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Public Administration and Constitutional Affairs Committee

Parliamentary and Health Service Ombudsman Scrutiny 2020–21

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Report, together with formal minutes relating to the report

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Public Administration and Constitutional Affairs Committee

The Public Administration and Constitutional Affairs Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith; to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service; and to consider constitutional affairs.

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Publication

Committee reports are published on the Committee's website at www.parliament.uk/pacac and in print by Order of the House.

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Contents

Summary

The Parliamentary and Health Service Ombudsman (PHSO) is the complaint handler of last resort for individuals who have complaints about public services provided by UK Government Departments and the NHS in England. The Ombudsman is independent of the Government. Under Standing Order 146, the Public Administration and Constitutional Affairs Committee (PACAC) scrutinises the reports the PHSO lays before Parliament, including its annual report and accounts. The Committee has previously set out that it will scrutinise the PHSO under the following categories moving forward:

- casework and productivity;
- staff management;
- value for money; and
- impact on other organisations.

The PHSO annual report produces information on the outcomes of all enquiries and complaints in the financial year. During 2020–21, the PHSO adapted its business approach to respond to the pandemic; this impacted the data it collected and the number of cases it processed. The PHSO has also received an increasing volume of cases and a rise in complex cases.

As of March 2021, the PHSO faced an unallocated casework backlog of over 3,000 cases. In response to this backlog, the PHSO is implementing productivity measures and requesting additional resources to increase the number of caseworkers. The PHSO has also taken the decision to stop processing level 1 and level 2 health complaints. The Committee received evidence suggesting the PHSO needs to improve the communication of this change and what it means for service users.

The PHSO reports its performance against its Service Charter. The Committee notes the PHSO has struggled to reverse the trend of weaker performing scores in some areas, such as giving a final decision on a complaint as soon as possible. Overall, other scores have remained relatively consistent, with some scores improving, such as in relation to keeping members of the public regularly updated on progress with their complaint.

The PHSO has improved its reporting style in response to earlier Committee recommendations. However, the Committee notes that there is scope for further improvements, both in the way data is reported and the way in which it is explained. Most notably, there is scope for including greater context for complainant cases and the effect this may have on their opinion of PHSO performance, for instance by adopting best practice modelled by organisations such as the Local Government and Social Care Ombudsman in this regard.

On staff management, the Committee welcomes the commitment from the PHSO to improve engagement with its staff as well as the introduction of career development opportunities. The PHSO continues to implement the 2018 Donaldson Review recommendations to ensure suitably qualified staff are available to support the public.

The PHSO acknowledges work is incomplete but indicates that good progress has been made to date. The Committee awaits further updates on the actions it is taking to deliver against the Donaldson Review recommendations.

The PHSO is evaluating how to best deliver value for money in response to the changed business environment following the pandemic and considering how it adapts to the longer-term hybrid model of working. Moreover, in our 2019–20 Report, the Committee concluded that regular peer review studies would be an important source of assurance over PHSO processes and value for money. The Committee reiterates its call to have this done as soon as possible and on a more frequent basis.

The Committee also reiterates calls for new legislation to update the PHSO as six years have elapsed since the publication of the Draft Public Service Ombudsman Bill and no further progress has been made to date.

The Committee notes and welcomes the PHSO's strong external engagement both with the broader Ombudsman international community—through its reports, the Manchester Memorandum conference hosted in 2021 and twinning arrangements—and with stakeholders when developing complaints standards for the NHS and Government bodies.

1 Introduction

The Parliamentary and Health Service Ombudsman

1. The Parliamentary and Health Service Ombudsman combines the statutory roles of Parliamentary Commissioner for Administration and Health Service Commissioner for England.[1] The organisation is referred to as "the PHSO". As such the Ombudsman adjudicates on complaints that have not been resolved by the NHS in England and UK Government Departments. The post is currently held by Mr Rob Behrens. There are separate Ombudsman arrangements for local government services in England and for public services provided by the devolved administrations, and these are not accountable to this Committee.

2. The Ombudsman is independent of the Government, the NHS and Parliament, but is accountable to Parliament, through the Public Administration and Constitutional Affairs Committee (PACAC), for the overall performance of the PHSO and for its use of resources.[2] This has traditionally been through an annual evidence session based on the PHSO annual report and accounts. PACAC does not inquire into individual cases. However, the Ombudsman can lay reports before Parliament, often to highlight cases that he decides raise issues of wider concern, which the Committee (or another select committee) may then scrutinise. An example of such a report was the Women's State Pension age report.[3]

3. The Committee held an evidence session on 14 December 2021 with the Ombudsman, Mr Rob Behrens, and the Chief Executive Officer and Deputy Ombudsman, Ms Amanda Amroliwala. This report sets out our conclusions and recommendations following that evidence session. As ever, the Committee is grateful to everyone who submitted evidence as part of the scrutiny session. As part of their submissions, witnesses often recount examples of great personal or familial pain and we are grateful to them for taking the time to share their experiences with us.

Our approach to scrutinising the PHSO

4. As set out in our previous report, our scrutiny of the PHSO broadly follows the following categories:

- Casework and productivity;
- Staff management;
- Value for money; and
- Impact on other organisations.[4]

1 Parliamentary and Health Service Ombudsman, "Who we are" accessed 4 January 2021.
2 Standing Orders (Public Business) 5 November 2019.
3 Women's State Pensions: our findings on the Department for Work and Pensions' communication of changes, Parliamentary and Health Service Ombudsman, 19 July 2021.
4 Public Administration and Constitutional Affairs Committee, Seventh Report of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2019–20, HC 843, para 4.

5. The previous scrutiny hearing was held on 23 November 2020, with a report published on 25 January 2021. Between that session and this session the Covid-19 pandemic impacted how the PHSO operated and the nature of complaints raised. This report therefore considers how the organisation has responded to this and other challenges.

6. Staff survey results were available this year and informed the deliberations of the Committee.

2 The PHSO's casework

Pandemic impact on case-handling

7. During 2020–21, the PHSO adapted its business approach to respond to the pandemic; this impacted the data it collected and the cases it processed in several ways. Firstly, following a decision by the NHS to pause complaints procedures, the PHSO paused NHS-related inquiries between 26 March and 30 June 2020, during which time the NHS faced the first wave of the Covid-19 pandemic.[5] Secondly, business operations were disrupted by the move to home working. This led to cases being processed but not tracked within the system.[6]

8. Consequently, due to the lack of consistent in-year measurement, this is the second year the Committee has been unable to comment on the change in caseload facing the PHSO.[7] Despite these changes to business as usual, the PHSO still received 79,249 enquiries.[8]

Table 1: Recorded PHSO caseload 2019–20 to 2020–21

Number of ….	2019–20	2020–21
Total enquiries (including phone calls, emails, post, webform)[9]	103,965	79,249
Of which were phone calls	54,698	33,818
Total Complaints		
Complaints accepted	31,365	24,842
Complaints carried over from previous year	3,057	3,549
Carried forward to the next year	3,549	5,251
Total Decisions		
Decided following initial checks	23,141	18,689
Resolved by mediation	14	14
Decided following primary investigation	6,530	3,864
Decided following detailed investigation	1,210	557
Total complaint decisions	30,895	23,124
Of which were resolutions[10]	372	283

Source: Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401

5 Parliamentary and Health Service Ombudsman (PHO 29) page 3
6 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 30
7 In 2018–19, the introduction of a new Case Management System meant direct year on year comparison of enquiry numbers was not possible due to changes in how data was recorded from November 2019. See: Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 31.
8 The 79,249 figure counts all enquiries received by the PHSO including those which are not ready to be processed by the PHSO. In 2020–21 there were 17,103 cases which the PHSO evaluated as not being ready to be processed by the PHSO.
9 This includes all enquiries submitted to the PHSO. This will include complaints but also one-off enquiries such as whether a particular body is within the PHSO's jurisdiction.
10 A resolution is where a complaint is closed with a positive outcome for the complainant without the need for an investigation, for example an apology, further explanation or financial remedy provided.

9. The lack of consistent data monitoring due to the pandemic makes it difficult to compare relative performance between 2020–21 and 2019–20. Previously, the number of full investigations the PHSO has conducted had been on a downward trend. The PHSO's annual report for 2017–18 said the PHSO conducted 2,348 investigations, leading to a decision of not upheld, partially upheld or fully upheld.[11] By contrast, in the year 2019–20, there were 1,122 investigations that reached the same status.[12]

10. Since the 2020–21 period, the PHSO has faced an increasing volume of cases coming before it. Ms Amroliwala informed us that in the six months before December 2021, the PHSO has seen a 25% increase in cases compared to pre-pandemic levels. She also informed us there had been a rise in complex cases.[13]

11. Users of the PHSO have testified to the impact that lengthy casework delays can have upon them.[14] In 2020–21, the PHSO's responsiveness to complainants following 'further consideration' declined against its 2019–20 performance, and failed to meet its performance targets. Though, the Committee notes, cases decided following 'initial checks' have performed much more strongly.

Table 2: Time taken to reach decisions in cases between 2018–19 and 2020–21

Time taken to reach a decision		2018–19	2019–20	2020–21	Target
Decided following initial checks	Within 7 days	93%	96%	99%	95%
Decided following further consideration	Within 13 weeks	41%	48%	25%	50%
	Within 26 weeks[15]	72%	80%	52% (49%)	75%
	Within 52 weeks	92%	93%	89% (85%)	95%

Source: Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401

12. Evidence supplied by the PHSO attributed this trend to various factors including bodies such as the NHS and Government departments struggling to contribute to PHSO's investigations due to the pandemic[16] and difficulties accessing paper-based files during remote working.[17]

13. The PHSO plans to reduce these delays through operational efficiencies. As explained by Mr Behrens at the evidence session on 14 December 2021, this involves greater "integration, conversation and consultation between different parts of the decision-making process."[18] As Ms Amroliwala highlighted during the same evidence session, it

11 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2019-20, HC (2019-20) 444, page 33
12 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2019-20, HC (2019-20) 444, page 33
13 Q15
14 PHO 08, PHO 34, PHO 35, PHO 36
15 Data reported for 2020–21 exclude the three months that the PHSO and NHS suspected complaints handling. Percentages in brackets include the three-month pause for comparison.
16 Parliamentary and Health Service Ombudsman (PHO 29) page 3
17 Q76
18 Q23

is hoped that small incremental efficiency gains will lead to faster processing times.[19] The successfulness of these measures will significantly impact whether the PHSO is able to prevent a continued increase in its case backlog.

The impact of actions taken to mitigate the backlog of cases

14. The PHSO annual report states the impact of the pandemic on the NHS and its own staff had "resulted in a queue of cases waiting to be considered at the end of year".[20] As of March 2021, the PHSO faced an unallocated casework backlog of 3,084 cases.[21] Ms Amroliwala informed the Committee on 14 December 2021 that:

> At the end of the year in question in our annual report, the queue of unallocated cases was around 3,000. That figure carried on going up as we were still in lockdown to a peak of about 3,200-plus. Right now, it is down below 2,500.[22]

15. The PHSO made clear that efforts to reduce this backlog are challenging, given that approximately 80% of the PHSO caseload relates to the NHS.[23] With the NHS facing pressures, notably the ongoing surge in Covid-19 cases in the run up to Dec 2021, Ms Amroliwala informed us that response times from health bodies has suffered, contributing to delays in case-handling.[24]

16. To address the backlog challenges, the PHSO is implementing productivity measures, including a review of end-to-end processes to improve efficiency, and requesting additional resources to increase the number of caseworkers.[25] Following a successful Comprehensive Spending Review bid, this additional funding is expected to be available from 2022–23 onwards.[26]

17. Additionally, on 12 April 2021, Mr Behrens informed the Committee that the PHSO took the decision to stop processing lower-level health complaints.[27] This change applied to all complaints about the NHS in England and would impact cases at Levels 1 and 2 on the PHSO's 'severity of injustice scale' (see Table 3 below). The severity of injustice scale is used to prioritise cases by the way individuals have suffered injustice due to failings by public bodies.[28] The scale is used to determine, for example, how much financial remedy to recommend a public body pays to a complainant. The scale ensures that the PHSO takes a more consistent approach across different types of complaints.

19 Q23
20 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 10
21 Parliamentary and Health Service Ombudsman (PHO 29)
22 Q8
23 Q8
24 Q8
25 Q10
26 Q73
27 Letter from Rob Behrens, Ombudsman at PHSO, on operational changes in response to the impact of the Covid pandemic on PHSO's services, dated 12 April 2021
28 PHSO, Financial remedy | Parliamentary and Health Service Ombudsman (PHSO)

Table 3: The PHSO Severity of Injustice Scale

Level	Description
1	The person affected has experienced a low impact injustice such as annoyance, frustration, worry or inconvenience, typically arising from a single (one-off) incidence of maladministration or service failure, where the effect on the person complaining is of short duration, and where there are no other adverse effects or ongoing wider impact. The PHSO will usually consider an apology to be an appropriate remedy for these cases.
2	A level two injustice will typically arise when what has gone wrong has had a relatively low impact on the person affected. This will often result in a degree of distress, inconvenience or minor pain. This could also include instances where an injustice was more serious but only took place once, or was of short duration. In these cases the PHSO consider that an apology is not suitable by itself.
3	Level three cases would have a moderate impact on the person affected (for example, in terms of distress, worry or inconvenience). For a case to be level three, that impact would usually have been experienced over a significant period of time. A case may also be level three if the impact on the person affected was significant, but was only sustained for a short period of time.
4	A case at level four will involve the person affected experiencing a significant and/or lasting impact, so much so that to some extent it has affected their ability to live a relatively normal life. In these cases the injustice will go beyond distress or inconvenience, except where this has been for a very prolonged period of time.
5	Typically level five cases will be when the person affected has had a marked and damaging effect on their ability to live a relatively normal life. In these cases recovery is likely to take a significant amount of time.
6	Level six cases are the most serious seen by the PHSO, involving profound, devastating or irreversible impacts on the person affected. This includes circumstances where the individual may be affected permanently, or where recovery is likely to take several years, and cases involving an avoidable death. It would also cover circumstances where a reduced quality of life has been endured for a considerable period. This would include cases involving a significantly reduced life expectancy or injuries resulting in permanent disability or disfigurement.

Source: PHSO, Our guidance on financial remedy, page 5

18. In his correspondence, Mr Behrens explained that this would stop 900 cases from being processed in 2020–21 and would likely stop the processing of 2,500 cases during 2021–22.[29] The Committee has received correspondence on this from MPs whose constituents have been impacted by this decision. We have also received correspondence from members of the public who have been impacted by this change. Whilst understandably some individuals and Members are frustrated by the lack of redress this change in policy offers them, some have also highlighted concerns about the communication of this policy. For example, there is no clear update to applicants accessing PHSO resources via the PHSO's landing page which communicates the change and its justification.

19. **The Committee notes the actions taken by the Parliamentary and Health Service Ombudsman to ensure continuing services to the public in difficult and unprecedented circumstances throughout the pandemic. However, the Committee**

29 Letter from Rob Behrens, Ombudsman at PHSO, on operational changes in response to the impact of the Covid pandemic on PHSO's services, dated 12 April 2021

notes the substantial backlog which has developed as a result. Whilst action is being taken to reduce this, we remain concerned at the impact of delays upon those using the services of the PHSO. The Committee was also concerned to learn that changes to case-handling of level 1 and level 2 health cases have not been as clearly communicated to the public or Members of Parliament as they could have been.

20. ***The PHSO should more clearly notify visitors to its website which cases are not being considered under this new policy and further update the Committee on the review outlined to the Committee during the oral evidence session. The PHSO should also update the Committee on any prioritisation actions it is taking to ensure that the most severe cases are considered with all due haste.***

21. ***The PHSO should also consider developing and reporting against timeliness targets for each grade of "severity of injustice" to better monitor the impact of the backlog on higher category cases in Levels 3 to 6.***

Service Charter performance

22. The PHSO Service Charter outlines the key standards that members of the public should expect when they ask the PHSO to investigate a complaint. The PHSO established the Service Charter process to ensure the public can have confidence in their service.[30]

Table 4: Giving you the information you need

Commitment	2020–21 score	2019–20 score
1. We will explain our role and what we can and cannot do	77%	79%
2. We will explain how we handle complaints and what information we need from you	78%	79%
3. We will direct you to someone who can help with your complaint if we are unable to, where possible	76%	72%
4. We will keep you regularly updated on our progress with your complaint	80%	79%
Overall section score against a KPI of 84%	78%	77%

Source: Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401

Table 5: Following an open and fair process

Commitment	2020–21 score	2019–20 score
5. We will listen to you to make sure we understand your complaint	71%	72%
6. We will explain the specific concerns we will be looking into	81%	87%
7. We will explain how we will do our work	77%	77%
8. We will gather all the information we need, including from you and the organisation you have complained about, before we make our decision	51%	51%

30 PHSO, Our Service Charter

Commitment	2020–21 score	2019–20 score
9. We will share facts with you, and discuss with you what we are seeing	69%	70%
10. We will evaluate the information we have gathered and make an impartial decision on your complaint	-	-
11. We will explain our decision and recommendations, and how we reached them	49%	47%
Overall section score against a KPI of 69%	66%	67%

Source: Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401

Table 6: Giving you a good service

Commitment	2020–21 score	2019–20 score
12. We will treat you with courtesy and respect	87%	89%
13. We will give you a final decision on your complaint as soon as we can	46%	50%
14. We will make sure our service is easily accessible to you and give you support and help if you need it	62%	65%
Overall section score against a KPI of 70%	65%	68%

Source: Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401

23. The 2018–21 PHSO strategy set the organisation a target that by the end of 2020–21 it would aim to increase Service Charter scores to demonstrate an improvement in the perception and experience of complainants.[31] Yet the Service Charter's headline scores now stand relatively lower than in 2018 when this commitment was set:

Table 7: Service Charter Headline Scores

Criteria	Q1 2018–19	Q3 2019–20	Q4 2020–21
Giving you the information you need	78%	78%	76%
Following an open and fair process	64%	67%	63%
Giving you a good service	69%	69%	63%

Source: Performance against our Service Charter 2018/19 Quarter 1 (April to June) | Parliamentary and Health Service Ombudsman (PHSO), Performance against our Service Charter 2019/20 Quarter 3 (October to December) | Parliamentary and Health Service Ombudsman (PHSO), Performance against our Service Charter 2020/21 Quarter 4 (January to March) | Parliamentary and Health Service Ombudsman (PHSO)

24. Last year, this Committee's report drew attention to this and raised concerns about performance against three commitments which feed into the headline values in the preceding table (commitments 8, 11 and 13).[32] Performance in these areas has not improved this year, and the PHSO has consistently underperformed on these criteria for the past 5 years unlike other areas which have performed well and exceeded targets.

31 PHSO, Our strategy 2018–2021, page 18

32 Public Administration and Constitutional Affairs Committee, Seventh Report of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2019–20, HC 843, page 9.

Table 8: Three underperforming Service Charter Commitments over the past five years

Service Charter Commitments	2016–17*	2017–18	2018–19	2019–20	2020–21
8. we will gather all the information we need, including from you and the organisation you complained about before making a decision	43%	45%	48%	51%	51%
11. we will explain our decisions and recommendations, and how we reached them	59%	58%	53%	47%	49%
13. we will give you a final decision on your complaint as soon as we can	55%	53%	53%	50%	46%

Source: Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2017–18*, HC (2017–19) 1388, Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2016–17*, HC (2017–19) 207

*2016–17 figures do not represent a full financial year

25. Appearing before the Committee, Ms Amroliwala explained that focus group data shows the Service Charter wording is too imprecise and allows for multiple interpretations of meaning. Ms Amroliwala explained that over the coming year (2021–2022 reporting year), the PHSO will provide additional context to help explain what is being assessed.[33] She also explained efforts to try to align the PHSO quality standards with some of its Service Charter questions.[34]

26. **The Committee notes that the PHSO has again struggled to reverse the trend of weaker feedback scores on some elements of its Service Charter performance areas. The Committee however also notes the need to clarify the wording of its Service Charter questions by providing additional context to PHSO users so that they can better understand what the relevant scores mean in terms of service delivery.**

27. ***The PHSO should set out how it plans to address the three long-term, low performing scores relating to how evidence is gathered, how decisions are reached and how timely final decisions are made.***

Transparency: Casework & Complaints reporting style

28. The PHSO has improved its reporting style in response to earlier PACAC recommendations and we thank them for that. However, as always, even further improvements are possible. For example, the PHSO website explains what the Service Charter is well, but it lacks a detailed methodology explaining how the results for its Service Charter scores are ascertained. It also doesn't provide the raw dataset underpinning the

33 Q39
34 Q41

data that has been further broken down in the headline figures. This more granular data helps to identify which parts of the service are working well and what needs to be improved.

29. The Committee's duty of scrutinising the performance and work of the PHSO is only possible via the availability of reliable and comprehensive data. We are very grateful for the written evidence submissions from members of the public who have used the services of the PHSO and have submitted feedback to our evaluation process. However, in order to ascertain the widest dataset possible upon which to draw analysis and come to accurate conclusions, we need to have access to more granular data.

30. For instance, a greater understanding of the context of a complainant's case and the effect this may have had on their opinion of the work of the PHSO would be useful when analysing feedback. We note that the Local Government and Social Care Ombudsman has implemented a process where they demarcate results on the basis of whether or not a complainant's case was upheld or rejected. The latest Local Government and Social Care Ombudsman annual report explains the link between good customer service scores and the decision of a complainant's case. In order to objectively analyse the performance of the Ombudsman's handling of cases, they have added context by splitting the complainants by those that were happy with the outcome of their case and those who were not:

> Someone who is not happy with our decision is much more likely to be unhappy with the level of service we provided. To enable us to assess customer satisfaction objectively, regardless of the outcome, we set two customer satisfaction targets: one for people who are unhappy with their complaint outcome (20%) and one for those neutral or happy with our decision (95%).[35]

31. Better transparency yields better service and allows the Committee and the public to better understand the workings of the PHSO. This is important for the Committee because we receive a significant amount of correspondence from the public, much of it negative in its nature due to complainants having their cases rejected and seeking redress. It is likely that any feedback giving praise or alternative positive views are sent directly to the PHSO, or posted in different form, rather than being provided directly to the Committee. It is difficult for us to have a holistic view across all types of cases and case outputs. The result of having these extra variables will be to make it easier to identify where there may be systemic issues or indicative of wider problems.

32. In evidence to the Committee, Ms Amroliwala spoke about a survey from 2018–19 where they had split responses by those who had had their cases upheld:

> We conducted a survey in 2018–19 on exactly this point and asked people who had had their cases upheld if they were satisfied or not with the quality of the service. Of those who had had their cases upheld, 86% said yes, they were very happy with the quality. Only 47% of those who did not have their case upheld said that they were happy with the quality, so you can see the scale of difference.[36]

35 Local Government and Social Care Ombudsman, Annual Report and Accounts 2019–20: Making Complaints Count, page 20

36 Q40

33. This shows that demarcation along these lines is possible, and in our view, preferable in being able to understand the context behind a complainant's feedback.

34. **The PHSO have improved the data output about their own performance in recent years, which the Committee applauds. Nevertheless, the Committee is of the view that even more open and transparent access to feedback data will enable external stakeholders to give an accurate judgement on the work of the PHSO. One of the ways of doing that is to compare feedback from complainants who were happy with the outcome of their case, and those who were not.**

35. ***The Committee recommends that the PHSO learns from and implements best practice at the Local Government and Social Care Ombudsman by publishing feedback scores about its service, split between those complainants who were happy with the result of their case and those who were not. This will allow for a better understanding of the service levels provided by the PHSO and provide a more accurate metric by which its service delivery can be assessed.***

3 Staff Management

Staff survey

36. In the 2020 staff survey, the PHSO performed well overall. Areas of particular strength included: staff understanding customer/service user needs (93%), staff being interested in their work (91%); staff being sufficiently challenged by their work (91%); and having a manager that is considerate of their life outside work (89%).[37] Coming in the context of the Covid-19 pandemic and the disruption it caused to business as usual conditions and arrangements, this is a particularly strong achievement.

37. The PHSO also outperformed the Civil Service in areas such as satisfaction with the total staff benefits package (72% compared with Civil Service comparator of 47%), satisfaction with pay relative to staff in similar organisations (68% compared with Civil Service comparator of 33%) and believing the Ombudsman has a clear vision for the future of the PHSO (82% compared with Civil Service comparator of 60%).[38]

Staff engagement

38. However, one area where the organisation did not score overly strongly was in relation to staff engagement. Only 42% of staff felt they had the opportunity to contribute views before decisions were made that affected them and 29% felt they were not involved in decisions which affected their work. The staff empowerment score was also on the low side, with 29% of staff believing that they do not think it is safe to challenge the way things are done in the PHSO.

39. When asked about this, Ms Amroliwala admitted that this had been a problem and that they were making changes going forward:

> We have made a number of changes in the course of the year that we had to introduce very quickly, and our staff did not feel consulted—in some cases, they were not consulted on those—and they were right to challenge us on that… we will try to make every effort to involve people much earlier in the process. We have identified a method of having what we call key participants: we bring people out of the business to work on some of our big change programmes, and we ask those individuals to go back and communicate across their colleagues in the business all of the things that are happening, and to test out ideas with them.[39]

40. **Good staff retention ensures high standards and shows an engaged and happy workforce. Therefore, the Committee believes that it is in the PHSO's benefit, and the benefit of the people it serves to improve staff engagement and aim for high staff retention. We welcome the PHSO's commitment to engage more fully with its staff and will be monitoring these scores in future staff surveys to assess progress.**

37 PHSO, 2020_Staff_Survey: The Results November 2020, March 2021
38 PHSO, 2020_Staff_Survey: The Results November 2020, March 2021, pages 5 to 6.
39 Q46

Staff development opportunities

41. Another area which the staff survey highlighted as an area for improvement was around staff career development and progression opportunities. The survey highlighted that 34% of staff do not think there are opportunities for them to develop their career inside the PHSO. When asked about this by the Committee, Ms Amroliwala said:

> The survey told us that career development was something that was really important, and when you are in quite a small organisation and you do not have lots of promotion opportunities to offer people, we thought about what we can do to help people think about their career—not just them needing to go up, but how they can expand their knowledge across different parts of the business. The team have created an "activate your career development" pathway where people can move through a set of resources, so we have tried to offer a range of things that will help develop people, both in their professional development and in enrichment terms as well.[40]

42. Mr Behrens went on to explain that the organisation has introduced an accreditation scheme which allows staff to "demonstrate their professional skills to lead them in a career path that goes outside the ombudsman's service in the UK if they do not want to stay with us."[41] The Committee believes that staff development is important to ensure high standards and retaining experience within the PHSO.

43. **The Committee welcomes the career development pathways and accreditation scheme put in place within the organisation, but also encourages the PHSO to look at possible new development opportunities within the organisation to encourage staff retention and to ensure there is minimal loss to institutional knowledge.**

Clinical and other specialist advisers

44. In 2018, the PHSO commissioned a report from Liam Donaldson, the former Chief Medical Officer for England and the United Kingdom's Chief Medical Adviser from 1998 to June 2010,[42] which made several recommendations on the use of clinical advisers.

45. In 2020–21, the PHSO began increased involvement of clinical advisers in the primary investigation stage of the casework process and introduced clinical advice drop-in sessions for caseworkers to raise questions and seek clarification from clinical professionals.[43] The PHSO also changed the procedure for more complex cases so that senior caseworkers share provisional views on complaints with clinical advisers to ensure clinical advice is used as intended.[44]

46. Concerns about the quality of clinical advice in specific cases have been raised with the Committee. For example, written evidence submissions have questioned the PHSO's reliance on external clinical advisers due to a lack of in-house medical specialists, including questioning whether casework staff are sufficiently trained to know when to ask

40 Q45
41 Q45
42 At the time of appointment the World Health Organisation's Envoy for Patient Safety and Chairman of independent boards that monitor the global polio eradication programme.
43 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 22
44 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 22

for clinical advice and input, or to know what advice to seek from experts when they do ask for it.[45] Concerns have also been raised about incomplete evidence being submitted to clinical advisers and the impact this has on case outcomes.[46]

47. Appearing before the Committee, Mr Behrens acknowledged work delivering against the Donaldson recommendations is incomplete but that good progress has been made, including the launch of multi-disciplinary conferences and providing greater feedback to clinicians.[47] Mr Behrens explained the PHSO is addressing concerns raised in the Donaldson review by piloting a new scheme which focuses on a systematic approach to investigations, as maladministration may extend beyond an individual case.[48]

48. **The Committee notes the progress that has been made to date in implementing the Donaldson Review and look forward to further updates on the implementation of the Review, including an update on the progress of the pilots into systematic investigations.**

49. ***Prior to the next scrutiny session, the PHSO should update the Committee on progress against the implementation of the Donaldson Review, outlining how many areas remain outstanding and its proposed steps and timeline to address them. In this update, the PHSO should outline what actions it has taken to embed lessons on complex casehandling to its wider casework, including other technical casework areas.***

Diversity

50. Mr Behrens admitted at the evidence session that there was still work needed to ensure that the PHSO workforce was representative of all communities:

> We have to make sure that the people who represent us reflect the communities that we are reaching out to. There is an HR dimension to this and we are doing everything we can to make our board and executives as representative of the communities they serve as they can possibly be. We are pleased that we do not have a gender pay gap at PHSO. That is unusual and important, but we have more to do on minority ethnic groups and we are doing that.[49]

51. There was a small increase in the percentage of female employees as well as the percentage of Asian, Black, Mixed Ethnicity and Other Ethnic Group employees in the year to March 2021. One of the areas that could be improved is the opportunity for disabled staff to work at the PHSO. The annual report in March 2021 showed that 10% of employees identify as disabled, the same as the previous year's figure, and below the 18% UK population benchmark figure as quoted in the annual report.[50]

52. **The Committee welcomes the progress of the PHSO's commitment to a diverse workforce. We are pleased by the pledge of continuous improvement in this area and look forward to hearing about further progress in the coming years.**

45 PHO 13, PHO 32, PHO 34
46 PHO 34
47 Q34
48 Q34
49 Q22
50 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p.83

4 Value for Money

The post-pandemic PHSO business model

53. Like many other organisations, the Covid-19 pandemic significantly impacted how PHSO delivers its services, with the vast majority of the PHSO's staff, including all public enquiry line call handlers, working from home since March 2020.[51] In its annual report, the PHSO emphasised the significant shift in working practices this required, including a new employee assistance programme and reviewing working arrangements to support staff with home-schooling and caring responsibilities.[52] The PHSO also regularly assessed the mood of staff through surveys and tracked any developing issues.[53]

54. In 2020–21, the PHSO developed plans to move towards a longer-term hybrid model of working, which will reduce operational energy consumption and the need to travel.[54] The aim is to allow more home working than occurred pre-pandemic, but to retain a focus on productivity and quality of outputs.[55] Appearing before the Committee, Mr Behrens explained that, following surveys and consultations, the PHSO will undertake a six month pilot from September 2022, and request that staff return to the office two days per week.[56] The PHSO will analyse the productivity implications of this approach whilst seeking to balance flexible work practices with its corporate culture.[57] Ms Amroliwala explained that an assessment regarding organisational footprint and accommodation requirements for the PHSO will be carried out following the staff hybrid working pilot. Ms Amroliwala noted, however, that it is unlikely the PHSO will see a full-time return to the office.[58] The costing implications of a reduced footprint has informed the PHSO's Spending Review decisions, alongside an increase in staffing numbers to assist with the reduction of the casework backlog (discussed in Chapter 2).[59]

55. In evidence to the Committee, Ms Amroliwala highlighted an important issue around staff having to take calls in their own homes without a team around them, and how these calls could be challenging:

> If you are sat in your sitting room and someone is giving you a huge amount of abuse for something that is out of your control, often including threatening behaviour and threatening all sorts of things, that is a real challenge. It is something that our team has dealt with magnificently through this period.[60]

56. **The considerably different operating environment brought on by the Covid-19 pandemic has forced the PHSO to critically evaluate how it delivers its services. The Committee are pleased the PHSO is conducting a pilot to evaluate the implications of new working practices. The Committee will continue to monitor developments as**

51 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 66
52 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 41
53 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 67
54 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 47
55 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 47
56 Q47
57 Q47
58 Q47
59 Q47
60 Q14

the PHSO considers its future operating model to ensure it secures value for money from the resources it uses. Proper regard should be given to staff welfare concerns with home working which should not be an assumption in any new working model.

The PHSO peer review

57. In our 2019–20 report, the Committee concluded that regular peer review studies will be an important source of assurance of the effectiveness of the PHSO's processes and in turn, its value for money. The Committee recommended that such a review should analyse a sample of the PHSO's recent casework and compare this to Service Charter commitments. It further elaborated on the need for an auditor on the review panel and provided a suggested broad structure to the final report.[61]

58. In its response, whilst emphasising any peer review panel's final report structure is ultimately decided by the panel's independent chair, the PHSO stated it "will notify the peer review chair, once appointed, of the Committee's recommendations regarding the composition of the panel, the scope of the review, and the structure of the panel's final report so that this can be taken into account".[62]

59. In its written evidence to the Committee, the PHSO stated its commitment to a peer review "in the next period",[63] though it is unclear when precisely this will be. Meanwhile, in its evidence to the Committee, the PHSO explained other efforts to demonstrate the value for money including its piloting of the HM Treasury value for money framework.[64] This framework was developed following a 2017 review into central government spending and public sector productivity by Sir Michael Barber.[65]

60. **The Committee notes the Parliamentary and Health Service Ombudsman's commitment to undertaking a peer review and its engagement with the HM Treasury value for money framework. Whilst the Committee recognises the PHSO's open engagement on measuring its value for money, it remains unclear when its next peer review will be.**

61. ***The Committee reiterates its previous call to undertake a peer review, and recommends that the PHSO do so as soon as possible and on a more regular basis to ensure continued value for money.***

The need for legislative reform

62. This Committee and its predecessor Committee have previously called for the need for legislative reform of the structure and operation of the PHSO. The need for reform is widely accepted, with the PHSO itself wanting to be brought in line with the Principles on the Protection and Promotion of the Ombudsman Institution,[66] (the "Venice Principles").

61 Public Administration and Constitutional Affairs Committee, Seventh Report of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2019–20, HC 843, paras 25–27

62 Public Administration and Constitutional Affairs Committee, Seventh Report of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2019–20, HC1348, p 6

63 Parliamentary and Health Service Ombudsman (PHO 29) page 3.

64 Parliamentary and Health Service Ombudsman (PHO 29) page 3.

65 HM Treasury, The Public Value Framework, 2019. Paras 1.1–1.3

66 European Commission for Democracy through Law (Venice Commission), Principles on the Protection and Promotion of the Ombudsman Institution

Despite this, comprehensive legislative reform, such as creating a new holistic public service ombudsman,[67] mooted by the Government in the past, has as yet not been forthcoming, nor are there indications that this is likely to change imminently.

63. In the report published following last year's scrutiny session, the Committee said:

> The Committee reiterates its conclusion that legislative reform of the PHSO is required. The PHSO's legislation is out of date compared to modern Ombudsman standards. While the Committee appreciates the pressing priorities facing the Government, including covid-19, reform of the PHSO should not be treated as a trifling matter and unworthy of parliamentary time. The PHSO represents the final stage in a complaints process. For many complainants, their complaints refer to matters of grave seriousness, such as the passing of a loved one, and it is essential they can have complete faith that there is an effective organisation at the end of the process. The outdated legislation undermines this important aim.

64. Last year's report said that specific matters that should be considered as part of any reform include:

- own initiative powers for the PHSO;
- the need to unite the PHSO and the Local Government and Social Care Ombudsman;
- complaints standard authority powers; and
- the MP filter (as part of any change to remove the MP filter, the role of Members in assisting complainants must be secured).[68]

65. In the evidence presented to this inquiry the PHSO, once again, set out their calls for legislative reform:

> PHSO could achieve an even greater impact, and provide greater access to justice, if Government brought forward legislation to establish a new Public Service Ombudsman with modernised powers, in line with the Venice Principles and the recommendation made by PACAC in June 2020 and January 2021 and by PACAC's predecessor Committees.[69]

66. The then Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, Rt Hon Michael Gove MP, confirmed in correspondence ahead of last year's report that there was no active work to pursue legislation to merge the PHSO and the Local Government and Social Care Ombudsman, citing pressures on the Government and parliamentary timetable:

> At present there is no active work in Government to continue exploring the merger of these two organisations. The current pressures on the Government and the parliamentary timetable mean the bill has not progressed and there

67 Cabinet Office, Draft Public Service Ombudsman Bill, December 2016, Cm 9374
68 Public Administration and Constitutional Affairs Committee, Seventh Report of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2019–20, HC 843
69 Parliamentary and Health Service Ombudsman (PHO 29)

> are no plans to introduce legislation to merge the two organisations into a single Public Service Ombudsman within the period covered by the current Spending Review (2021/22 to 2023/24).[70]

67. However, in a recent letter (August 2021), Rt Hon Sajid Javid MP, the Health Secretary, seemed to be more open to the idea, though the Committee does note the lack of timescale put forward for such work:

> I understand your wish to see broader reform of the legislation underpinning the operation Ombudsman services. The work reforming Ombudsman arrangements have currently been paused and will require significant legislative time. However, the Government is considering how it can reform Ombudsman arrangements for the United Kingdom and England.[71]

68. Whilst we continue to emphasise the need the Government to bring forward the promised legislation, the lack of impetus from the Government to date means that all stakeholders need to think more creatively in the way of short-term solutions. One example of this would be to encourage further ways in which PHSO can integrate with the Local Government and Social Care Ombudsman and other similar bodies at an operational level in order to improve best practice, ahead of any legislative overhaul of statutory functions.

69. On the issue of the removal of the MP filter, the Committee believes that detailed consultation is required to ensure that there aren't barriers between complainants and the Ombudsman, but also that the link between MPs and their constituents on important matters such as these is not severed.

70. **The Committee reiterates its call for the Government to introduce legislation to reform the PHSO and start consulting with relevant stakeholders and the public, on a cross-party basis, to ensure the Bill be brought forward as soon as possible. It is now six years since the publication of the Draft Public Service Ombudsman Bill and we are still no further forward. This situation is as unacceptable as it is untenable in the long term. A Private Member's Bill might also be considered as a vehicle for reform.**

71. ***The Government has to take the issue of Ombudsman reform seriously and provide legislative action. We urge the Government to set out a legislative timetable before the end of this year, and seek to deliver the necessary reforms before the end of this Parliament.***

Performance criteria for 2021–22 and 2022–25

72. The PHSO delivered against the third year of its 2018–21 strategy during 2020–21. The launch of its new successor strategy was postponed due to the Covid-19 pandemic.[72] In its place, the PHSO outlined a one-year business plan for 2021–22 to bridge the gap between its longer-term strategic plans.[73] The one-year business plan focused on managing the

70 Letter from the Rt Hon Michael Gove MP, Chancellor of the Duchy of Lancaster, the PHSO merger with the Local Government Ombudsman, dated 9 Sep 2020

71 Letter from the Rt Hon Sajid Javid, Secretary for State for Health and Social Care, PHSO and the Health Care Bill, dated 13 Aug 2021

72 Parliamentary and Health Service Ombudsman (PHO 29) page 3

73 Parliamentary and Health Service Ombudsman (PHO 29) page 3

impact of Covid-19 and embedding change, delivering priory projects and developing a future strategy.[74] The PHSO supplied the Committee with a document outlining its performance against the one-year business plan.[75]

73. In its written submission to this year's annual scrutiny inquiry, the PHSO updated the Committee on the progress of its draft Corporate Strategy for 2022 to 2025 and noted that the PHSO was carrying out further consultation exercises.[76] The PHSO published its new strategic plan for 2022 to 2025 on 4 April. Its main objectives are to ensure people using public services have better awareness of the role of the Ombudsman and can easily access its services; that people receive a high quality, empathetic and timely service according to international Ombudsman principles; and, that the PHSO contributes to a culture of learning and continuous improvement, leading to high standards in public service.[77] Delivery of the final years of the strategy will fall after the end of the tenure of the current Ombudsman Mr Behrens so any future strategy should take account of the recruitment of his successor and prepare for new leadership of the PSHO, as well as potential legislative reform of the Ombudsman system.

74. **The PHSO has outlined to the Committee evaluative criteria for the 2021–22 period and explained the delays to the launch of their new strategy. The Committee will continue to monitor the PHSO's delivery against its 2022–25 corporate strategy.**

74 Parliamentary and Health Service Ombudsman (PHO 29) page 3
75 PHSO Business Plan 2021/22, attachment to letter from Rob Behrens, PHSO Ombudsman, dated 25 January 2022
76 Parliamentary and Health Service Ombudsman (PHO 29) page 1
77 PHSO, Corporate Strategy 2022 to 2025, page 5

5 Impact on other organisations

Strong international engagement

75. The 2018–21 PHSO strategy outlined the need to learn from and contribute to international Ombudsman colleagues.[78] The PHSO has made strong progress on this in 2020–21, notably publishing *The Art of the Ombudsman: leadership through international crisis*,[79] a report produced in collaboration with the International Ombudsman Institute which synthesised learning from across 37 countries. This work fed into the Manchester Memorandum conference hosted by the PHSO in November 2021 which discussed the role of peer review and the Venice Principles, the development of a competency framework for national Ombudsman officers, how to reach vulnerable and marginalised citizens and branding of the term 'Ombudsman'.[80]

76. Additionally, in April 2021, the PHSO formally entered a twinning arrangement with their South African counterpart aiming to improve complaint handling across both countries through sharing of best practice.[81] This included a benchmarking visit from the South African body during which insights into funding, staffing and legislative arrangements which helped to inform governance and structural proposals for reform.[82] The South African Ombud strongly complemented the PHSO and explained the twinning arrangement will exchange knowledge, experience and skills in investigating and managing healthcare sector complaints.[83]

77. **The Committee notes the strong progress the PHSO has made in delivering against this objective and informing discussions in the international Ombudsman community. The Committee looks forward to hearing of further progress in this area.**

NHS Complaint Standards

78. In March 2021, the PHSO launched the NHS Complaints Standards.[84] This developed from the PHSO's July 2020 Report, entitled Making Complaints Count, which identified quality, consistency and poor lessons learning in the NHS.[85] The standards were developed following engagement with NHS organisations, patient advocacy groups and the public. The standards are currently being piloted with eleven NHS bodies prior to wider rollout in NHS England; in the meantime 69 NHS bodies have started to adopt these standards through their own self-directed processes.[86] The PHSO expects to assess the results of the pilots from Spring 2022.[87]

79. Evidence supplied to the Committee attests to the improvement that these changes are expected to bring. NHS Resolution informed us that these are "practical and 'common-sense' Standards which offer the potential to transform the way in which complaints

78 PHSO, Our strategy 2018–2021, page 16
79 PHSO, Art of the Ombudsman
80 PHSO, Working seminar on the Manchester Memorandum 2021
81 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2020–21*, HC (2021–22) 401, p 27
82 PHO 41
83 Office of the Health Ombud, South Africa (PHO 41)
84 PHSO, *NHS Complaints Standards*
85 Parliamentary and Health Service Ombudsman (PHO 29) page 6.
86 Parliamentary and Health Service Ombudsman (PHO 29) page 7.
87 Q50

are managed in the NHS".[88] The General Medical Council stated their support for "the PHSO's work to help organisations in providing a quicker, simpler and more streamlined complaint handling service, with a strong focus on early resolution".[89] They further told us the framework "improves the patient experience, and early resolution benefits all involved".[90]

80. The PHSO is now working directly with Government departments and agencies—such as the Home Office, HMRC and the Department for Work and Pensions—to develop a similar set of Complaint Standards, to improve the quality and consistency of frontline complaints-handling across those operational and delivery departments.[91]

81. **The Committee welcomes the PHSO's actions in developing a complaints standard for the NHS and government bodies. The Committee looks forward to seeing further updates on the progress of pilots.**

88 NHS Resolution (PHO 39).
89 General Medical Council (PHO 27).
90 General Medical Council (PHO 27).
91 Q49, Parliamentary and Health Service Ombudsman (PHO 29) page 7.

Conclusions and recommendations

The PHSO's casework

1. The Committee notes the actions taken by the Parliamentary and Health Service Ombudsman to ensure continuing services to the public in difficult and unprecedented circumstances throughout the pandemic. However, the Committee notes the substantial backlog which has developed as a result. Whilst action is being taken to reduce this, we remain concerned at the impact of delays upon those using the services of the PHSO. The Committee was also concerned to learn that changes to case-handling of level 1 and level 2 health cases have not been as clearly communicated to the public or Members of Parliament as they could have been. (Paragraph 19)

2. *The PHSO should more clearly notify visitors to its website which cases are not being considered under this new policy and further update the Committee on the review outlined to the Committee during the oral evidence session. The PHSO should also update the Committee on any prioritisation actions it is taking to ensure that the most severe cases are considered with all due haste.* (Paragraph 20)

3. *The PHSO should also consider developing and reporting against timeliness targets for each grade of "severity of injustice" to better monitor the impact of the backlog on higher category cases in Levels 3 to 6.* (Paragraph 21)

4. The Committee notes that the PHSO has again struggled to reverse the trend of weaker feedback scores on some elements of its Service Charter performance areas. The Committee however also notes the need to clarify the wording of its Service Charter questions by providing additional context to PHSO users so that they can better understand what the relevant scores mean in terms of service delivery. (Paragraph 26)

5. *The PHSO should set out how it plans to take to address the three-long term, low performing scores relating to how evidence is gathered, how decisions are reached and how decisions are made in a timely final decision.* (Paragraph 27)

6. The PHSO have improved the data output about their own performance in recent years, which the Committee applauds. Nevertheless, the Committee is of the view that even more open and transparent access to feedback data will enable external stakeholders to give an accurate judgement on the work of the PHSO. One of the ways of doing that is to compare feedback from complainants who were happy with the outcome of their case, and those who were not. (Paragraph 34)

7. *The Committee recommends that the PHSO learns from and implements best practice at the Local Government and Social Care Ombudsman by publishing feedback scores about its service, split between those complainants who were happy with the result of their case and those who were not. This will allow for a better understanding of the service levels provided by the PHSO and provide a more accurate metric by which its service delivery can be assessed.* (Paragraph 35)

Staff management

8. Good staff retention ensures high standards and shows an engaged and happy workforce. Therefore, the Committee believes that it is in the PHSO's benefit, and the benefit of the people it serves to improve staff engagement and aim for high staff retention. We welcome the PHSO's commitment to engage more fully with its staff and will be monitoring these scores in future staff surveys to assess progress. (Paragraph 40)

9. The Committee welcomes the career development pathways and accreditation scheme put in place within the organisation, but also encourages the PHSO to look at possible new development opportunities within the organisation to encourage staff retention and to ensure there is minimal loss to institutional knowledge. (Paragraph 43)

10. The Committee notes the progress that has been made to date in implementing the Donaldson Review and look forward to further updates on the implementation of the Review, including an update on the progress of the pilots into systematic investigations. (Paragraph 48)

11. *Prior to the next scrutiny session, the PHSO should update the Committee on progress against the implementation of the Donaldson Review, outlining how many areas remain outstanding and its proposed steps and timeline to address them. In this update, the PHSO should outline what actions it has taken to embed lessons on complex casehandling to its wider casework, including other technical casework areas.* (Paragraph 49)

12. The Committee welcomes the progress of the PHSO's commitment to a diverse workforce. We are pleased by the pledge of continuous improvement in this area and look forward to hearing about further progress in the coming years. (Paragraph 52)

Value for money

13. The considerably different operating environment brought on by the Covid-19 pandemic has forced the PHSO to critically evaluate how it delivers its services. The Committee are pleased the PHSO is conducting a pilot to evaluate the implications of new working practices. The Committee will continue to monitor developments as the PHSO considers its future operating model to ensure it secures value for money from the resources it uses. Proper regard should be given to staff welfare concerns with home working which should not be an assumption in any new working model. (Paragraph 56)

14. The Committee notes the Parliamentary and Health Service Ombudsman's commitment to undertaking a peer review and its engagement with the HM Treasury value for money framework. Whilst the Committee recognises the PHSO's open engagement on measuring its value for money, it remains unclear when its next peer review will be. (Paragraph 60)

15. *The Committee reiterates its previous call to undertake a peer review, and recommends that the PHSO do so as soon as possible and on a more regular basis to ensure continued value for money.* (Paragraph 61)

16. The Committee reiterates its call for the Government to introduce legislation to reform the PHSO and start consulting with relevant stakeholders and the public, on a cross-party basis, to ensure the Bill be brought forward as soon as possible. It is now six years since the publication of the Draft Public Service Ombudsman Bill and we are still no further forward. This situation is as unacceptable as it is untenable in the long term. A Private Member's Bill might also be considered as a vehicle for reform. (Paragraph 70)

17. *The Government has to take the issue of Ombudsman reform seriously and provide legislative action. We urge the Government to set out a legislative timetable before the end of this year, and seek to deliver the necessary reforms before the end of this Parliament.* (Paragraph 71)

18. The PHSO has outlined to the Committee evaluative criteria for the 2021–22 period and explained the delays to the launch of their new strategy. The Committee will continue to monitor the PHSO's delivery against its 2022–25 corporate strategy. (Paragraph 74)

Impact on other organisations

19. The Committee notes the strong progress the PHSO has made in delivering against this objective and informing discussions in the international Ombudsman community. The Committee looks forward to hearing of further progress in this area. (Paragraph 77)

20. The Committee welcomes the PHSO's actions in developing a complaints standard for the NHS and government bodies. The Committee looks forward to seeing further updates on the progress of pilots. (Paragraph 81)

Priorities for scrutiny

As in our previous report, this annex sets out priorities for our scrutiny of the PHSO.

Table 9: Areas of Scrutiny

Area of scrutiny	Example expected evidence	Areas of particular interest
PHSO casework performance	Complainant and organisation feedback recorded against the PHSO's Service Charter commitments. Internal casework assurance scores. Written evidence from complainants. The time taken to complete cases	The PHSO's commissioning and use of clinical advice. KPIs 8,11 and 13. The impact of Covid-19 on demand for the PHSO and timeliness of investigations.
Staff management and training	Staff survey scores. Improvements in service charter scores (such as commitment 11 on explaining decisions and recommendations.)	Staff views on the quality of training they have received.
Value for Money	The Comptroller and Auditor General signed off the PHSO's annual report and accounts with an unqualified opinion. Evidence of seeking, learning from and contributing to best practice from the international Ombudsman community. Periodic value for money studies.	The composition of the next peer review panel.
Impact on other organisations	Evidence that recommendations have been followed up. Evidence of effective engagement with organisations like the Care Quality Commission or Select Committees of the House to maximise impact. Implementation by organisations of the PHSO's upcoming Complaints Standards Framework.	The impact and effectiveness of the PHSO's Complaints Standards Framework. The PHSO's relationships and outreach with Select Committees. The routine publication of PHSO casework and recommendation compliance

Formal minutes

Tuesday 17 May

Members present:

Mr William Wragg, in the Chair

Ronnie Cowan

Mr David Jones

John McDonnell

Karin Smyth

John Stevenson

Parliamentary and Health Service Ombudsman Scrutiny 2020–21

Draft Report (*Parliamentary and Health Service Ombudsman Scrutiny 2020–21*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 81 read and agreed to.

Summary agreed to.

Resolved, That the Report be the First Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order 134.

Adjournment

Adjourned till Tuesday 24 May 2022 at 1.30pm.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Tuesday 14 December 2021

Rob Behrens CBE, Chair and Ombudsman, Parliamentary and Health Service Ombudsman; **Amanda Amroliwala CBE**, Chief Executive Officer and Deputy Ombudsman, Parliamentary and Health Service Ombudsman	Q1–87

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

PHO numbers are generated by the evidence processing system and so may not be complete.

1 Action against Medical Accidents (PHO0022)

2 Anonymised (PHO0040)

3 Anonymised (PHO0034)

4 Anonymised (PHO0012)

5 Anonymised (PHO0006)

6 Bamford, Catherine (PHO0036)

7 Beat (PHO0021)

8 Brown, Mr D (PHO0035)

9 Butcher, Mr Philip (PHO0010)

10 Cull, Mr John (PHO0008)

11 Czarnetzki, David (PHO0033)

12 General Medical Council (PHO0027)

13 Hibbins, Ms Joy (PHO0020)

14 Independent Monitoring Authority for the Citizens' Rights Agreements (PHO0031)

15 Lane, Mrs L (PHO0028)

16 Lesiak, Mrs Shirley Ann (PHO0013)

17 Office of the Health Ombud, Republic of South Africa (PHO0041)

18 Marshall, Peter (PHO0017)

19 Parliamentary and Health Service Ombudsman (PHO0029)

20 Perloff, Liz (PHO0032)

21 Prentice, Mrs Brenda (PHO0016)

22 Reynolds, Mrs Della (PHO0004)

23 Thompson, Mr Christopher (PHO0007)

24 Vernon, Helen (Chief Executive, NHS Resolution) (PHO0039)

25 Wheatley, Mr Nicholas (PHO0037)

26 Willingham, Mr David (PHO0014)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2022–23

Number	Title	Reference
1st Special	Coronavirus Act 2020 Two Years On: Government response to the Committee's Seventh Report of Session 2021–22	HC 211

Session 2021–22

Number	Title	Reference
1st	The role and status of the Prime Minister's Office	HC 67
2nd	Covid-Status Certification	HC 42
3rd	Propriety of Governance in Light of Greensill: An Interim Report	HC 59
4th	Appointment of William Shawcross as Commissioner for Public Appointments	HC 662
5th	The Elections Bill	HC 597
6th	The appointment of Rt Hon the Baroness Stuart of Edgbaston as First Civil Service Commissioner	HC 984
7th	Coronavirus Act 2020 Two Years On	HC 978
8th	The appointment of Sir Robert Chote as Chair of the UK Statistics Authority	HC 1162
9th	The Cabinet Office Freedom of Information Clearing House	HC 505
1st Special	Government transparency and accountability during Covid 19: The data underpinning decisions: Government's response to the Committee's Eighth Report of Session 2019–21	HC 234
2nd Special	Covid-Status Certification: Government Response to the Committee's Second Report	HC 670
3rd Special	The role and status of the Prime Minister's Office: Government Response to the Committee's First Report	HC 710
4th Special	The Elections Bill: Government Response to the Committee's Fifth Report	HC 1133

Session 2019–21

Number	Title	Reference
1st	Appointment of Rt Hon Lord Pickles as Chair of the Advisory Committee on Business Appointments	HC 168

Number	Title	Reference
2nd	Parliamentary and Health Service Ombudsman Scrutiny 2018–19	HC 117
3rd	Delivering the Government's infrastructure commitments through major projects	HC 125
4th	Parliamentary Scrutiny of the Government's handling of Covid-19	HC 377
5th	A Public Inquiry into the Government's response to the Covid-19 pandemic	HC 541
6th	The Fixed-term Parliaments Act 2011	HC 167
7th	Parliamentary and Health Service Ombudsman Scrutiny 2019–20	HC 843
8th	Government transparency and accountability during Covid 19: The data underpinning decisions	HC 803

The following corrections have been made to this report following clarification:

- P.8, para 9: The figure 1,494 has been changed to 1,122, this is due to resolutions being added to the original version
- P.12, table 7, Q1 2018-19: Figures previously showed the internal feedback figures (96%, 89%, 74%), instead of the external feedback, this was due to inconsistent reporting
- P.13, table 8: Clarification has been added so readers know that 2016-17 figures do not represent a full year
- P.16, para 37: Civil service comparator figures updated for 'staff benefits package' and 'vision for the future'; and para 38: figure updated
- Footnotes 11, 12, 21 have been updated