and Health Service Ombudsman

Examination of witnesses

Rob Behrens and Amanda Campbell.

Chair: Can I welcome our two witnesses to this annual scrutiny session of the Parliamentary and Health Service Ombudsman? I must get the name right. Thank you very much for being with us today and could I ask each of you to introduce yourselves for the record, please?

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

Chair: I wonder if you could just move the bottle and glasses in front of your microphone, because that might impede our hearing what you are saying.

Amanda Campbell: Good morning. I am Amanda Campbell. I am the Chief Executive of PHSO.

Q1 **Chair:** Thank you very much for joining us today. I should say we have had quite a number of representations and submissions of evidence for this session, which we very much welcome and we will take into account in any submission we make or any report that we produce. I thank people who have submitted their evidence. Can I also thank you for the recent report that you have laid before Parliament about the deaths of people with eating disorders? We found these cases particularly distressing and we are extremely concerned that it has taken five years to resolve these matters, which is far too long. As a Committee we would like to express our sympathy to the families concerned in this.

We will not be holding a hearing immediately on this report that you have laid. We wanted time to consider it. We want time for the Health Committee to consider it, but it is our intention that either the Health Committee or this Committee will hold a hearing on the lessons to be learned in the NHS about those findings.

In the introduction to your report you apologise, Mr Behrens, for the time that it took for PHSO to carry out the investigations into Averil Hart's death. In PHSO, what have you learned from how these investigations were conducted and how will it improve as a result of the lessons you have learned?

Rob Behrens: The first point is that we have laid out two powerful evidence-based reports. They have been completed and they have been well-received, so there is now an opportunity to change practice and save lives. Secondly, it did take too long. It was received in August 2014 and it took nearly three and a half years to complete. I have apologised to the complainant for this.

Thirdly, and this is very important, this was a very complex investigation. It ended in a report of 401 paragraphs and together with annexes constituted 166 pages. The complaint covered six different health bodies and we took advice from nine different clinical advisers. Mr Hart, who was superb throughout in making his submissions, made complaints covering 34 different headings. Very seriously, we found that Averil Hart's death was avoidable.

What we have learned—and I came in only eight months ago—is that the resourcing of the investigation lacked continuity until I arrived in April. I gave Dr Bill Kirkup the lead investigative role in this case and he worked diligently with PHSO colleagues to produce these two reports, which give the complainant answers to his trenchant questions and are the basis for NHS reform. It did take too long. It was completed. There are lessons to be learned and we need to move on.

Q2 **Chair:** We will come back to the detail of the lessons to be learned by PHSO as an organisation from this experience. We will also come back to the failures, not just in the NHS, but of the complaint systems in the NHS that failed to deal with these concerns.

I wonder if I can jump forward to another question that we have later

and deal with this now. This raises the question that there are a lot of cases among people who feel they have not been adequately dealt with. Maybe this is one case where we can draw this particular investigation to a conclusion to the satisfaction of the complainant, but there are many other unresolved cases stretching back a long time. We have seen in other fields the sexual abuse inquiry, the second Hillsborough inquiry, the Saville inquiry into the Bloody Sunday shootings in Northern Ireland, where unresolved issues have resulted in some form of revisiting. How do you think this should be done in the case of legacy cases of PHSO that have not been satisfactorily resolved?

Rob Behrens: I think there are two issues here, Chair. The first is how we deal with complainants with longstanding grievances and the second is how we deal with—a related issue—historical inquiry. I would like to deal with both of them.

The first point is that we need to change the way in which we approach these very serious issues and I am determined to do that. I have been doing that by listening to and meeting a wide range of complainants and indeed the submissions to this inquiry. I do not agree with the view that complaints are a gift. There is nothing gift-like in the experience of people who have been through the trauma, bereavement and stress of losing a loved one in the health service or elsewhere.

We have to understand that when people come to us they have already been through a long and complicated process and that this inevitably covers their disposition in dealing with us. Further, we have to be more astute and professional in the way in which we communicate with people who have been traumatised. I would accept that this has not been a strength of the organisation in the past and one of the reasons we have introduced corporate training is to deal specifically with the issue.

Q3 **Chair:** We will come to that. I want to know what your recommendation is for dealing with the legacy cases.

Rob Behrens: There are two things. The first thing is I have made a commitment to a large number of complainants who have historic cases that we will review those cases to see whether or not they should be reopened.

The second and most important point is that I reject the view that there should be a body other than the Ombudsman to routinely independent review of our complaints. This is contrary to the constitutional principle of the Ombudsman. It is rejected by the Ombudsman Association. It goes against all the principles of being a classic ombudsman service. I support strongly the view that there should be an inquiry to look at historic cases that are now closed. I do not accept that this is something that PHSO is equipped for or has the capacity to undertake and we would support discussions on who else should do this, because it is an important part of moving forward, which I accept we cannot do until some of these cases are looked at again.

Chair: Thank you. Of course that is something that our predecessor Committee recommended in an earlier report—that there should be some kind of independent inquiry to look at closed cases. Thank you for that.

Q4 **Paul Flynn:** You have lumped together a number of inquiries. On the Saville inquiry, that arose because of the refusal of British Governments to accept the truth and a sense of injustice there; the report on the football disaster was caused by lying by the police and *The Sun* newspaper; on the sexual abuse inquiries there are an enormous number of people involved over a large number of years. The danger is in these cases that you are raising expectations that all problems can be solved. We understand entirely what you are saying about the trauma experienced by people and the deep-seated grief that is there, which is a life-long burden, but do you think there is a danger that if we do set up this committee or we give the impression that we are the Ombudsman's ombudsman and that it does need another body, ultimately we raise expectations, very few of which can be fulfilled?

Rob Behrens: I do accept that there is a risk of raising expectations that cannot be delivered. I have been very careful since I arrived as Ombudsman to make clear to all the people that I am meeting—and I have spent a lot of time meeting complainants who want a reopening of their cases—that we will use our review mechanisms and that there is no other external non-judicial body to deal with this at the moment. The purpose of my meetings, and I have set this out very clearly, is to see whether or not there should be a reopened investigation and it is also to learn from the experience so that we are satisfied that we are reforming our systems in the right way. The issue of the wider inquiry goes beyond PHSO and there will need to be a debate and consensus around this.

Q5 **Chair:** From what you are saying in response to Mr Flynn, who I think raises a very important point, what is your advice about how such an inquiry would be construed in order to avoid raising unrealistic expectations?

Rob Behrens: I was in South Africa for a long period as a Cabinet Office civil servant and I saw the establishment of the Truth and Reconciliation Commission in South Africa. My learning from that is that there was a huge amount of resource put into that, which ultimately involved police and judicial hearings as well as non-criminal investigations. That is a massive undertaking, which cannot be undertaken or repeated lightly. There needs to be very careful discussions in advance to make sure that whatever is established is proportionate and deliverable. I think this is one of the lessons from the inquiries that Mr Flynn is talking about.

Q6 **Mrs Cheryl Gillan:** Can I just ask you, Mr Behrens, if you have some sort of feel for the number of cases that would be involved? I do not think we have a real understanding of the scale of this problem. We know about those cases that are highlighted by individuals, but you have had a chance to look at the historic judgments and to give us some idea of the quantity of cases that you would recommend are re-examined would be

helpful.

Rob Behrens: It is difficult to be precise about this, because we have not invited people to come forward with cases that they might consider appropriate. What I know is that in October I met 24 complainants who had concerns about how their cases were handled and I spent three and a half hours with them, and they were only half of the people in the group that got together PHSO the facts to raise these issues. There are at least 50, but there are probably many more, but I cannot be more accurate than that.

Q7 **Mrs Cheryl Gillan:** Can you identify a period of time for a cut-off, for example?

Rob Behrens: There is one case that is of great concern to everyone involved in delivering justice from the health service: the case of Mr Powell and his son, which is now 27 years old. That is still a major concern because there are allegations of cover-up and lying about that. That is the oldest one currently that I know of. The others are more recent, within the last 10 years.

Q8 **Chair:** I do not know if you have anything more to add on that, but is it your very clear advice to this Committee that we should be pressing the Government for an inquiry of this nature?

Rob Behrens: It is. I would be happy to take part in any discussions to try to push this along.

Q9 **Chair:** Thank you very much. Moving on, Mr Behrens, you have now been in post since the beginning of April. What have you learned about PHSO in that time? Incidentally, we have quite a lot of questions to get through, so I am asking very broad questions, but if we could have fairly crisp answers it would help us enormously.

Rob Behrens: When I came to give you evidence in my pre-appointment hearing I had a view of the overall challenges that were needed. I do not think that view has changed, although I have learned a lot more about the importance of the institution, its independent role and my passion for turning the organisation around has increased.

There are two key benefits that I am inheriting as the Ombudsman. The first is the commitment of the staff, who have been through a difficult time and have shown great professionalism. The second is the service charter, which was created by my predecessor, setting out service standards and now measured against published quarterly independent user figures. It is a great boon to the organisation and is something that most other ombudsman services have not delivered.

Against this, there are three important challenges that need to be addressed and have not yet been. The first is the need to invest heavily in our case-handling function to make it more professional, to make it more consistent. We have done quite a lot to introduce a new case-

handling model that will change the way in which we handle cases. The second, and this is critical for an ombudsman service that seeks to be professional, is that we have now introduced a corporate training programme that will lead to accreditation of case handlers and professionalise the service.

The third and last point is that we have needed to and are beginning to connect or reconnect with a wide range of stakeholders of our service and I have been doing this generally and specifically. I have been doing it generally through our new open meeting that took place in Manchester a couple of weeks ago, through Radio Ombudsman, which is an innovation that other ombudsmen have not caught up with. I have been doing it specifically by a whole range of stakeholders, including complainants, but also including other ombudsman services, visiting hospitals, to make sure that we are outward-faced and listening at a time when people are critical about what we do.

Q10 **Chair:** How long will it take for these changes to show up? In your new strategic plan what are you hoping to show?

Rob Behrens: The strategic plan is currently out to consultation. The consultation is nearly closed. We have had an excellent response to that. We have had over 167 written responses. We have had between 80% and 90% support for the three strands that we want to adopt. This will be adopted with modifications from April 2018. I should say that one of the weaknesses of the organisation in the past has been to make statements about what it is going to do without having them properly supported, both in terms of consultation or the capacity internally to deliver the changes. I am not going to make that mistake. The organisation is being changed by Amanda Campbell internally to give it more discipline and focus and the consultations taking place now are difficult. They are going to take time and they are real.

The last point I want to make is that we will be delayed in making a dramatic effect on what we are doing by the 24% public spending cut that we are now having to implement, which causes a great deal of limitation on our capacity to deliver.

Q11 **Chair:** We will come back to that, but in terms of how this Committee should measure your progress, is it going to be clear from your strategic plan that we can measure your progress and hold you accountable?

Rob Behrens: The strategic plan is in the conventional sense smart, it is timed, it is realistic, it is proportionate and it is modest in terms of what it wants to do, but important in terms of what it wants to do. You will be able to measure our progress year by year because we have divided it over a three-year period.

Q12 **Mr David Jones:** Mr Behrens, could you explore the issue of resources further? Your predecessor agreed the spending review settlement in 2015 on the basis that PHSO would have transformed its services by the end of

this financial year and then deliver necessary savings over the next two years. You have mentioned already the constraints that you have concerns about. Could you expand on that?

Rob Behrens: I would like Amanda Campbell to take this, but I would like to make the point that however excellent the previous strategic plan over five years was, it has not delivered what it intended to deliver at the end of that period and that is a challenge for us.

Amanda Campbell: As Mr Behrens said, there are certain really important initiatives that were delivered under the previous or the current strategy in the last year, including the service charter, but there was a commitment when I arrived just over 12 months ago to reduce the organisation by 24%. We are now towards the end of the second year and are delivering the savings that we committed to make. By the end of March we will have reduced the organisation's budget by about £4.5 million of the £8.5 million that we have to deliver over the four-year spending review period. That has meant enormous change.

The organisation has been going through a restructure, so we are reducing the footprint in London, which is very expensive accommodation, and relocating the operational business largely to Manchester. We will have a number of people in London, but much reduced, and the majority of our operation in Manchester. We have been making people redundant, recruiting people into Manchester. We are just about to move into new premises in Manchester and will by Christmas be down to a single floor in Millbank Tower from the three floors that we had just a year ago. We have been putting the organisation through substantial physical and location changes and that has been really tough on the people working in it, but necessary, but at the same time going through a review of our operating model to strip out layers and hand-offs in the system to make the organisation more efficient.

As Mr Behrens said, we are also devising a significant training programme. This is not just about speed; it is also about the quality of what we produce, so a lot of change all at the same time with a budget that is reducing significantly.

Q13 **Mr David Jones:** What impact do you think this is going to have going forward on your activities and any individual programmes you want to pursue?

Amanda Campbell: We made a lot of effort. Coming into the organisation a year ago, there were quite significant backlogs and criticism from members of the public about the length of time that they had to wait, so we took a decision to make a real effort to try to reduce those backlogs, so we started this year in a much better position.

You will see from our annual report that across all areas of our business, queues had reduced, waiting times had reduced and the amount of time taken to complete reports had also reduced. We started this financial

year in a strong position, but we did that knowing that things would then get a bit worse before they got better again, because the decision to develop a significant training programme needed to take officers from the frontline service to be part of the development of that programme.

Also we are now systematically putting the entire organisation through this professionalisation of training programme. Again that means taking people away from casework in order to learn and develop. Throughout this year we have a very structured plan that will deliver that, so waiting times will get slightly worse, but by the end of summer next year we will be back within service standards and delivering a really high-quality product.

Q14 **Mr David Jones:** How confident are you of that? Your workload has been increasing. How confident can you be that it will not continue to increase and will you have the resources to deal with it?

Amanda Campbell: The workload was increasing. Obviously there was a substantial increase a few years ago when we took on very many more cases, but it has been pretty stable over the last couple of years in terms of the amount of work coming into the organisation.

We have a lot of people who come to us at the intake stage at the front of our process who are not ready to come to us, so we are also doing a lot of work and we have redeveloped our website, for example, in the last 12 months. We are engaging much more with advocacy groups and others to try to make sure that people come to us at the right time, so that we are not taking cases into the system that have not yet resolved them at a local level. So lots of work to make sure that the right people come at the right time and then a lot of work, as I said, to reduce the hand-offs in our system. We had a lot of passing cases to different people and we are reducing that now, so that following your initial conversation with the organisation, when you are assigned a caseworker you will stay with that caseworker through the course of the investigation. That is a very different process from before.

Q15 **Mr David Jones:** How effective have these innovations been to ensure that people do not come to you prematurely?

Amanda Campbell: We are doing a lot of work. As I say, it is early days. We changed the website in the course of this year to make it much simpler for people to go through and check whether they are at the right stage to come to us. Our service charter gives information on this quarterly about whether we are improving in terms of our communication and improving making sure we signpost people to the right organisation for them. We are seeing some improvements in those signposting skills, which is really encouraging, but it is early days. At the moment I think we have a lot more to do.

Q16 **Mr David Jones:** Looking forward, how confident are you that you have the necessary budgetary resources?

Amanda Campbell: We are in a very tough fiscal environment, as we all know, and it is right that public services should be looking for efficiencies all the time, but 24% is a big cut for an organisation of our size when we are very ambitious about improving our service and improving the quality of what we produce. I think that we will continue. We have a plan to deliver the current set of cuts, but it would be very difficult for us to do any new activity and a lot of the activity that we have set out in our strategy is very ambitious. If we were to do that on scale, it would be very difficult if we faced more cuts. If we saw any significant increase in demand, again that would put incredible pressure on a service that is already reduced by the amount we are over the next three years.

Q17 **Mr David Jones:** To be frank, do you need more funding?

Amanda Campbell: In any public service offering, with more funding we could do more. With more funding we would be able to look at doing more work on insight, and we would be able to do more to support the health system, for example, in improving complaint handling. We would be able to do more in terms of offering alternative dispute resolution and earlier resolution. I think there is so much ambition in the organisation. We want to get our efficiency, effectiveness and our quality high and that is the first step, but we have a lot of ambition to do more afterwards with more money.

Q18 **Mr David Jones:** We have also heard about the historical cases. To what extent would dealing with those cases put extra strain upon your resources?

Amanda Campbell: We are not resourced to deal with those cases and I do not think it is right that we should. I think that should be a separate inquiry, as Mr Behrens mentioned, but certainly not within our current resources. We are resourced to look at cases that we have just concluded, to review those if we have made an error. For example, if new evidence came to light that was not available to us when we made the decision, we have a process of internal review to look again at those cases, but the sorts of cases that Mr Behrens has mentioned that are very many years old, we are certainly not resourced to look at those.

Q19 **Mr David Jones:** How would you respond to a suggestion that the National Audit Office should look at your new service model to provide external assurance that it was an effective model in providing value for money?

Amanda Campbell: To give the Committee some reassurance, the National Audit Office sits on our audit and risk assurance committee, so they come to our committee regularly as a member of that committee and examine our financial accounts annually. You will be aware that this year, after some years of historical troubles in relation to our accounting, we laid our annual report and accounts before Parliament, unqualified, on time, in line with all good Government and public sector practice this year

in July. The National Audit Office presented to our audit and risk committee only in October and we had a session on value for money.

They did not raise any concerns about value for money at that time, but said that they would specifically raise them with us in terms of any of their financial auditing of our organisation if they identified things that they thought could be improved. We had a good discussion about the link between strategy and value for money and the need to make sure that we directly linked the activities that we are planning to do in the new strategy to outcomes to make sure that we could link the money that we are spending on the new activity to delivery and improvements. We are very mindful of that and we have plans to do that with the new strategy.

Q20 **Sandy Martin:** Mr Behrens, Ms Campbell has put a very brave face on the resources issue, but I think there is a certain degree of organisational machismo among some groups about their ability to continue to deliver in the face of financial cuts. You said yourself you do not want to make statements about what you are intending to do without the resources to enable you to deliver them. Do you really think that you are going to be able to deliver the things that you are putting in your strategic plan with a 24% cut in resources?

Rob Behrens: The short answer to that is yes, otherwise we would not have made those commitments, although we have not finalised it. The second point is that there is an issue of trust here. We need to demonstrate to our stakeholders that we deliver an appropriate service at the lowest possible cost and the reforms that are now being introduced, the new operating model and the new strategy, will help us to do that. The Committee should take sceptical reassurance from that, although they will want to monitor it.

I will not be backward in coming forward arguing for resource in the spending rounds to come, but it will be on the basis that we have addressed the inefficiencies inside the organisation to make sure that people can be confident that if we do get a more generous allocation we will spend it wisely.

Q21 **Chair:** Your costs are basically people, premises and systems. What gives if you have to reduce your budget by 24%?

Amanda Campbell: The main give is the move out of London. We are going to save just under £2 million by relocating the majority of our operational business up to Manchester. We already, by the end of this financial year, will have reduced the number of people working in London by around 70 posts and we have other planned savings over the coming years. The majority of it is premises and people.

Q22 **Chair:** What do you stop doing if you are short of resources?

Amanda Campbell: I think it is more a case of what we will not be able to do. In the strategy we have set out, as I say, ambitions to do much more in helping support the entire system, starting with health, to handle

complaints in a more efficient way, working with partners to do that. I think that could be expanded to be as great as the amount of money that is available or as small as the amount of money that is available in terms of what we might offer. I think also the amount of wider working that we want to do in relation to transparency again could be expanded depending on how much money is available to us to do that. We set out an intention to make our reports public and to publish much more online and it is our ambition to do that. How we do that is dependent on how much money is available to us as well.

Q23 **Chair:** How much at risk is your capacity to handle inquiries and complaints?

Amanda Campbell: At the moment we are confident that we can handle the amount of work that is coming in to us if it is at the level that we have experienced over the last couple of years. There are no signs at the moment that those numbers are going up, but if they started to go up, if there were changes across the health system or other activity that saw a spike in demand, then clearly that would have an impact on us. We are working to be more efficient across our processes to make sure that we handle cases more quickly. That is giving us some flex in order to do that.

Q24 **Mrs Cheryl Gillan:** Can I ask how you arrived at Manchester as the alternative for your office?

Amanda Campbell: We already had a significant footprint in Manchester. Until a couple of years ago we were around 50:50, half the organisation in Manchester and half in London, but being in London is very much more expensive, so we started to build up the numbers in Manchester and reduce the numbers in London.

Q25 **Mrs Cheryl Gillan:** I am just curious. Did you not look at any other areas that would provide you with even greater savings—for example, Sheffield, where there is a considerable body of officials and departmental presence or Leeds or Hull?

Amanda Campbell: There are a number of places around the country, but of course, as you will understand, even reducing a number by 70 in London has been a significantly challenging situation, where we have lost people with considerable experience. What we wanted to do was make sure we built on a big base of experience that we had in Manchester, because we have found while we offered our London staff the opportunity to relocate to Manchester, nobody from London wanted to do that, so there are losses in terms of experience. We have a good base in Manchester with lots of very experienced, capable staff, so we have been able to build on that, but what I would not want to do is take the risk of moving to a completely new situation and losing the entire workforce.

Q26 **David Morris:** How is the delay in creating the Public Service Ombudsman affecting your planning?

Rob Behrens: It is disappointing not to have the Bill, but disappointments lead to opportunities. The delay does not stop us reforming the organisation or indeed addressing the key issue that the Bill addresses, which is convergence with our colleagues at the Local Government and Social Care Ombudsman. We will use the intervening period to continue the debate with the Local Government and Social Care Ombudsman about concretely what convergence means and we have already started the discussions. We have been to their away days, we have quartet meetings to discuss how we can go closer together, so there are two big initiatives that are on the books at the moment. One is the joint investigations team where we work together on cases that cut across our boundaries.

Q27 **David Morris:** Who is this quartet?

Rob Behrens: The chief executive and the chair of both organisations. We meet every six or seven weeks to discuss the key issues, so Mick King is a trusted and valued colleague who I am working closely together with. We are talking about convergence. What we also need to do during this intermission, where the Bill has apparently been pushed further back, is to talk carefully about what should be in the Bill. I support the Bill. As an incomer, I understood the logic of bringing the organisations together and I support that, but there are weaknesses in the Bill that need to be discussed and addressed in the intervening period that I am keen to put on the table.

One is the issue of the absence of own-initiative powers. Most of my colleagues and I have been to Europe to discuss this with the Dutch Ombudsman. They have own-initiative powers, where the Ombudsman can look at cases if there has not been a complaint. That is regarded as routine, normal and accepted not only in the Netherlands, but throughout the membership of the International Ombudsman Institute, of which we are a member. I can think of important ways in which that would be useful in terms of what PHSO does, which I am happy to discuss. Own-initiative is one.

The other absence, which was in the earlier drafts, is the whole question of what happens in Scotland, where they have a Complaints Standards Authority, which enables the Ombudsman to talk to bodies in jurisdiction about how to handle schemes for complaints handling in a more assertive way than we are able to do. I think we should be looking at that carefully.

The third issue that is important is governance. You cannot change the governance of a corporation sole institution without legislation and it is a little local difficulty. The current arrangements are okay, but they need to be reformed by statute, so all of that needs to be discussed and there is now an opportunity to do that.

Q28 **David Morris:** What are the other external risks that might affect the delivery of your plan that you have going forward?

Rob Behrens: The plan in terms of?

David Morris: Your future plans. What external risk can you see in creating the Public Service Ombudsman? Can you see any further external risks that could be brought in that blindside you, that would be a problem in the future creating this new Public Service Ombudsman?

Rob Behrens: I am encouraged by the fact that it already exists in Scotland, Wales and Northern Ireland. It is regarded there as normal and unspectacular. I do not think it is a significant change and therefore to me it is a question of finding the legislative time. It is not a question of the external risks.

I will say that my colleague, Michael King, makes the point that they are living on a shoestring and that there are issues of finance to deal with. There is also the question of the Housing Ombudsman and whether or not that should be incorporated. Those things aside, I think this is routine and something to be encouraged. I take from my engagement with European counterparts that this is just normal practice and we are behind the line as far as that is concerned.

Q29 **Kelvin Hopkins:** You have looked at your European partners. How well resourced are they compared with you?

Rob Behrens: I went to the European Ombudsman's conference soon after I was appointed in Brussels. The European Ombudsman, Emily O'Reilly, is a magnificent colleague. She is extremely well-resourced, the Ombudsman of the European Union, and it is fair to say that other ombudsmen in the European Union are less well-resourced. For example, my Greek counterpart has to scrape together resources to deal with issues that are far beyond some of the things that we have to do in terms of migration and so on. In general, the resourcing for the ombudsman schemes is about the same as it is in the United Kingdom, but my colleagues are not experiencing the kinds of public service cuts that we are now having to experience.

Can I just make this other point? There are some things about European counterparts that we would not want to bring to the United Kingdom. Some of the ombudsmen involved in this network are closely connected to the political parties in their countries in a way that is not part of the British tradition and I hope that stays the case.

Q30 **Mrs Cheryl Gillan:** Can we come on to public confidence, because it is such an important part of what you do? You have been talking about how you will need to rebuild the trust in the Ombudsman. Where do you think you are right now at the end of 2017? As a benchmark, where do you think we are today? Bearing in mind that the satisfaction level for complainants whose complaints were not upheld was about 51%, and even where you took the overall figure for people where complaints were upheld, that had dropped by 10 percentage points from 2015-16 to 81%.

Rob Behrens: I think the overall position is embryonic. There is a lot that we need to do in order to build that trust and there is no point in hiding away from that. I think that in terms of public perception and confidence there are three elements. One is about the honesty and independence of the institution, the second is about the competence of the institution, and the third is about whether or not users regard it as a trustworthy institution. There are things in our strategic plan to address all of those issues to make sure that we can demonstrate that we are an outward-facing organisation engaged in a dialogue not only with the wider public, but with specific groups and with complainants. We can do better on all of those fronts. There is no complacency.

What I am trying to do is to rigorously address the disposition of the organisation to make it outward-facing. For example, one of the criticisms—and it is a legitimate criticism—is that we have not known how to handle people who are bereaved. That is entirely legitimate and something we have to learn about. We are not going to do that very quickly, because it is a big issue.

The first guest on Radio Ombudsman was Scott Morrish, who spent a long time talking to us about his experience of being traumatised and having to come to PHSO to raise his complaint. That was important and compelling and he repeated some of the issues and developed them at our first open meeting in Manchester. What this is doing is putting out a signal—it is very early days—that we are trying to listen and learn to people to make sure that we get our systems right and that these things do not recur.

Q31 **Mrs Cheryl Gillan:** Just as an aside, I think we have all been impressed by Mr Morrish on this Committee, and also I think there has been a tremendous effect that has sprung from that original investigation by a lot of work that has gone on. I was looking at your draft objectives for your strategic plan. They are very admirable, but none of them specifically says you are going to try to increase public confidence in the service. It is implicit, I agree, but do you not think that this is so important, given what has happened historically, that it should be a major strategic objective and shouldn't it be measureable as well?

Rob Behrens: Yes. In my monograph on being an ombudsman—which I circulated to some members of the Committee—I address this issue, absolutely. I believe that the strategic objectives that we set out will lead to a wider understanding of what we are doing and that will be measureable. At the moment there is a public recognition rate of 22%, which is too small to be useful in terms of what we do. If we are increasing the transparency and openness of the organisation by becoming outward-focused, by publishing more complaint outcomes and by engaging in dialogue with critical groups in the wider community, it is going to lead to us being better known.

We will also be using the opportunity of publicising where recommendations have not been implemented by bodies in jurisdiction to

make sure that people understand that we are serious about these issues. I accept that there may not be a line there that says we want to be better known, but everything in the strategy is about that. When we finally revise it and put it into the domain, your point will be addressed and taken on board.

Q32 **Mrs Cheryl Gillan:** Thank you. I will ask you a very practical question, because there are some people who turn to others and say, "Do not bother contacting the PHSO because we have had such a bad experience with it. It is really not worth it. Just go on your way". Behind you I can see a lot of nodding heads. How are you dealing with that at the moment? I think we would all agree we are really very anxious that people should have faith in this service, because it is in fact the ultimate point for bringing something that has gone wrong in the system.

Rob Behrens: I think I have done a lot in the last eight months to demonstrate my seriousness about making the necessary changes. I would say a couple of things about your point. "Do not go to the Ombudsman" is not confined to PHSO. It is a theme that goes across ombudsmen services around the world and what it means is that we have to demonstrate the utility of what we do and not engage in sloganising.

I accept there may be people behind me who I cannot see who have legitimate and understandable scepticism about what we do. If you look at the independently audited user views about our services that we publish—which most ombudsmen do not, and many institutions that are service organisations do not do either—you will not see that this is an organisation that people do not think is worth using. In fact, the outcomes in the 600 people that we discuss and we ask to give us feedback quarterly are much more positive than negative. That is not to say there is not a lot of work to be done, but our record is not as bad as some people like to paint it.

Q33 **Mrs Cheryl Gillan:** You have only been there for eight months, so I think it is early days, but you mentioned international comparisons earlier. I wonder if you would care to venture any other ombudsman in any other country that you would like to emulate and that you think is getting it right.

Rob Behrens: There are so many, but there are also some that I am less impressed with.

Q34 **Mrs Cheryl Gillan:** Who has impressed you the most?

Rob Behrens: I think my Dutch counterpart is extremely good. My Swedish counterpart is sceptical, low key and good. There are two points I want to make: if you look at the work of Marie Anderson in Northern Ireland, she has done a magnificent job in introducing the new Public Service Ombudsman in Northern Ireland and giving it a human rights approach. She came to Manchester to give a master class to our staff. We are increasingly getting ombudsmen from around the world to come and talk to our people. She talked about her human rights approach to

ombudsmaning and our staff were very sceptical about this and said, "It is okay for you in Northern Ireland". She said, "But I got this from you. I took all of the concepts and took them to Northern Ireland from you". I think that is very important.

The other thing is that what ombudsmen around the world do that we do not do and we need to do are two things: early resolution and mediation to support adjudication. That is a structural weakness in our existing system. It is in the strategic plan. We need to widen our skills box in order to address this. I accept Amanda's point that we can do it to the extent that we are properly funded, but most ombudsman services in Europe undertake mediation and we hardly do that at all.

Q35 **Paul Flynn:** The number of your complainants that said they were treated with courtesy and respect you quote as 89%. It seems a commendably high figure. What happened to the other 11%?

Amanda Campbell: Those are figures from our published service charter. As Mr Behrens said, every quarter we measure two things in our service charter, we measure how we have done against our process—that is a CPA score—and then how we have done as told to us by complainants that have been contacted by an independent company. We contract with an independent company that telephones 600 complainants every quarter at different stages of the complaints process, so some while they are in the midst of it and others when they have finished. We have no control over those conversations or who is called. The scores you see online that we publish are the scores as given to us by those members of the public, so it is hugely encouraging for me to see that 87% of people in the last quarter, I think, say that they believe they were treated with respect.

You are right: if people think that is not the case then we need to understand why that is and we need to make sure that we change that. What we do every quarter with the information that we get back from the service charter is we take that information into team meetings and we talk about why the scores are at the level that they are and what we can do to improve things. At the moment we have a piece of work focusing on three areas in particular where we have seen real differences in the scores to say how can we really put some effort into improving those areas? For example, explaining our decisions is one of the areas where complainants tell us that we score very badly and yet our process tells us that we are having the conversations. There is clearly a break between doing it and how effective it is and we are clearly not explaining things properly. We have some work underway to see how that can improve. That is a dynamic process we do every quarter, every time we get a new set of data.

Q36 **Paul Flynn:** Was there a significant number of people who were dissatisfied or thought they were treated with disrespect and a lack of courtesy? You do not know?

Amanda Campbell: As I say, the scores are online. By virtue of the fact that it is 87%, that means that 13% of people clearly did not say they felt they were treated with respect. We can expect there to be a differential between the two scores, because one is a process score and one is somebody's experience. Clearly we want to bring the scores as close together as we possibly can, but it is inevitable, particularly if we have, for example, not upheld a complaint. The scores may be different between the actual doing of the process and the way the person experiences that as an outcome. In relation to respect, we must and should aim for that to be as high a score as it possibly can be and that is what we are doing and we are working on.

Rob Behrens: Could I make a point, Mr Flynn, about this? As I am sure you appreciate, people are coming to us under very difficult circumstances. They may be stressed, bereaved, and they may have experienced long delays and unsatisfactory consideration from first-line bodies. I have sat on a number of occasions with the intake team that takes the telephone calls on the first inquiries and I marvel at their skill in being able to deal with people in this situation. I am afraid there are issues where some complainants use unacceptable abuse to our people in a way that makes it very difficult to deal with. That is a growing phenomenon in the modern ombudsman world and it is entirely unacceptable.

Q37 **Paul Flynn:** I think you would find those sentiments expressed in all the bereavement organisations that exist in dealing with people in these terrible situations. You have emphasised the need for early resolution of problems, but I read in your report that the average time taken to complete reviews of your decisions was 228 days last year and that compares with 75 days in 2012 and 2013. That does seem to be a serious deterioration.

Amanda Campbell: I think that is not right, sir. I am the first to accept that over 200 days is simply unacceptable. In fact, the earlier performance was far worse. It was almost double that 200 days. The development has simply not been good enough. If you introduce an early resolution scheme, then you can take out of the adjudication process, through the skills of the case handlers, issues that could be resolved without going forward and that will bring down the number of days, as will the new operating model, which reduces the processes. Yes, it is too long. You cannot just wish that away. You have to train people and you have to have a proper process to deal with these issues.

Q38 **Paul Flynn:** What are you suggesting is wrong, the 288 days now or the 75 days in 2012?

Rob Behrens: The 75 days is not a figure that I recognise from 2012.

Amanda Campbell: In the last report that we published what we said was that coming into the organisation we are changing things, but there were different stages of a case. The first stage was intake and

assessment, which was a decision as to whether we would investigate fully your case. In the preceding year that was 75 days. We brought that stage down to 37 days last year. Then there was a set of figures that were about how long for the total time to investigate a case fully if we went through a full investigation and we brought the number of days down last year from what was 255 days to 234 days. As Mr Behrens said, 234 is still too long, so a lot of the work we are doing at the moment to reduce the hand-offs in the system is to condense that time down further.

We are also reliant on getting huge amounts of information from bodies in jurisdiction, often multiple bodies and multiple health trusts. We are delivered huge boxes full of records that we need to go through and go through in detail. Some of the things that we are now exploring, for example, with colleagues relate to whether we can get data electronically from the NHS, so that we do not have to have records copied and sent to us, so that we can use technology to be able to access information. Doing that would enable us to substantially reduce the amount of time taken. Obviously it is early days and that is very difficult to do with the health system, but those are the sorts of avenues that we are exploring and we are doing much more than that to try to get these numbers down.

Q39 **Paul Flynn:** I feel rather shocked that you are not receiving information electronically now. This process has been around for a very long time and if you are still in the pencil and paper days or whatever it might be—chalk and slate—it does seem extraordinary. Notice our work here: virtually 90% of our information is received electronically now, and it has been a process going on for a very long time.

Amanda Campbell: We certainly get some information electronically, but obviously—particularly with medical records that stretch back over very many years; often we are looking at records that go back over many years—we have to have information sent to us. We do not have direct access to NHS health systems, so the information has to be sent to us, sometimes on discs that we can upload on to our systems, but other times as paper records too.

Chair: I think there is a little bit of confusion about the figures that we have used in our brief, but they do come from a letter from your FOI officer to a Ms Brown earlier this year in October. I wonder if we could exchange information on this to make sure that we have the right information and that we are talking on the same thing. We are talking about how long the delay is in dealing with feedback on cases that have been resolved and that time seems to have become very much longer.

Q40 **Sandy Martin:** I will just pick up on one question that arose from Mr Flynn's question. You quite understandably pointed out that people who have just had their complaints not upheld would be upset and naturally are not necessarily inclined to feel that they have been treated fairly. The satisfaction of the people whose complaints were upheld in full, who had no axe to grind about the outcome, fell by 10% last year. Would you like

to give a reason why you think that might have happened?

Amanda Campbell: I think it is part of what we have been explaining about the need to improve our service. We are very clear that over the last few years it has just taken too long to deal with complaints. We have not been consistently able to provide the quality of service that we would wish to and that is why we are now training and changing our systems and our processes to enable us to do that. I hope that what we will see as that training flows through and we improve the hand-offs in the system is a real improvement in those scores.

We have also fundamentally changed our approach over the last five years. Five years ago it was not routine for us to speak to complainants. It was a very paper-based system. We would take submissions, we would go away, investigate and then just simply deliver the results. That has changed fundamentally in terms of the engagement that we are now having with complainants, but I think it needs to change a lot more. What is clear from the scores is that we do not always get that communication right, we do not always put people before process and we need to change that. The training that we are delivering has a big section on communication and how we can be better at communicating.

As Mr Behrens said, the other aspect that is really changing is accessibility. We have very rarely met complainants face-to-face and that is something that we are now doing more of. It is not something that we would do routinely in every case, but again, we want to consider and make that service available as well, which is really important, particularly when people have had loss.

Q41 **Sandy Martin:** Several of the submissions we have had from members of the public suggest that your investigators appear to be biased towards the organisations being complained about rather than towards the complainant. How would you respond to that accusation?

Amanda Campbell: We are an impartial, independent service. I need to be clear, we are not an advocate for complainants. That is sometimes, I think, misunderstood. We are impartial. We upheld in part or in full last year around 36% of cases and we explain those decisions clearly to all parties involved. I have exactly the same said to me from bodies in jurisdiction; they believe that we are biased towards complainants. I absolutely understand that. What we have to do is be much better at listening, much better at explaining why we have come to the decisions that we have come to and then be much more robust at standing by those decisions. We need to be confident about the decisions we make, we need to make sure that they are right and then we need to explain them fully.

Rob Behrens: Mr Martin, could I just come in here? If you are not independent as an ombudsman, you might as well give up. You have to be absolutely independent. When I was appointed, the Patients Association sent to you a critique of our services in which they made at

least two important criticisms. One was that historically draft outcomes had been shared with bodies in jurisdiction before complainants and the other was a concern that our clinical advisers were biased towards bodies in jurisdiction, particularly hospitals, obviously. I looked at that very carefully, because that goes to the heart of what we are doing.

It was true that before we introduced a new operating model, the old system did share drafts with bodies in jurisdiction in advance of those going to complainants. That is completely unacceptable. There has to be even-handedness between how you disseminate information to both parties. Under the new model and under my leadership that is not going to happen. That is one issue.

The second issue is on clinical advice. I accept that we have excellent clinical advisers, highly professional clinicians. I, as part of the strategic review, have said that we will review that service to make sure that it is not institutionally biased towards either bodies in jurisdiction or a complainant. We will look at that. There are issues, for example, about whether or not clinical advisers should be named in our reports and that is a very sensitive issue for complainants. I am taking this extremely seriously and we will continue to be independent.

Q42 **Sandy Martin:** Let me assure you, I would not be sitting here myself accusing you of being biased. What I am asking you is what you intend to do to reduce the possibility of being seen to be biased. Would you accept that there is a very real issue here? You touched on it with the clinical experts. When Michael Gove said, "I think we have had enough of experts", during the European referendum campaign, he touched a nerve in this country, which is very much that there is a way of dealing with people from a professional standpoint that is much more in tune with other professionals than it is with the majority of the general public. Do you feel that the way you approach the general public is acceptable and meaningful to them? Do you not see that there may be an unconscious constitutional bias towards other professionals?

Rob Behrens: I want it on the public record that I am not going to comment on anything that Michael Gove said. I think we have already said that we have a lot to do to build up trust in our processes and that of course is clear. In terms of being honest, Amanda's point that she made about us not being an advocate for complainants is very important to get across. One of the issues that needs to be borne in mind by some of our critics is that the complaint belongs to the complainant. We have a responsibility to investigate it impartially, but the decision belongs to the Ombudsman. That is at the heart of ombudsman practice and we should not be afraid to state that.

Q43 **Sandy Martin:** You do not ask for feedback from complainants about why they might feel that you were impartial or not. Do you think that that would be helpful to do?

Rob Behrens: I am not short of advice from complainants about how to do this and I have a correspondence file full of people explaining why they feel the way that they do. It may be that we should put it into the benchmark for the service charter. I want the Committee to accept that this is leading the way in terms of ombudsman services across the world. They do not do this and there will be a need to adjust what questions we ask, but we are right at the beginning of the process.

Q44 **Sandy Martin:** Do you believe that there is anything further that you could do as a service in order to improve the general public's belief in your impartiality?

Rob Behrens: Absolutely.

Q45 **Sandy Martin:** Anything specific that you have in your plan for the future?

Rob Behrens: No. This does not just apply to PHSO. The way ombudsmen write to complainants is deeply off-putting. It is full of jargon, it is full of language that is not used in daily life. It has to be more accessible and that is part of being trusted. We have to not only communicate verbally, but in written form, in a way that is real and accessible.

Chair: Thank you very much. We are less than halfway through and we still have a lot of questions. We are going to have to go quicker, because all these questions are very important. It is not undervaluing the length of these exchanges at all, but we have to go much faster. Short questions and short answers, please.

Q46 **Kelvin Hopkins:** I represent a constituency where a very large proportion of my people are from ethnic minorities. More than 50% of the children in our schools are now from visible ethnic minorities, so this question has great interest to me. The proportion of people from an ethnic minority who complain to you is slightly lower than that in the wider population. The Government's race equality audit strongly suggests that people from an ethnic minority tend to receive worse public services. What do you know about how accessible your service is to people from an ethnic minority and whether the underrepresentation from last year is significant?

Rob Behrens: I referred to this question in my inaugural ombudsman lecture at the LSE on 4 December. It is part of the need to introduce structural impartiality into organisations that I raised at my pre-appointment hearing. The point is that we need to appoint people to the organisation who are representative of the wider society. Therefore, complainants can have confidence in their ability to understand the issues that they deal with. We have a good record in terms of diversity, but we could do even better, particularly in the area of BME. The last annual report showed that about 18% of our users were from a BME background. When I was at the OIA I commissioned a specific study on this issue. I am prepared to consider doing the same thing now at the

PHSO, because it is an un-researched issue for PHSO and I think we could learn a lot more.

Q47 **Kelvin Hopkins:** In a sense you anticipated my next question, which is: is it not important to have people on your staff who are culturally sensitive and aware, possibly even with some language abilities for the major groups as well?

Rob Behrens: I hope members of this Committee will come to Manchester to meet our dynamic team there and you will see that it is multi-skilled, it is multilingual. The people who answer the telephones are amazing in terms of cultural sensitivity. Of course there is more that we can do and we need to recruit people in terms of their ability to be able to communicate, not just in terms of their ability to write good investigation papers.

Q48 **Kelvin Hopkins:** Are there other groups who may be unrepresented who complain to you and would a power to instigate your own investigations help address this?

Rob Behrens: Yes, I think it probably would, but we should not go fishing. We should not be looking for issues just because they might be interesting. There needs to be a real case to investigate that is in the public domain. The issue, for example, that we have done research on is about elderly people in hospital. We did a big study through Ipsos MORI and also with Gransnet to demonstrate that older people in hospitals do not complain and yet they are the prime users of hospital services. That is an underrepresented group that does not complain; there are others as well.

Q49 **Kelvin Hopkins:** My final question is a question I put to your two predecessors and that is about social class. The fact is that highly literate professional people find it easier to deal with matters like this. Working-class people who are not used to dealing with professionals have a harder job. Is that something that still has to be addressed?

Rob Behrens: It does. I had a meeting with one such complainant in the last couple of weeks who found it intimidating to have two senior ombudsmen in the room to discuss his case. My colleagues thought this was paying him a tribute about the seriousness with which we were dealing with the complaint; he found it intimidating. We have to learn from that. The more you meet people and the more you listen to them the better you can get at picking up those lessons.

Q50 **Mr Marcus Fysh:** I wanted to come back to the service charter that you mentioned earlier, what you were finding from that and some of the differences in there between your own assessment and the perceptions that have been measured. Could you say a bit more about the nature and the detail of the work that you are doing on that? Also, with respect to the charter, how do you think that we should as a group try to set objective benchmarks that you can think about in terms of helping you to understand how you are doing relative to your ambitions that are coming

out of that charter?

Amanda Campbell: As we have mentioned, it is very difficult, because we are in the leading position in relation to the work we are doing to gather information from complainants. The Scottish ombudsman service also gathers information and publishes information, so there is some benchmarking we can do with our Scottish colleagues, but with different questions and we do not all cover the same things. What we have done is set ourselves a benchmark. We took the first two quarters of data from last year and we said, "What are the average scores from those?" Therefore we will look now to improve quarter on quarter as we go forward. We are tracking ourselves against the benchmark that was set. Again, the Committee and members of the public are able to do that and track that with us.

We have selected three specific areas that we feel that we need to do much more on. One is listening and understanding, one is about how we gather evidence and the third is explaining our decisions. We have been putting some extra effort into those three areas. Two of them we have seen an increase in the last quarter and one we have not. Clearly there is more to do, but we need to just keep doing that and keep investing effort.

We have a feedback and learning model more generally. In the organisation, when people go to our customer care team and say they are not happy with the decision that has been taken or they are not happy with the service they have received, we capture information about what went wrong, if something went wrong. That is sent back not only to the investigator or caseworker, but into our training and our policy making so that we can see what we are doing and whether we need to do things across the organisation rather than just with the individual.

In terms of how the Committee can help us, I guess look at the scores, keep challenging us to improve them, have conversations with us at any time if you think there is more that we could do and explain what we are doing to improve. This is a general sense of improvements across the service.

Chair: A lovely long answer.

Amanda Campbell: Sorry, I will stop.

Mr Marcus Fysh: That is okay. I think that covered it.

Q51 **Dr Rupa Huq:** I want to ask what support you give to people who have communication difficulties. I know we touched on language, but people who are maybe not conversant, people that may be less able to present a case, people with learning difficulties or because of their age or their educational background do not feel comfortable in those sorts of forums. What stuff is in place for them?

Amanda Campbell: We have an intake team who are skilled and trained to help people make their complaint to us. Our legislation currently says that you need to make a complaint in writing and we understand that is difficult for some people. If people call us, we are able to talk to them about their case, we capture all the details and then we send it back to them so that they do not have to fill those details in and write to us themselves.

We also increasingly signpost people to advocacy services who can help them and support them in making their case to us, including specialist advocacy services who deal with a whole range of different challenges, particularly for complainants with learning difficulties. While we try to help as much as we can ourselves, we also try to make sure that we help people get to people who can support them through the entirety of their complaint to us.

Rob Behrens: Could I just add to this? It is a very important point that you make. The public service ombudsman group came to Manchester in November for a quarterly meeting; that is ombudsmen throughout the United Kingdom. We had on our agenda, which I put there, exactly this issue about how to deal with reasonable adjustments in the light of a very important county court case that had affected the Local Government Ombudsman and the lessons to be learnt from that. That is at the forefront of our thinking and it shows the benefit of working with other ombudsman schemes to learn what they are doing as well.

Q52 **Dr Rupa Huq:** There may be unconscious bias among the investigators for people that are perceived to be difficult. We all have it as MPs. We do advice surgeries and we think, "Oh, there is that annoying person". But it is a dangerous thing to be prejudging people so that they have been put in a "too difficult" category. How do you guard against that sort of unconscious bias? People who may not know they are doing it.

Amanda Campbell: Again, every member of staff goes through unconscious bias training. It is an integral part of what we do, because we challenge ourselves a lot in that respect. We have policies that deal with unreasonable behaviour and we are very clear within those policies that having a difficulty in bringing a case to us is not unreasonable behaviour. Therefore we spend a lot of time going through with colleagues how to make sure that they are listening and helping the person make a complaint rather than assuming that they are being difficult. There is a lot of effort that goes into that.

At the moment we are also developing a new training workshop that every member of staff in the organisation will go through. We are using a company called Righttrack, who are specialists in equality, diversity and inclusion. We have asked them to come into our organisation and help us to develop a training course for all members of the staff to make sure that we address exactly the issues that you have talked about and make sure that we understand reasonable adjustments and we communicate with people in the right way.

Q53 **Dr Rupa Huq:** Are there procedures for safeguarding the complainant rather than indemnifying yourself and saying, "I did that course"?

Amanda Campbell: Absolutely. We deal with people obviously very late in their claims. In terms of safeguarding issues in relation to complainants or people involved in the case, often we would have expected those to have been dealt with much earlier on. We have an assessment of risk at various points of our process and that is part of our assurance procedures that we go through. We assess risk for the individual complainant or the complainants involved in the case.

At any point, if we identify that there may be a safeguarding issue, our policies are very clear that our staff are required to take action about that and to make sure that they bring that to the attention of the relevant person, whether that be a social worker, a police officer or whoever is the right organisation to raise those issues with. They are trained to do that, our policies explain how to do it and we have procedures in place to make sure those risks are identified.

Q54 **Dr Rupa Huq:** We have had submissions of people saying that dealing with the PHSO was the traumatic experience. That might not be people that are at serious risk of immediate harm, but still, if you are a little person banging on a big door it feels very intimidating. There are cases of people saying that when it came to mental health conditions, pre-existing stuff was aggravated by going through all this. It is bad enough as it is, the thing they are complaining about, and then this horrible bureaucracy comes on you. What more support and training are you putting in place? You must deal with distressed people every day.

Amanda Campbell: We do. I should say—and we have already mentioned—that our staff members deal every single day with people who have been through real trauma. Those staff members are listening and talking with compassion and care to very many people every day who have been through those difficult situations. Sometimes we do not get it right, which is why we are developing and supporting our staff with a huge range of training and development, both in communications and in work we are doing on mental health awareness, work we are doing on vicarious trauma and on dealing with people with bereavement. We recognise and understand that we need to do more and we have a plan to do that.

Q55 **Dr Rupa Huq:** How do you support staff who are also on the receiving end of a traumatic conversation or whatever, distressing cases?

Amanda Campbell: It is really important. We have been developing a new piece of training called vicarious trauma, which recognises that if you are a member of staff that every day is dealing with telephone conversations or in-depth detail of cases where people have suffered terrible loss, then that is really hard for you and you can take that home with you. If you are dealing with people who are sometimes quite aggressive and abusive towards you, you can take that home as well.

This new training we have been developing—we have piloted it—was really well-received. It is not only classroom training, but it is about ongoing support for people in how they can release that sort of emotion without taking it home and internalising it. That is very much part of our training plan going forward.

Q56 **Mrs Cheryl Gillan:** As an addendum to that, can I ask you whether you do any specific autism awareness training?

Amanda Campbell: We have for certain members of staff dealing with certain cases, but that is part of our general training in relation to people that require reasonable adjustment, as opposed to the specific issues of autism. Obviously they are so different, even with people with autism. We try to make sure that we respond to the particular needs of any individual.

Rob Behrens: Can I just make this point? It is a very important point that you make. There is more that we can do on this front. We have been through very recently a complaint from someone on the autistic spectrum. She was dissatisfied with the way in which she has been communicated with. As a result of that we have offered her an internship after the conclusion of her case so that she can help educate us about some of the issues that caused her concern. I think that is good practice.

Q57 **Mrs Cheryl Gillan:** I am really pleased to hear that, because it is important that you are capable of dealing with people that are on the autism spectrum. Every member of staff should have some autism awareness training, because you never know when somebody is going to engage with your service who is on the spectrum. It should be something that is separate and distinct, I think, as well.

Moving quickly on, when you have made mistakes, how do you learn from those cases and how do you deal with processes that did not meet your own service model?

Amanda Campbell: Perhaps I could start. I mentioned our learning and feedback model; that is quite new. That is a way for us to capture systematically all of the complaints that come into our customer care team and to feed those back directly to the caseworkers and their managers and then capture any themes from those complaints and take those back into our service policy review so that we can say, "Are we doing things wrong systematically? Is it because those are failing in process, is it a failing in training or is it that an individual person or team needs to have more support?" We now have that process running routinely across the organisation. It is new, so we have some way to go with it, but it is part of the changing organisation that we have discussed.

Q58 **Mrs Cheryl Gillan:** Again, a scale for us: how many times have you offered apologies or compensation to complainants over the last financial year?

Amanda Campbell: Last year we had about 1,000 complainants come to us to challenge the decision that was made. We looked very carefully at those cases, but we will only review an investigation if the complainant can show that there was information that was not available to us at the time that we made our decision or that there was a fundamental error in the decision that was made.

Q59 **Mrs Cheryl Gillan:** How many times have you offered apologies?

Amanda Campbell: In 60 cases last year we reviewed the case and looked at whether we needed to conduct a fresh investigation and in 11 of them we upheld that we did need to do a fresh investigation.

Q60 **Mrs Cheryl Gillan:** How much compensation and how many times did you offer compensation?

Amanda Campbell: I do not have the figure available to me.

Mrs Cheryl Gillan: Could you write and let us know?

Amanda Campbell: I can write to you.

Q61 **Chair:** Do you routinely apologise if you find yourself having to review a case?

Amanda Campbell: We do. We have complaints about the service we provided and then complaints about the decision. We find the decisions are right the vast majority of the time, but that does not mean that we have dealt with people in the right way. We might have been too slow, we could have done things better and so we would routinely apologise to people if we discovered things in the course of our investigations. As well as our caseworkers and our customer care team doing that, I myself will do that as well in writing to individuals and apologise if those cases are brought to my attention. That is just a routine part of what we are doing.

Q62 **Sandy Martin:** You said you do not know how many compensation payments you make, but presumably you would know if the number was zero. Is it zero?

Amanda Campbell: We will offer, for example, financial compensation in a case if a complainant had to go through a situation that was unnecessary.

Sandy Martin: Yes. The number is not zero?

Amanda Campbell: No, it will not be zero.

Chair: Perhaps you can write to us about that. Thank you.

Q63 **Mrs Cheryl Gillan:** Should we draw any conclusion from the fact that you upheld 36% of the complaints referred to you last year, but only 0.3% of the cases on complaints on your own decisions?

Amanda Campbell: When complaints come to us they have already been through a complaints-handling system at a trust, for example, or a

Government Department and in some cases they have already been through a second-tier complaints-handling process. We are some way down the line in terms of that investigation already being looked at. A 36% uphold rate is, I think, still significant, given that they have already been through a complaint-handling process.

Again, for our own complaints we have explained there are things that we could do better, but people often complain about the decision because they do not agree with the decision not to uphold the complaint, as opposed to the way that the complaint has been handled. We are confident that our decision making is getting better and better. Our figures show that that is the case. We are also very aware that we could be better in how we handle things.

Q64 **Mrs Cheryl Gillan:** What about this situation where you will not withdraw a report once it has been published by the PHSO? We had evidence from the Brooks family and I think that the Ombudsman admitted that the initial investigation and the findings were deeply flawed. How do you ensure that that flawed report is not then used by others if you cannot withdraw it or flag it in any way? It would seem to be a bit of a hole in the system, would it not?

Rob Behrens: This is a complex issue; Amanda is conflicted by it. My understanding is that the complainant had sought an alternative remedy in between our finding of—

Mrs Cheryl Gillan: Mr Behrens, rather than talking about—

Q65 **Chair:** Order. I think we should avoid discussing particular cases. The principle that you cannot withdraw a report once you have published it, is that correct?

Amanda Campbell: It is correct we cannot withdraw it, because it is the report of the investigation we conducted and we are required to publish that. What we can do is apply to a court to have the investigation quashed if it is factually inaccurate or if there are issues that are missing from a report when we have concluded an investigation then we can conduct a new investigation to deal with those issues that have not been considered.

Q66 **Mrs Cheryl Gillan:** How do you flag it so that that report in the interim period is not used by others? If you yourselves have found that the initial investigation and the findings were deeply flawed—which I think are your words, not ours—surely you should have a system of flagging that instantly on to that report.

Amanda Campbell: My understanding—and we should write to the Committee about this—is that in law our legislation requires us to quash the report in court and that we have no powers to withdraw a report once written.

Mrs Cheryl Gillan: Can I ask you to reflect on it and let us have your

thoughts on this in more detail? I appreciate that it is a tricky question, but it would seem a perfectly reasonable question and perhaps one that needs some attention, because not everything is perfect. It would be helpful to the Committee if you could reflect on it and perhaps suggest possible solutions.

Q67 **Chair:** Why can't you just issue a supplementary report?

Amanda Campbell: That is the standard procedure, that we would do a new investigation and that we would then deal with the issues that were not dealt with in the original report.

Q68 **Chair:** Immediately when you become aware a report is flawed, you issue a supplementary report. Any other authority would look at the supplementary report as well. Why can't you do that?

Amanda Campbell: That is routinely what we do in cases: we issue a second report.

Q69 **Chair:** Mr Behrens, that happens, does it?

Rob Behrens: I cannot give you an answer as to whether it happens. It should happen, but it depends on the circumstances of the case. We will take it, have a look at it and get back to you.

Q70 **Chair:** This is a very sore point. A number of your historic failures—I am going to refer to them as failures—have touched on this question of once a report has been issued. In some of the infant mortality cases and some of the sepsis cases this has happened in the past. I am quite surprised that this requires more explanation than you can give us today.

Rob Behrens: Okay.

Q71 **Mr David Jones:** Are you confident that your work has the effect of improving public services?

Rob Behrens: We have no binding powers to enforce our recommendations, which most ombudsmen do not have. That is a challenge. I would say that the record of the office in pressing for important policy changes through its insight reports in the last few years and since its inception has been such as to demonstrate that we do make a difference. Could we do more? Yes, but we have to remember our place in the constitutional system does not allow us to enforce our recommendations.

Q72 **Mr David Jones:** You make the point in your annual report that: "In 99% of complaints the organisation agreed to act on our recommendations." How do you know if it did indeed act upon your recommendations?

Rob Behrens: Because we asked them.

Q73 **Mr David Jones:** You do follow that up?

Rob Behrens: Yes.

Q74 **Mr David Jones:** Do you think that that might have been mentioned in your report?

Rob Behrens: There is an issue about the way in which we pursue this, which I am looking at in terms of the competence issue. There is no doubt that we do ask bodies in jurisdiction whether or not they have implemented the report and we get a response from them in that respect.

Q75 **Mr David Jones:** In that case it would appear that there is an improvement in public services.

Rob Behrens: I have not suggested there was not.

Q76 **Mr David Jones:** Could you give us some examples of improvements that have resulted from your work?

Rob Behrens: Yes, there are lots. The whole issue of the way in which the Department for Transport deals with disability, the whole issue of how sepsis is dealt with and the whole issue of discharging people from hospitals are issues that we have laid in the public domain and they have been responded to. The office has a good record in this respect. There are smaller ways in which we ask people to amend their systems, in particular trusts, which have been beneficial to complainants as well.

Q77 **Mr David Jones:** Do you think that in future perhaps your annual report should not simply say that organisations agreed to act on your recommendations, but provide examples of the way in which you have found that they did do exactly that?

Rob Behrens: I think the Patients Association criticised us for the way in which we followed up recommendations to see whether or not they were implemented. I have this in hand. It will be different next year and that will be reflected in the annual report.

Q78 **Sandy Martin:** Linked to that, Mr Behrens, the way in which you adjudicate complaints that have already been heard by local complaint bodies suggests to me that you should also be making recommendations about the way that the complaints bodies operate. Is there not a case to be made for you giving advice to the local complaints bodies, and particularly with the National Health Service, so that those complaints can be heard more effectively at an earlier stage before people have to come to the Ombudsperson?

Rob Behrens: The short answer to that is yes. The slightly longer answer is that that is objective 3 of our new strategic plan. I have done a lot to meet complaints handlers in hospitals and in national forums in the NHS to address this very issue. That is why I raised with you the issue of the Complaints Standards Authority in Scotland.

Q79 **Sandy Martin:** There has been a lot of talk about the difference between the way that the National Health Service has historically dealt with complaints and the way that, for instance, the airline industry has dealt with problems. Are you one of those people who believe that there is a

fundamental mismatch between the objective of improving services in the hospitals and the way in which they deal with complaints?

Rob Behrens: I know we are aiming to work closely with HSEP and we are working closely with them, because they are dealing directly with this issue, the comparative issue of investigations in other sectors. It is entirely clear when you talk to people who have responsibility for complaints in hospitals that they do not believe that they are providing the optimum service or that they have the resources, the skills or the access to the clinicians to come up with the necessary answers, so there is a lot to be done. I say again that I have made this offer to bodies in jurisdiction, which we delivered the first part of at our open meeting, to provide an element of skills development, but we cannot do it on our own.

Q80 **David Morris:** Why did you have five serious personal data losses that you had to report to the Information Commissioner last year?

Amanda Campbell: We are an organisation that deals with huge amounts of data. We are very aware of data security. We take it very seriously. We log any sort of near misses, very akin to the sort of airline industry situation, when there are information alerts. We are very forward in self-reporting to the Information Commissioner when something goes wrong. We self-reported five cases last year to the Information Commissioner. Of those, three involved issues with courier companies. Data had been signed for and taken, but we are ultimately responsible for it, and when it did not reach the destination or reached the destination but did not get to the individual, we took it upon ourselves to self-report.

Q81 **Chair:** Was that incoming data or outgoing data?

Amanda Campbell: No, data being sent from us back to hospital trusts. We self-report. The Information Commissioner investigated those cases and concluded that our response was robust and therefore did not take any further action against us.

We train all our staff every year routinely in data handling, data protection issues, and they are very good at telling us when there have been issues and incidents, so that we can make sure that they are not systemic issues and that we can follow them up.

Q82 **David Morris:** Could you give me an indication of the percentage of these particular cases? I know there were five cases. Five out of how many overall?

Amanda Campbell: We report quarterly to our audit and risk committee on data incidents and we had less than 1% issues in the last quarter that we reported, so in over 99% of our cases we are confident that everything had been dealt with properly. It is a small number, but it is still too many, because of the seriousness. We understand that we are dealing with sensitive data, so we do have to protect it.

Q83 **Kelvin Hopkins:** This is to Amanda Campbell, though both of you might like to comment. The staff survey in 2016 was taken before either of you arrived, but it shows significant problems. What does the 2017 survey show?

Amanda Campbell: I am pleased to report that there have been some quite significant improvements, but I would say that it is very much still a work in progress. I have already told the Committee about the very challenging year we have been through, downsizing the organisation and changing everything. Some of those issues are reflected. However, overall our engagement index, which is the overall summary level of how the staff are feeling, increased by 8%. It is now up at 60%, which is in line with the wider civil service and public sector norms and that is very different from what it was only 12 months ago.

Within the scores, last year when I arrived, as you said, Mr Hopkins, there were some really poor results. Some were lower than I had seen anywhere in my 30 years in public service and some were very specifically directed at the leadership of the organisation. We have made a lot of effort to improve those scores. We have seen some scores rise by over 40% in the course of a year, which we are delighted about, and others that have just not moved enough, that give us pause and indicate that there is much more we need to do with our staff to improve things. Some scores have improved a small amount, in relation to our ability to manage change effectively, but there are still desperately low scores that we need to work on and continue to work on.

Q84 **Kelvin Hopkins:** You have moved on to my second question, which is: how have you addressed what was low trust in senior leadership?

Amanda Campbell: The score has gone from 19% last year to 64% this year with regard to visible leadership. That is because of a lot of effort from leaders across the organisation, but it is still a work in progress. 64% is still not high enough, as far as I am concerned. We need to get that much higher.

In terms of staff feeling valued, which is a really important score for me, that has gone up significantly, a 25% rise, and that says that we are starting to do more for staff in our organisation, treat them better, treat them as they deserve to be treated. Again, it is a work in progress score and I want to see that go up again significantly next year, so lots to do still.

Q85 **Kelvin Hopkins:** You had a high level of turnover in staff last year, as you have explained a number of times. How much of that was due to the restructuring, how much to other issues and what impact did that have on performance?

Amanda Campbell: It has been a really difficult year. Because we knew that we needed to make essential budget cuts, what happened when staff left due to natural attrition, is that we did not recruit permanent staff members—because we couldn’t at a time when we knew we would be

reducing numbers in London. We have had a really challenging year of lots of temporary staff in Manchester and reducing the staff base numbers in London. We have come almost to the end of that now. Most of the staff who are leaving us have left and all the staff that were temporary but that we wanted to keep in the organisation we have now made permanent. We have been going through a period of recruitment in Manchester to complete our caseworker numbers and those should all be in post in the very early part of the New Year. The recruitment is done; they are just waiting out notice periods and so on.

Q86 **Kelvin Hopkins:** The second part of my question is: what impact did it have on performance?

Amanda Campbell: I mentioned earlier that we are going to see a dip overall. The performance scores you saw from the report that we published in July, which was up to the end of March, showed real improvement. That continued into the summer, until we started the big training programme and all the staff changes to new teams and the moves out of London. We are seeing a dip in performance at the moment, but it is within a planned trajectory. We knew that this would happen. We have a plan for making it better. We are confident that by the end of the summer next year, we will be fully back on track again.

Q87 **Chair:** Before you leave the staff survey, what proportion of your staff returned the survey this time compared with previous years?

Amanda Campbell: It was around 73% completed, I think, a really high completion rate.

Chair: Compared with last year?

Amanda Campbell: About 80% last year.

Q88 **Chair:** So the actual faith in the survey has gone down?

Amanda Campbell: Fewer people completed it, but bear in mind that we were in the process of losing 70 people from the organisation and there was a big turnover of temporary staff into permanent staff. Also, the survey was conducted at a time when we had just gone through all the main changes to our team structures and our working practices, so there was lots else happening in the organisation.

Q89 **Chair:** We take a staff survey as a very strong indication of effective leadership. It is a performance indicator on the two of you, which cannot be gamed, cannot be fiddled—

Rob Behrens: We are not trying to fiddle it.

Chair: No, but it is a very pure and interesting way of assessing the effectiveness of leadership.

Rob Behrens: It shows significant increase in confidence and trust in the leadership of the organisation.

Chair: All I was going to say was that we will look at future surveys with great interest because we recognise that the system is going through a great deal of change at the moment. That creates a lot of staff concern and that is probably reflected in your survey, but we hope that in the years ahead there will be significant improvement, as there has been in some measures already.

Q90 **Kelvin Hopkins:** A supplementary: you had an increase in staff sickness last year. Interestingly, although it was a significant increase, it was still below the public sector average. How much of it is work-related?

Amanda Campbell: A small number of long-term sick absences drive many of the figures in our sickness levels. We have been working really hard with those individuals. We had about 14 people, I think, at the beginning of this year, who were long-term sick. I think we are now down to three people who are on long-term sick leave. We have worked really hard to help bring people back into the workplace and that is going to make a real difference, but because it is a rolling 12-month average, you do not see the benefits of that until a little bit later on. Again, inevitably when you are taking an organisation through a big period of change, it affects sickness levels. Now we are moving into a much more stable period, I would expect those numbers to come down.

Dr Rupa Huq: Chair, can I come in very quickly?

Chair: Yes.

Q91 **Dr Rupa Huq:** I wondered if there were any mechanisms for whistleblowers' concerns to be taken seriously. I have had a constituent who has had a long-running NHS grievance. She felt she was just banging her head against a brick wall and everyone closed ranks and dismissed what she was saying.

Amanda Campbell: There is an issue in relation to our legislation that says that the complainant has to have had an injustice happen to them in order to bring a complaint to us. That creates quite a challenge if the person did not themselves suffer, but potentially saw somebody else—

Q92 **Dr Rupa Huq:** They had witnessed some malpractice or something going on.

Amanda Campbell: We would refer—and could refer—people to regulatory bodies. If it was an issue, for example, with a medical professional, we could refer to those, but it is a definite challenge and one that we talked about, own-initiative powers. At the moment our legislation directly links us from a complainant to the injustice, so it is a difficult area.

Rob Behrens: Could I say that there is material in the submission that reflects on this? The issue of proximity is important in terms of our ability to look at cases. Where someone is reporting something that happened to someone else, I am saying that I am prepared to write publicly to the supervisory body concerned to raise the issue so that it does not go

away. It is another example of how own-initiative powers could help us to deal with that issue. It is serious and I am aware of it.

Q93 **Kelvin Hopkins:** I do have one supplementary question on a separate subject, if I may, Chair. On the changing nature of the way hospitals are organised, with commissioning into separate employment groups within hospitals, and indeed some private companies working in hospitals now providing the service—not my choice, I would have to say, as a socialist, but there we are—is that going to impact on your work? Is it more difficult to investigate problems that have arisen because of private companies working in hospitals rather than coherent public sector staffing, as we have had in the past?

Amanda Campbell: No. If it is commissioned from the health service, then we have the powers and would look at those complaints raised, if it was a service provided by a private sector company within a commissioned NHS service. What we are trying to do increasingly is work, as Mr Behrens said, with the Local Government and Social Care Ombudsman because care pathways are now an issue, where people move between NHS and social care. Because of our joint team working initiative, we are able to make things simpler for complainants, so they do not have to make their complaints to two different bodies. They can bring us a complaint that stretches across the entirety of the health system from primary care, to acute care and then into social care and we can deal with all of those as one investigation.

Q94 **Chair:** Thank you. There have been plenty of questions that are quite challenging for you to answer and we are very grateful for the diligent way that you have answered our questions. There will be many other questions that we will want to ask, but thank you very much for the session today.

We are very mindful that you are trying to run a 21st-century ombudsman service in a very outdated legislative straitjacket. We have recommended this legislation be drafted and brought forward and we are as impatient as you are that it should be implemented in order to help everyone.

I would be grateful if you could take the thanks of this Committee back to your staff. They do not get everything right, but there is a strong sense of mission in your organisation. They deserve every support for the work they do and we very much value their work. We very much value their commitment and we wish them all the best in their work during this difficult period of change to the PHSO. Thank you very much.

Rob Behrens: Thank you, Chair. I will convey that to my colleagues. I want to reiterate our invitation to you and your colleagues on the Committee to visit the new Manchester office, because that will give you an insight and an opportunity to meet with the people you are now talking about.