



House of Commons  
Public Administration  
and Constitutional Affairs  
Committee

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**Parliamentary and  
Health Service  
Ombudsman Scrutiny  
2021–22**

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**Sixth Report of Session 2022–23**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
to be printed 28 March 2023*

## 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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## Summary

The Parliamentary and Health Service Ombudsman (PHSO) examines complaints from individuals about public services that have not been resolved by UK Government Departments, the NHS in England, and other public bodies. The Ombudsman is independent of the Government, the NHS, and of Parliament. 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:

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

This year, the Committee also called for submissions on the PHSO's Corporate Strategy for 2022–25, given that it had been recently published. We also took into consideration the findings of the Peer Review of the PHSO, which reported in November 2022.

The Committee welcomes the core aims of the PHSO's Corporate Strategy, including providing a high quality, empathetic service to complainants, and raising awareness of the PHSO's services. Nevertheless, we recommend further information is provided on how the organisation would cope with potentially increased service demand, given the PHSO's service has continued to be impacted by the Covid-19 pandemic.

It is positive that the PHSO's backlog of cases has been brought down substantially within the past financial year, although the Committee remains concerned with the organisation's continued policy of declining to consider less serious health complaints for another year. Despite the evidence that this is proving an effective means by which to bring down the caseload, we do not consider it to be an appropriate long-term solution. We request that the PHSO provides the Committee with the criteria being used to make a final decision on the future approach in relation to this policy. The Committee also notes the written evidence received detailing a perceived poor quality of service provided by the PHSO when handling cases, including the length of time taken to close cases. While we cannot generalise from individual examples provided to us, the Annual Report and Accounts show the PHSO has failed to hit its targets for the time taken to close cases. We welcome the PHSO's ambition to improve these figures by next year through its casework improvement programme and recommend that the organisation provides examples to the Committee of how this will improve a complainant's 'user journey'.

On staff management and training, the Committee commends the pace by which the PHSO has increased its number of caseworkers across 2021–22, developed a 10-month training academy to support their induction and development, and invested in wider learning and development opportunities for staff. This appears to have been positively reflected in staff survey results. We do, however, note lower satisfaction with pay and

benefits, following similar trends across the wider economy and public sector, and encourage the organisation to consider staff retention strategies in light of this. We welcome that momentum has not been lost on implementing the recommendations from the Donaldson Review to improve the provision of clinical advice for health-related cases. However, as we are now four years on, we urge the PHSO to bring forward measures to conclude the remaining two recommendations from that Review in the near future.

In line with our recommendation in the 2020–21 Scrutiny Report, we welcome the fact that the PHSO underwent its second independent Peer Review in 2022 and that the panel included auditor experience. Although the findings did not provide any in-depth value-for-money analysis of the PHSO's service, it has helpfully identified areas where the organisation is performing well and where it could improve in the future. We encourage the continued use of periodic peer reviews and have recommended that the PHSO provide the Committee with a timetable setting out when the 2022 Peer Review recommendations on casework management will be implemented.

The Committee also reiterates calls for new legislation to update the PHSO's statutory framework. It is unjustifiable that it has now been seven years since the publication of the draft Public Service Ombudsman Bill by the Government. Ombudsman reform needs to be prioritised. Nevertheless, in the absence of broader reform, the Committee commends the efforts of the PHSO to improve the quality of the complaints-handling landscape through the development of Complaint Standards for the NHS and UK Central Government. We recommend that the Cabinet Office takes a leading role in working with other Government departments and their public bodies to adopt the UK Central Government Complaint Standards, given that legislation would be required to give the PHSO complaints standard authority powers.

Recognising the seriousness of the issues raised in PHSO reports being laid before Parliament, we also recommend the PHSO further engages with departmental Select Committees to encourage them to scrutinise PHSO reports that relate to findings against individual departments and public bodies under their remit. This is particularly important when they relate to cases of non-compliance with PHSO recommendations, and ultimately, will improve access to justice for complainants.



# 1 Introduction

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1. The Parliamentary and Health Service Ombudsman (PHSO) combines the statutory roles of Parliamentary Commissioner for Administration and Health Service Commissioner for England. The Ombudsman provides a complaints-handling service for complaints that have not been resolved by the NHS in England and UK Government Departments.<sup>1</sup> The post has been held by Rob Behrens CBE since 2017, with his tenure due to end in March 2024.

2. The PHSO examines complaints of ‘maladministration’ that have caused harm or injustice to individuals within public services delivered by UK Government Departments, their non-departmental public bodies, the NHS in England and some other bodies, such as the Electoral Commission. Maladministration can be broadly defined as “the public body not having acted properly or fairly or having given a poor service and not put things right”.<sup>2</sup>

3. The PHSO is independent of the Government, the NHS, and Parliament. The Public Administration and Constitutional Affairs Committee (PACAC) scrutinises the reports of the PHSO and monitors its overall performance.<sup>3</sup> There are separate Ombudsman arrangements for local government services in England and for public services provided by the devolved administrations. These do not fall under the scrutiny remit of PACAC.

4. The Ombudsman can lay thematic reports before Parliament to highlight cases of wider concern, which PACAC or another Select Committee may choose to scrutinise. PACAC generally discharges its scrutiny of the PHSO through annual sessions with the Ombudsman based on the PHSO’s Annual Report and Accounts. PACAC does not inquire into individual cases during this process.

5. The Committee launched its annual scrutiny inquiry for the period 2021–22 on 13 October 2022. As with previous inquiries, the Committee published a call for evidence welcoming submissions on the following areas:

- Performance on its casework and productivity;
- Staff management and training;
- Value for money; and
- Impact on other organisations.

6. Given it had been recently published, the Committee also called for submissions on the PHSO’s Corporate Strategy for 2022–25. The call for evidence was open until 4 November 2022 and the Committee is grateful to everyone who provided a submission, particularly those who shared details of deeply personal and painful experiences.

7. Although separate to the inquiry, in 2022, the PHSO was subject to its second Peer Review, the first having taken place in 2018.<sup>4</sup> This followed the Committee’s 2019–20

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1 Parliamentary and Health Service Ombudsman, “[Who we are](#)” accessed 7 February 2023.

2 *Parliamentary Ombudsman*, House of Commons Library, 25 May 2022.

3 Standing Orders (Public Business), SO 146, 2 December 2022, [HC 804](#)

4 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022

annual scrutiny report in which we 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.<sup>5</sup> The Panel was made up of the Greek Ombudsman and European President of the International Ombudsman Institute, the Israeli Ombudsman and National Auditor, the Chief Operating Officer of the UK Housing Ombudsman (also an auditor), and a senior Professor in Public Law from Manchester University with expertise in Ombudsman organisations.<sup>6</sup> The terms of reference included:

- Progress since the 2018 Peer Review;
- Steps taken to deal with the Covid-19 pandemic;
- Value for money;
- Corporate Strategy and its three strands for implementation; and
- Mandate of the PHSO against the Venice Principles.<sup>7</sup>

8. On 29 November 2022, the Committee held an oral evidence session with the Ombudsman, Rob Behrens CBE, and the Chief Executive, Amanda Amroliwala CBE. This report sets out our conclusions and recommendations following this evidence session, with some references to the findings of the 2022 Peer Review.

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5 Seventh Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2019–20, [HC843](#), para 25–35.

6 [PHSO22](#)

7 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.7; the 'Venice Principles' lay down a set of international standards and principles on the protection and promotion of Ombudsman institutions. These have been accepted by the UK, as a member of the Venice Commission of the Council of Europe. They were also adopted by the United Nations (UN) in a motion co-sponsored by the UK Government.

## 2 PHSO Corporate Strategy 2022–25

9. Every three years, the PHSO produces a new strategy. This is supported by an annual business plan. The PHSO’s Strategy for 2018–21 had three objectives:

- To improve the quality of its service, while remaining independent, impartial and fair;
- To increase the transparency and impact of its casework; and
- To work in partnership to improve public services, especially frontline complaint handling.<sup>8</sup>

10. In 2021, the launch of a new three-year strategy was postponed due to the Covid-19 pandemic. However, the interim one-year plan focused on:

- Managing the impact of Covid-19 and embedding strategic change;
- Delivering priority corporate projects; and
- Developing a future strategy.<sup>9</sup>

11. The Annual Report and Accounts for 2021–22 state that the interim plan allowed for “a period during 2021–22 of recovery and stabilisation from Covid-19”. However, that Report also states that the PHSO continued to be affected by the pandemic “in both the delivery of our service as the NHS and Government departments responded to the pandemic and how [its] people were able to operate”.<sup>10</sup> The impact of Covid-19 is mentioned in the 2022–23 Business Plan, stating that the pandemic has increased response times and required the organisation to prioritise.<sup>11</sup>

12. The Corporate Strategy for 2022–25, published in Spring 2022, includes three new objectives:

- People who use public services have a better awareness of the role of the Ombudsman and can easily access its service;
- People it works with receive a high quality, empathetic and timely service, according to international ombudsman principles; and
- It contributes to a culture of learning and continuous improvement, leading to high stands in public service.<sup>12</sup>

13. The Ombudsman claims that the new three-year strategy “will take us further down the road of becoming an even more modern and vibrant Ombudsman service. This new strategy will see us reach out to more people in need and harness the power of data and technology for a modern, digital service”.<sup>13</sup> The Peer Review Panel concluded that the strategy “is a robust and well-thought through plan”. The Panel suggested that the PHSO

8 Parliamentary and Health Service Ombudsman, [Our Strategy 2018–21](#), April 2018, p.10.

9 Parliamentary and Health Service Ombudsman, [Business Plan 2021/22](#), attachment to [letter from Rob Behrens, Parliamentary and Health Service Ombudsman](#), dated 25 January 2022, p.11.

10 Parliamentary and Health Service Ombudsman, [Annual Report and Accounts 2021–22](#), [HC 526](#), pp.16–17

11 Parliamentary and Health Service Ombudsman, [Business Plan 2022–23](#), p.13

12 Parliamentary and Health Service Ombudsman, [Corporate Strategy 2022–25](#).

13 Parliamentary and Health Service Ombudsman, [Annual Report and Accounts 2021–22](#), [HC 526](#), p.8.

provide clear reporting in an accessible format on delivering the strategic plan,<sup>14</sup> which the PHSO said it was developing as part of its business planning for 2023–24.<sup>15</sup> The Panel also took the view that the PHSO should consider the potential service demand implications of its increased public awareness and accessibility.<sup>16</sup>

14. In oral evidence to the Committee in November 2022, the Ombudsman conceded that not all aspects of the previous strategy had been met, but that nevertheless significant developments had been made, particularly in relation to the professional training available for caseworkers, transparency and publishing cases, and the development of the Complaint Standards Initiative.<sup>17</sup> Going forward, the Ombudsman emphasised the importance of continued “professional development of staff to provide an efficient and empathetic service to complainants,” and “remov[ing] barriers to service and [improving] public awareness of our organisation.” He also noted that the 2022–25 Strategy is the first time the organisation’s strategic plan has referenced international benchmarks.<sup>18</sup> Additionally, the Strategy references setting up “a panel of users and members of the public who can provide feedback and inform our work”.<sup>19</sup>

15. **The Committee considers the objectives of the Parliamentary and Health Service Ombudsman (PHSO) Strategy for 2022–25 to be appropriate to achieve the aims of “becoming an even more modern and vibrant Ombudsman service”. This includes promoting greater awareness of the PHSO’s services, providing a high quality, empathetic and timely service, and continuously improving the organisation. We welcome the reference to international benchmarks in the Strategy for the first time, the emphasis on data, and the organisation’s plans to gather direct feedback from service users and members the public. However, while it is included in the 2022–23 Business Plan, the absence of any reference to how the organisation will cope with the ongoing impacts of Covid-19 and high levels of cases brought to the PHSO is regrettable. The ambition to promote awareness and accessibility of the PHSO’s role and service is positive and welcome, but the Strategy does not set out how the organisation would cope with potentially increased service demand.**

16. *We agree with the Peer Review Panel that the PHSO should provide clear reporting in an accessible format on delivering the Corporate Strategy for 2022–25 and that the PHSO should put in place detailed plans for dealing with the potential service demand implications of its increased public awareness and accessibility. In its response to this Report, the PHSO should provide further information on how an empathetic and timely service will be delivered if service demand increases due to such measures. The PHSO should also provide an update on its progress in establishing a panel of users and members of the public to provide feedback on the PHSO’s services, including how regularly the panel will be consulted and its expected outputs.*

14 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.6.

15 Parliamentary and Health Service Ombudsman, [Peer Review 2022: response from PHSO](#), November 2022, p.1

16 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.26.

17 [Q5](#); the Complaint Standards are discussed in Chapter 6.

18 [Q2–5](#)

19 Parliamentary and Health Service Ombudsman, [Corporate Strategy 2022–25](#), p.7.

### 3 PHSO casework and productivity

17. Following a fall in the number of complaints at the height of the Covid-19 pandemic and a brief period where the PHSO paused consideration of health-related complaints to allow the NHS to focus its resources on responding to the pandemic, the PHSO considered more than 36,000 complaints in 2021–22. This is an increase of 24% on pre-pandemic levels and is driven by more than 122,000 enquiries.<sup>20</sup>

18. PHSO’s casework follows a three-step process:

- Initial check, to see if it is within the PHSO’s remit and ready for investigation;
- Primary investigation, to see if it can be resolved quickly without the need for further investigation. This can include mediation; and
- Detailed investigation.

19. According to the data in the Annual Report and Accounts, in 2021–22, most decisions were made following initial checks (79.8%), followed by primary investigations (18.5%), then detailed investigations (1.7%). The number of detailed investigations has fallen since 2018–19, when it was 6.2%. The biggest shift is an increase in the proportion of decisions made following primary investigations, up from 16.7% in 2020–21 to 18.5% in 2021–22.<sup>21</sup>

20. A number of pieces of written evidence detail issues with casework performance. Whilst we cannot generalise from these individual reports, some perceived themes worth noting include:

- Extremely lengthy investigations, some lasting several years;
- Poor communication;
- Transfer/change of caseworkers;
- Lack of caseworker expertise;
- Loss of records; and
- Complexity of the complaint review process.<sup>22</sup>

21. The statistics in the Annual Report and Accounts echo issues with the length of investigations. In 2021–22, 99% of cases from initial checks were closed within seven days. However, only 81% of cases following further investigation were closed within 52 weeks (one year), which is significantly lower than the PHSO’s own target of 95% of such cases closed within a year. Furthermore, only 49% of cases following further investigation were closed within 26 weeks, significantly lower than the 75% target, and 32% closed within 13 weeks, much lower than the 50% target.<sup>23</sup> When questioned about why these targets have not been met, the Chief Executive told the Committee:

20 [PHSO22](#)

21 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), p.30

22 [PHSO01](#), [PHSO09](#), [PHSO026](#), [PHSO34](#), [PHSO42](#), [PHSO44](#), [PHSO45](#).

23 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), p.32.

What we are seeing is a picture of more complaints about the health service and a big queue of unallocated cases that we are really working hard on and reducing at some speed. Inevitably, as we close those older cases, that affects the average waiting time... Our plan is that we will continue to bring the numbers down by the end of this financial year, and then...by the end of the business year 2023–24 we are hoping to have completely cleared the queue of unallocated cases.<sup>24</sup>

22. The PHSO partially cites the lack of capacity in public bodies to provide information to them in a timely manner as the reason for the failure to hit its own targets regarding the closure of cases.<sup>25</sup>

23. According to the Chief Executive, the PHSO’s casework improvement programme is a key aspect of the new Corporate Strategy for 2022–25.<sup>26</sup> The PHSO’s 2022–23 Business Plan notes that the organisation will implement improvements as identified by the end-to-end review of the casework process that was completed in 2021/22.<sup>27</sup> In oral evidence to the Committee in November 2022, the Chief Executive expanded on this:

We have made changes to our complaint forms so that we ask people for different and better information. We have made changes to our letters and our templates. We have made changes to our technology systems to remove duplication and to increase automation. We have made changes in a number of areas, all designed to drive greater efficiency.<sup>28</sup>

## Mediation

24. In the 2021 oral evidence session, the Chief Executive stated that the PHSO was looking to “expand our mediation capability” as a means to speed up casework.<sup>29</sup> In its written evidence to this inquiry, the PHSO highlights the increased use of mediation (used in 29 cases in 2021–22), which it is “on track to increase”.<sup>30</sup> In oral evidence to the Committee in November 2022, the Ombudsman agreed that mediation is positive and will reduce the number of cases. He told us:

We have significantly increased the number of people who have been externally trained to undertake mediation so we can take more cases. Secondly, we have looked at the cases coming in from the mediation team’s perspective, and they believe that, in the medium term, 25% of the cases that we receive are capable of being resolved by mediation, without investigation. We need to develop our capacity to do that.<sup>31</sup>

25. He also said the use of mediation would “more than double” over the next year, but was unable to say precisely to what level.<sup>32</sup> However, it is worth noting that mediation makes up less than 0.1% of total number of cases reported in the Annual Report and Accounts

24 [Q14–15](#)

25 [PHSO22; Q14–15](#)

26 [Q4](#)

27 Parliamentary and Health Service Ombudsman, [Business Plan 2022/23](#), p.9

28 [Q12](#)

29 [Q23](#) [PHSO Annual Scrutiny 2020–21]

30 [PHSO22](#)

31 [Q18](#)

32 [Q17–20](#)

(29 of 36,614).<sup>33</sup> The Peer Review Panel notes that the use of mediation is positive but still low compared to the PHSO’s overall caseload.<sup>34</sup> When pressed on these low figures, the Ombudsman explained that one challenge that needs to be addressed is that while the PHSO can publish the details of investigations, it cannot publish “the successful way in which the parties to mediations have engaged”, as mediations take place in private.<sup>35</sup>

## Covid-19 Backlog

26. The PHSO has suffered from a backlog of cases since the start of the pandemic, both due to the organisation briefly pausing the processing of complaints at the start of the pandemic and a reduced capacity in the NHS to deal with complaints when it resumed casework. To address the backlog, the PHSO adopted a new approach from April 2021 to focus on “health-related complaints that involve more serious failings” only.<sup>36</sup> As a result of this approach, the overall number of cases awaiting allocation reduced from 3,084 at the end of 2020–21 to 2,204 at the end of 2021–22, and to 1,647 by the end of September 2022—a reduction of approximately 50% since March 2021.<sup>37</sup>

27. In April 2021, the Ombudsman informed the Committee that the decision to stop processing lower-level health complaints applied to all complaints about the NHS in England and would impact cases at Levels 1 and 2 (out of 6) on the PHSO’s ‘severity of injustice scale’.<sup>38</sup> Appearing before the Committee in November 2022, the Chief Executive explained the use of this scale:

We have a severity of injustice scale that we designed to set out for members of the public the sorts of financial amounts that might be awarded in some of our casework. Alongside those financial amounts, we set out the sorts of cases that might qualify you in one of the six bands. The lower end of the scale, at the first two levels, includes areas where an individual might have experienced something that was annoying or frustrating, for example, but did not have any long-term medical impacts on them.<sup>39</sup>

28. In oral evidence to the Committee, the Chief Executive confirmed that over the previous 18 months around 1,700 complaints were assessed as being Level 1 or 2 and that “of those, we have managed to achieve resolutions in about 114 cases. The rest of those we have communicated to the member of the public that we will not be taking their case forward.”<sup>40</sup> This indicates that a large number of cases are not being considered at all by the PHSO. Nevertheless, the Ombudsman maintains that “it is very important to accept that ombudsman services across Europe use the proportionality principle in a way that we did not do before the pandemic”.<sup>41</sup> It is worth noting that research led by the PHSO with international ombudsman services in 2021 found that 52% believed they would need to

33 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#) p.30

34 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.14.

35 [Q21](#)

36 [PHSO22](#)

37 [PHSO22](#)

38 Letter from Rob Behrens CBE, Parliamentary and Health Service Ombudsman to the [Chair of the Public Administration and Constitutional Affairs Committee](#), dated 12 April 2021. Parliamentary and Health Service Ombudsman, [Financial Remedy](#), accessed 7 February 2023.

39 [Q29](#)

40 [Q32](#)

41 [Q32](#)

prioritise cases in some form. However, 38% also said they believed their prior “pattern of complaint handling is likely to resume soon after the pandemic has ended”.<sup>42</sup>

29. In the Committee’s PHSO Scrutiny 2020–21 Report, we recommended that the PHSO should clearly flag to visitors to its website which cases are not being considered at all as result of this change in approach to lower-level health complaints.<sup>43</sup> In its response to that Report, the PHSO said improvements to the website would be in place by September 2022 and it would “look at whether we can provide more granular information on our website to give members of the public and [Members of Parliament] a more specific indication of how long it may take for their case to be looked at”.<sup>44</sup> During the oral evidence session in November 2022, the Chief Executive provided an update on their work in this regard:

On the website, we have updated the information in different places. We have updated the headline information, but, when you go into our complaint checker, where you go through a process to find out whether you are ready to bring your complaint to us, there is updated information and a link to our severity of injustice scale. You can look through and see the sort of complaint you are proposing to make and where that fits. When you telephone our organisation initially to talk about your complaint, our inquiry centre, our intake caseworkers, will go through your complaint in some detail with you and talk about our approach.<sup>45</sup>

30. The PHSO’s written evidence to this inquiry explains that it has decided to continue with its approach to the prioritisation of cases until the end of the business year 2022–23, when it says it will consider over 18 months of data to make a “robust” final decision on the future approach.<sup>46</sup>

## Service Charter

31. The PHSO Service Charter outlines the key standards that members of the public should expect when they ask the PHSO to investigate a complaint. Feedback is collected on 13 commitments throughout the year by an independent party. The commitments are grouped into three key performance indicators (KPIs). The results are published on the PHSO website and included in the Annual Report and Accounts. The PHSO has fallen short of its targets on these KPIs in the last financial year, as shown in the table below:

42 Parliamentary and Health Service Ombudsman, [The Art of the Ombudsman: leadership through international crisis](#), May 2021, p.34

43 First Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2020–21, [HC213](#), para 20.

44 Third Special Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman and Government Response to the Committee’s First Report, [HC616](#), p.2

45 [Q36](#)

46 [PHSO22](#)



Table 1: Service Charter Overall Section Scores

Service Charter section	Giving you the information you need	Following an open and fair process	Giving you a good service
KPI (%)	84	70	70
2021–22 score (%)	75	63	64

Source: PHSO Annual Report and Accounts 2021–22

32. On the individual commitments that sit underneath these overall scores, the PHSO’s performance dropped in all areas except “we will direct you to someone who can help with your complaint if we are unable to, where possible” and “we will give you a final decision on your complaint as soon as we can”, which remained the same.<sup>47</sup> In response to the Committee’s PHSO Scrutiny 2020–21 Report, the PHSO said it expected certain Service Charter scores to improve as waiting times for cases to be allocated and the time it takes to close cases are reduced through its casework improvement programme.<sup>48</sup> However, contrary to this, in oral evidence to the Committee in November 2022, the Chief Executive said that “service changes [do] not have any causal impact on the Service Charter scores because that is measuring the experience from the customer’s perspective”. The Chief Executive maintained that cases that are upheld gain higher customer satisfaction scores regardless of the service provided.<sup>49</sup> In response to the Committee’s PHSO Scrutiny 2020–21 Report, the PHSO also said it would consider, with the support of an independent research agency, the viability of publishing feedback scores about its service, split between those complainants who were satisfied with the outcome of their case and those who were not, as the Local Government and Social Care Ombudsman does.<sup>50</sup> The Ombudsman said that the organisation is still awaiting the data from the independent research agency but “unless there is very good cause” not to do so, it will move to display the data in this manner.<sup>51</sup> The Chief Executive also said they hope to introduce changes to the Service Charter next year.<sup>52</sup>

**33. The Committee recognises that the PHSO has made significant efforts to cope with the huge pressures placed on its services as a result of the Covid-19 pandemic. We note that the backlog of cases has been reduced significantly and welcome the ambition to completely clear the queue of unallocated cases by the end of the 2022–23 business**

47 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), pp.34–6

48 Third Special Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman and Government Response to the Committee’s First Report, [HC616](#), p.3.

49 [Q40](#)

50 Third Special Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman and Government Response to the Committee’s First Report, [HC616](#), p.4,

51 [Q44–45](#)

52 [Q45](#)

year. Equally, we are encouraged by the ambitions of the casework improvement programme and implementing the end-to-end review of casework processes to drive efficiencies and improve service quality. However, whilst we cannot generalise from individuals' experiences with the PHSO's service, there were a number of pieces of written evidence received by the Committee during this inquiry highlighting that perceived poor handling of cases remains a significant concern from service users. This includes details of lengthy investigations, poor communication by complaint handlers, sudden change of caseworker mid-investigation, loss of records, and issues with the complexity of the complaints process. The changes resulting from the end-to-end review of casework process, including changes to complaint forms, while positive, are relatively minor compared to the scale of these perceived issues.

34. *In its response to this Report, the PHSO should provide a detailed account of the changes being taken forward as a result of the end-to-end review of casework and the casework improvement programme, with examples of how this will improve a complainant's 'user journey' and how it will review what further improvements may be required.*

35. The Committee accepts that some mechanism for prioritising the number of health complaints is needed and notes that there is international precedent for doing so. Nevertheless, we remain concerned with the continued approach of not processing complaints at Levels 1 and 2 on the severity of injustice scale, and the lack of ambition to return to the previous patterns of complaint-handling. We note that in the past 18 months around 1,500 cases have not been taken forward as a result of this approach and that the PHSO has decided to continue with this prioritisation method until the end of the business year 2022–23.

36. *We are concerned by the number of Level 1 and 2 cases that are not being considered by the PHSO due to the approach of prioritising health complaints using the severity of injustice scale. We recommend that the PHSO sets out in its response to this Report the evidence base for continuing with this approach for another business year and provides detail on how this decision compares to other ombudsman institutions, both domestically and internationally. Furthermore, we request that an explanation of the criteria being used to make a final decision on the future approach at the end of the business year is provided to the Committee.*

37. The Committee welcomes the improvements the PHSO has made to its website to give clarity on how complaints will be considered using the severity of injustice scale. However, as indicated in the PHSO's response to the Committee's PHSO Scrutiny 2020–21 Report in May 2022, the PHSO should report back to the Committee in its response to this Report on whether more detailed information could be provided on its website to give members of the public and Members of Parliament an indication of how long it may take for a case to be considered.

38. The increased use and focus on developing the PHSO's mediation capacity as a means to speed up casework is extremely welcome. However, considering the Ombudsman said that there is the potential to resolve 25% of cases by mediation rather than investigation, the scale of its use in the 2021–22 period to resolve less than 0.1% of cases is very disappointing.

39. *The Committee appreciates that there are issues to address with the use of mediation, such as the fact that the PHSO cannot publish the details of parties' engagement through private mediation. However, finding solutions to these issues should be a priority for the PHSO in order to improve its overall efficiency and quality of service. The Committee should develop a plan for how mediation capability will be built up within the organisation, with a target date for when the PHSO expects to be able to resolve 25% of cases by mediation.*

40. The Committee is concerned by the fact that the PHSO has not met any of its targets for the overall section Service Charter scores in the 2021–22 financial year. The Committee had previously understood that the scores were expected to improve as waiting times for cases to be allocated and closed were reduced. However, during the oral evidence session in November 2022, it was reiterated that the main driver of higher customer satisfaction is whether a case has been upheld regardless of the quality of customer service. If the latter is true, it is clear that the current mechanism for collecting customer feedback through the Service Charter is unsatisfactory.

41. *The PHSO should update the Committee on the outcomes of the review of how the PHSO obtains feedback from service users, including the Service Charter, and what changes will be put in place as a result. The Committee understands that the PHSO is awaiting data from an independent research agency to determine whether survey data can be split by those cases upheld and not upheld; we would urge this work to be prioritised, and expect an update on both these areas of work in response to this Report.*

## 4 Staff management and training

42. The PHSO recruited 149 new members of staff in 2021–22. The average number of permanent employees has risen by 91, from 386 to 477.<sup>53</sup> The PHSO has onboarded an additional 82 staff to complaint-handling roles and implemented a new coaching programme to “give casework managers access to specialist advice”.<sup>54</sup> The Peer Review Panel highlighted that the PHSO now has 30% more caseworkers than in 2019–20.<sup>55</sup> The Chief Executive told the Committee that the PHSO has been able to recruit high-quality caseworkers due to “huge numbers of applications” along with recruiting people to support its outreach work. However, the Chief Executive noted that areas where it remains difficult to compete with salaries in the private sector include digital, data, and programming.<sup>56</sup> Furthermore, in 2021–22, staff turnover increased to 16%, compared with 12% in 2020–21.<sup>57</sup> In oral evidence to the Committee, the Chief Executive stated that the increase could be seen as a result of a wider trend of increased movement in the labour market “once we came out of the main restrictions of the pandemic” rather than any specific issue within the PHSO.<sup>58</sup> The Chief Executive told the Committee she was “confident” that there are sufficient staff to bring the backlog of cases down over the next 18 months. In particular, she pointed to the 10-month training academy for new caseworkers, which involves “a mix of classroom training and ongoing support and mentoring by senior caseworkers and managers”.<sup>59</sup>

43. The PHSO’s written evidence to the Committee highlights that it delivered 2,048 working days’ worth of training, an average of 4.17 days per person, in the past year. This is an increase on 2020–21, when staff received on average 3.29 days of training. It lists examples such as training for mental health emergencies and an accreditation scheme for senior caseworkers.<sup>60</sup> The Annual Report and Accounts for 2021–22 highlight that, since 2020, as part of its ongoing “Quality Programme” it has been delivering “new Quality Standards, upskilling caseworkers and operations managers,” providing mentoring, and producing guidance and case studies to support case-handling. The organisation has established four Parliamentary focus teams, which it claims has resulted in improved performance in handling Parliamentary cases.<sup>61</sup> The Peer Review Panel took the view that the accreditation scheme would improve the quality and consistency of decisions, and noted the creation of a training academy for new caseworkers as a “leading innovation”.<sup>62</sup>

44. On the other hand, the Peer Review Panel concluded that several changes should be implemented in terms of casework management:

- Letters to complainants should be written in a manner that is readily comprehensible by people without a professional or medical training or background;

53 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), pp.43, 74.

54 [PHSO22](#)

55 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.14

56 [Q46](#)

57 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), p.77.

58 [Q46](#)

59 [Q47](#); [Q4](#)

60 [PHSO22](#)

61 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), p.19

62 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022.p 14

- Face to face meetings, including over video link, with complainants should be encouraged, especially in difficult cases;
- Complainants should be regularly updated on the progress of their complaints and the investigation;
- The Egress email system<sup>63</sup> should be replaced because it may be inaccessible to certain complainants;
- The PHSO staff who respond to formal contestations about complaints should be members of a separate unit; and
- The PHSO could publish more information about the characteristics of complainants, for example, age, gender, area of residence, or religion.<sup>64</sup>

45. The PHSO was receptive to these areas for improvement, and said it was “considering different communication solutions”.<sup>65</sup> In oral evidence to the Committee, the Ombudsman stated that all recommendations made by the Peer Review Panel have been accepted and will be implemented “incrementally”.<sup>66</sup>

## Clinical Advice

46. PHSO investigators make “lay decisions” and therefore rely on “expert advice” for health-related cases.<sup>67</sup> 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 2010, which made several recommendations on the use of clinical advisers.<sup>68</sup> In response, the PHSO has taken a number of actions, including creating the posts of “lead clinician” and “senior lead clinician” to “review all of the clinical advice for quality assurance purposes”.<sup>69</sup> In 2020–21, the PHSO began increased involvement of clinical advisers in the primary investigation stage of their casework process and introduced clinical advice drop-in sessions for caseworkers to raise questions and seek clarification from clinical professionals.<sup>70</sup> In its written evidence to the Committee in the context of this inquiry, the PHSO said it is in the process of evaluating the changes in the use of clinical advice since 2018.<sup>71</sup> The Annual Report and Accounts for 2021–22 state that work has begun to develop a “Clinical Advice Quality Framework to further improve trust and confidence in the quality and standards of PHSO’s casework”.<sup>72</sup> Furthermore, in oral evidence to the Committee, the Chief Executive said the PHSO has changed its communication templates and now informs members of the public of the qualifications of the clinical adviser.<sup>73</sup>

63 Egress is software company that provides security software for emails, including encryption, to assist secure file sharing, used by the PHSO.

64 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.15, 17, 24.

65 Parliamentary and Health Service Ombudsman, [Peer Review 2022: response from PHSO](#), November 2022, p.5.

66 [Q51](#)

67 [Q55](#)

68 Clinical Advice Review Commissioned by the Parliamentary and Health Service Ombudsman, [Report of the Independent Adviser to the Review](#), December 2018

69 [Q54](#)

70 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2020–21, [HC 401](#), p. 22.

71 [PHSO22](#)

72 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), p.20

73 [Q54](#)

47. In response to the Committee’s PHSO Scrutiny 2020–21 Report, the PHSO said that 22 of the 25 recommendations of the Donaldson Review have now been delivered, with three remaining:

- Carrying out a phased roll-out of the sharing of provisional view reports with clinical advisers and applying lessons learnt to future phases to assess the cost and benefits;
- Introducing surveys for clinical advisers, alongside wider quality measures, to comment on the quality of requests from caseworkers and for caseworkers to comment on the quality of clinical advisers’ responses; and
- Considering the possibility of naming clinical advisers in decision reports against the risk that they could be approached directly by dissatisfied complainants, or could be publicly denounced online by those disagreeing with decisions.<sup>74</sup>

48. During the oral evidence session in November 2022, the Chief Executive gave an update on these, explaining that the changes to the wider “Quality Framework for clinical advice” had now been completed. She then said that the PHSO was considering how to roll out the sharing of provisional view reports more widely than just in relation to the most serious cases, in a way that does not impact the length of investigations. On the last recommendation, she highlighted a “recent decision by the Information Commissioner”<sup>75</sup> that names of clinical advisers should not be given, and that the PHSO is considering its approach in light of this.<sup>76</sup>

## Staff survey

49. The PHSO runs annual staff surveys to measure how staff feel about working for the organisation. In 2021, the response rate was 81%.<sup>77</sup> The results this year were broadly positive, showing small increases in scores in headline areas, such as leadership and managing change, inclusion, and learning and development.<sup>78</sup> The Annual Report and Accounts 2021–22 highlight that “93% of respondents felt that they had the skills needed to do their job effectively, 71% agreeing that they could access the right learning and development opportunities at the right time for their role”.<sup>79</sup> This is a notable increase on 2020, when 89% of respondents stated that they had the skills needed to do their job effectively and 63% felt they were able to access the right learning and development opportunities at the right time.<sup>80</sup> However, despite this progress, the survey results also show that only 46% of staff feel “there are opportunities for [them] to develop [their] career in the PHSO,” which is 8 percentage points lower than the Civil Service benchmark.<sup>81</sup> Furthermore, the main headline score with deterioration was in relation to satisfaction with pay and benefits, which fell 15 percentage points compared to last year (at an overall

74 Third Special Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman and Government Response to the Committee’s First Report, [HC616](#), p.4.

75 The Information Commissioner’s Office is an independent body set up to uphold information rights.

76 [Q53](#); Environmental Information Regulations 2004 (EIR), [Decision notice, reference: IC-182321-P3N3](#), 15 November 2022.

77 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#) p.42

78 Parliamentary and Health Service Ombudsman, [2021 Staff Survey](#), accessed 9 February 2023.

79 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), p.43

80 Parliamentary and Health Service Ombudsman, [2021 Staff Survey](#), accessed 9 February 2023.

81 Parliamentary and Health Service Ombudsman, [2021 Staff Survey](#), accessed 9 February 2023.

score of 53%). This overall score reflects whether employees feel their pay reflects their performance, their satisfaction with the total benefits package, and whether employees feel their pay is reasonable compared to other organisations. Furthermore, while the number of employees experiencing high anxiety decreased from 46% to 38% in 2021–22, this is still a significant proportion.<sup>82</sup> The Chief Executive largely put these results down to wider cost of living pressures and ongoing issues related to the Covid-19 pandemic.<sup>83</sup>

## Diversity

50. The Annual Report and Accounts 2021–22 report the diversity statistics of the following areas at board-level and across the organisation:

- Male/female;
- Asian, Black, Mixed Ethnicity and Other Ethnic Group;
- Disabled;
- Lesbian, gay, bisexual and transgender; and
- Aged 50+.

51. The organisation’s diversity statistics are broadly consistent with the figures from 2020–21, and in line with or more diverse than the overall population benchmarks.<sup>84</sup> For example, female representation of all employees remained at 59%, above the 51% population benchmark. Furthermore, 75% of senior managers are female. Asian, Black, Mixed Ethnicity and Other Ethnic Group representation rose to 17%, three percentage points greater than both last year’s statistics and the population benchmark, although there is no breakdown by grade.<sup>85</sup> Furthermore, in oral evidence, the Chief Executive said of new recruits in the past year “28% were from Asian, Black and minority ethnic groups”. She mentioned a number of staff networks to promote inclusion and diversity, and a “diversity and inclusion calendar where [the PHSO] try to celebrate all aspects of diversity”.<sup>86</sup> On the other hand, while the Board is dominated by people aged 50+ (83%), only 20% of other employees are aged 50+ (compared to the population benchmark of 38%). In the previous year, it was 22% of other employees.<sup>87</sup> In oral evidence the Chief Executive said “generally, there is no particular issue with people in older age groups leaving us” and she pointed to wider labour market trends within this cohort.<sup>88</sup> Finally, in the Committee’s PHSO Annual Scrutiny 2020–21 Report, we noted that the PHSO could improve the opportunity for disabled staff to work at the PHSO. This rose by only 1% in 2021–22 and sits at 11%, although there is no population benchmark to compare with this figure.<sup>89</sup>

82 Parliamentary and Health Service Ombudsman, [2021 Staff Survey](#), accessed 9 February 2023.

83 [Q62](#)

84 The population benchmarks for the percentages of female colleagues and colleagues aged 50 or older are from the 2021 Census for England and Wales, initial data from which was published on 28 June 2022. The population benchmark for the percentage of Asian, Black, Mixed Ethnicity and Other Ethnic Group colleagues is from the 2011 Census.

85 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), pp.74–75

86 [Q58](#)

87 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), p.75

88 [Q60](#)

89 First Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2020–21, [HC213](#), para 50.; Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), p.75.

52. The Committee commends the pace in which the PHSO has increased its number of caseworkers across 2021–22 and developed a 10-month training academy to support their induction and development in these roles. The Committee welcomes the continued investment in training and development opportunities across the organisation, including the accreditation scheme for senior caseworkers, the establishment of four Parliamentary focus teams, and the ongoing Quality Programme to continuously improve casework management. However, we also note the slight increase in staff turnover in 2021–22 and believe this should be monitored closely. Furthermore, we agree with the Peer Review Panel’s conclusion that further changes should be put in place to improve casework management, including how staff communicate with complainants.

53. *In light of the increase in staff turnover in 2021–22, we reiterate our call from the Committee’s PHSO Annual Scrutiny Report 2020–21 for the PHSO to consider other development opportunities to encourage staff retention. Whilst the development of a 10-month training academy for new caseworkers is welcome, the PHSO must ensure there is minimal loss to institutional knowledge and the quality and pace of casework management is not impacted by staff turnover. The Committee would welcome further information on how the newly-established four Parliamentary focus teams mentioned in the Annual Report and Accounts for 2021–22 will improve performance in handling Parliamentary cases. Furthermore, while the Ombudsman told the Committee in November 2022 that the Peer Review Panel’s recommendations in relation to casework management will be implemented incrementally, in its response to this Report, the PHSO should set out exactly what changes will be put in place and to what timetable.*

54. The Committee welcomed in its PHSO Scrutiny 2020–21 Report the positive steps that the PHSO has taken to improve the use of clinical advice in investigations. It is encouraging to see that this work has not lost momentum, with 23 of 25 of the recommendations from the “Donaldson Review” now implemented, and the development of a Clinical Advice Quality Framework underway.

55. *The PHSO should clarify how the Clinical Advice Quality Framework will improve trust and confidence in the quality and standards of the PHSO’s casework, what changes have been made to date, and how success will be measured. Furthermore, whilst we acknowledge the challenges associated with the outstanding recommendations from the Donaldson Review, the PHSO should reach a decision as soon as possible on whether to take forward naming clinical advisers in decision reports and sharing provisional reports with advisers, given the review was published four years ago.*

56. The Committee welcomes the positive results of the staff survey, which saw increases in scores in headline areas, such as leadership and managing change, inclusion, and learning and development. The only headline score to deteriorate was related to pay and benefits, which the Committee recognises reflects similar trends across the public sector and wider economy, alongside difficulties in recruiting in areas such as digital and programming. The Committee also welcomes the continued positive statistics on the diversity of the PHSO’s workforce, particularly in terms of gender and Asian, Black, Mixed Ethnicity and Other Ethnicity Group representation, and the culture of diversity and inclusion the leadership team are seeking to embed in the organisation. However, we note the under representation of employees aged over 50 compared to the population benchmark.



***57. The PHSO should report back to the Committee on how the organisation intends to continue to attract and retain staff, including those in technical digital roles and those who are over the age of 50, in light of wider trends across the public sector and economy relating to pay and benefits and labour market demographics.***

***58. The PHSO should report back to the Committee in its response to this Report on the viability of breaking down a wider variety of staff diversity data by grade in its Annual Report and Accounts, as it already does for the gender of senior managers.***

## 5 Value for Money

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### Spending

59. For the Government’s 2021 Spending Review, the PHSO submitted proposals to HM Treasury to expand its work. In oral evidence to the Committee, the Chief Executive confirmed that the PHSO received an increased budget of 17% in real terms compared to the previous budget, which was granted “because of the pandemic and the pressures on our service” and its ambitious “change agenda”.<sup>90</sup> The extra funding was allocated to a transformation programme, further expanding the casework teams, and Covid-19 recovery. In terms of expenditure, in 2021–22, as in previous years, the Annual Report and Accounts show staff costs (at £25.4m) were by far the largest component of expenditure, at nearly 80% of the resource budget.<sup>91</sup>

60. However, the Chancellor of the Exchequer’s 2022 Autumn Statement indicated that a number of spending cuts across the public sector over the next three years would be needed to respond to wider economic pressures.<sup>92</sup> In oral evidence to the Committee, the Chief Executive acknowledged the difficulties ahead:

The issues of pay will be really challenging for us. We had a settlement from the Treasury, which did not take account of the levels of the inflation we are now facing. Therefore, it is going to be a challenging discussion this year as we start to try to negotiate pay going into next year. We are facing similar challenges across contract negotiations with our service suppliers. Inflation running at the rate it is will put pressure on us and our budgets. There is a tough year ahead.<sup>93</sup>

61. The Chief Executive explained that the PHSO is committed to delivering efficiencies over a three-year period as part of the 2021 Spending Review and, considering the subsequent economic pressures, they “are continuing to look for efficiencies where [they] can”.<sup>94</sup>

### Peer review

62. In the Committee’s PHSO Annual Scrutiny 2019–20 Report, we 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 an auditor sit on the Panel of future Peer Reviews.<sup>95</sup> In 2022, the PHSO was subject to its second Peer Review (the first having taken place in 2018) and was the first body to undergo a review by an accredited Panel, which included auditor experience. The Panel was made up of the Greek Ombudsman and European President of the International Ombudsman Institute, the Israeli Ombudsman and National Auditor, the Chief Operating Officer of the UK Housing Ombudsman (also an auditor), and a senior Professor in Public Law from

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90 [Q64](#)

91 Parliamentary and Health Service Ombudsman, Annual Report and Accounts 2021–22, [HC 526](#), pp. 41, 98.

92 HM Treasury, [Autumn Statement 2022](#), accessed 9 February 2023.

93 [Q64](#)

94 [Q65](#)

95 Seventh Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2019–20, [HC843](#), para 35–36.

Manchester University with expertise in ombudsman organisations.<sup>96</sup>

63. The findings of the Peer Review are broadly complimentary of the PHSO, with the Panel concluding:

This review finds that PHSO is now a substantially stronger organisation than it was at the time of the first Peer Review in 2018. It is an efficient, enhanced and effective modern Ombudsman service, which provides significant value for its stakeholders....

Despite the real difficulty for PHSO in terms of assessing its contribution to wider systemic improvements across the public sector and the savings achieved as a result, it is nonetheless apparent that PHSO does exert impact. We were presented with examples of high impact investigations.<sup>97</sup>

64. The Peer Review Panel highlight the Complaint Standards,<sup>98</sup> the PHSO’s training academy, accreditation scheme, staff recruitment, and new assurance processes as positive developments.<sup>99</sup> The Peer Review Panel also noted areas where the PHSO could further improve, which the Ombudsman referenced in oral evidence to the Committee. This includes increasing the number of cases published after completing them, expanding its outreach work, demonstrating value for money “in a more systematic way”, and demonstrating an empathetic approach to its complainants.<sup>100</sup>

## Data about the PHSO’s performance

65. The Committee generally discharges its scrutiny of the PHSO through annual sessions with the Ombudsman based on the PHSO’s Annual Report and Accounts. However, the effectiveness of this process is largely reliant on the quality of the data that the PHSO publishes on its performance, and how easily it can be compared year-on-year. It is therefore disappointing that the PHSO’s written evidence to the inquiry highlighted discrepancies in some of this data. It highlighted that changes in the methodology for calculating the scores of the staff survey meant that “11 of the 2020 section average scores previously provided to PACAC have changed slightly” since the Committee’s PHSO Scrutiny 2020–21 Report was written. The PHSO said this was due to identifying that the research agency that conducted the survey had “not applied a methodology that was fully consistent with the Civil Service People Survey” and to ensure they are directly comparable. Furthermore, the PHSO explained:

At the end of each financial year, we carry out checks on performance data to make sure it is accurate before we publish it in PHSO’s Annual Report. As a result, the data that appears in the 2022–23 Annual Report, when it is published in 2023, may differ slightly from 2022–23 data provided to the Committee before then.<sup>101</sup>

96 [PHSO22](#)

97 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.5, p.24

98 The Complaint Standards are discussed in Chapter 6.

99 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.5

100 [Q67–68](#)

101 [PHSO22](#)

66. This inconsistent approach to the presentation of data across the organisation hinders the overall transparency, accountability, and accuracy of the scrutiny process.

## Hybrid working

67. In 2021–22, the PHSO trialled a hybrid working model, where staff spent two days a week in the office (pro rata).<sup>102</sup> In the Committee’s 2020–21 PHSO Annual Scrutiny Report, we welcomed the decision to conduct a pilot, noting staff welfare considerations with homeworking. The Committee said it “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”.<sup>103</sup> The PHSO’s response to this Report said it had commissioned an independent survey to explore how it has adapted to hybrid working which found in particular that:

- Over 88% of staff say they have access to training and/or support that helps them to work in a mobile/flexible way;
- 85% of staff say they have the technology, tools and infrastructure that enable them to work across different locations outside the office; and
- 74% of staff say the culture of the organisation is supportive to working in a mobile/flexible way.<sup>104</sup>

68. In its written evidence to this inquiry, the PHSO said it will implement a new hybrid working model from January 2023, with staff spending at least 40% of their time averaged over a month in the PHSO’s offices.<sup>105</sup> The Chief Executive said:

We judged that this figure was the right figure for balancing people’s ability and wish to work from home and the need to build the culture we have talked about. We are also an organisation with lots of new members of staff. They need to have experienced members of staff to support and help them. We are a casework organisation. We talk about cases; we talk about our investigations. Bringing people together is a really positive way to do that.<sup>106</sup>

69. The Chief Executive acknowledged that a minority of staff wanted to work from home more. However, it was noted that the hybrid working model has enabled the PHSO to increase its workforce by 20% without expanding its office footprint.<sup>107</sup> The Business Plan for 2022–23 references “upgrades to tools and infrastructure to support hybrid working (throughout 2022/23)”.<sup>108</sup>

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102 [PHSO22](#)

103 First Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2020–21, [HC213](#), para 56.

104 Third Special Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman and Government Response to the Committee’s First Report, [HC616](#), p.6.

105 [PHSO22](#)

106 [Q70](#)

107 [Q71-72](#)

108 Parliamentary and Health Service Ombudsman, [Business Plan 2022/23](#), p.15.

## Legislative reform

70. This Committee and its predecessors have consistently advocated for legislative reform of the structure and operation of the PHSO. The call for legislative reform has been ongoing for more than twenty years.<sup>109</sup> Under the relevant legislation, the Ombudsman is a corporation sole and has a personal jurisdiction. In terms of governance arrangements, it is outdated, with the decision to have a board being at the discretion of the Ombudsman and only operating in an advisory capacity in terms of statutory discharge of functions.<sup>110</sup> Furthermore, it is widely accepted that the complexity of the ombudsman landscape in England should be brought in line with the Principles on the Protection and Promotion of the Ombudsman Institution (the “Venice Principles”).<sup>111</sup> In 2016, the Government published a draft Public Services Ombudsman Bill, setting out proposals to modernise and consolidate the complaints service landscape.<sup>112</sup> Despite this, the legislation has not been brought forward. The PHSO has reiterated its arguments in favour of legislative change in its written evidence:

- Consolidating Ombudsman schemes into a single Public Service Ombudsman—as is already the case in Scotland, Wales and Northern Ireland—to simplify the system and make the Ombudsman more “visible”;
- Removal of the “MP filter”, which currently requires members of the public to bring complaints about Government departments and arms-length bodies via their MP;
- Granting “own-initiative powers” for the Ombudsman to investigate issues where the PHSO is yet to receive a complaint; and
- Granting Complaint Standards Authority powers to allow the Ombudsman to establish and monitor standards governing complaint handling.<sup>113</sup>

71. Whilst this Committee supports the broader case for legislative change to reform the PHSO and other public sector ombudsman services, we maintain that the link between MPs and constituents through the “MP filter” has value and its removal would require detailed consultation.<sup>114</sup> The value of this link was referenced in written evidence to the inquiry.<sup>115</sup> In the Committee’s PHSO Scrutiny 2020–21 Report, we urged the Government to set out a timetable for legislative reform by the end of the year (2022). However, in the Government’s response to that Report, the then Minister of State in the Cabinet Office, Rt. Hon. Lord True CBE, said “wide-scale ombudsman reform is not included at the current time... as a priority area for [the Government’s] legislative programme”.<sup>116</sup> The inaction

109 Third Report of the House of Commons Public Administration Select Committee of Session 2002–03, [HC 448](#), para 11,

110 Parliamentary and Health Service Ombudsman, [Governance Framework](#), January 2023/

111 European Commission for Democracy through Law (Venice Commission), [Principles on the Protection and Promotion of the Ombudsman Institution](#) (March 2019); The ‘Venice Principles’ lay down a set of international standards and principles on the protection and promotion of Ombudsman institutions. These have been accepted by the UK, as a member of the Venice Commission of the Council of Europe. They were also adopted by the United Nations (UN) in a motion co-sponsored by the UK Government.

112 Cabinet Office, [Draft Public Service Ombudsman Bill](#), December 2016, Cm 9374.

113 [PHSO22](#)

114 First Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2020–21, [HC213](#), para 69;

115 [PHSO26](#)

116 Third Special Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2022–23, Parliamentary and Health Service Ombudsman and Government Response to the Committee’s First Report, [HC616](#), p.9.

of the Government in bringing forward a reform Bill following the draft Public Service Ombudsman Bill was also the subject of a House of Lords debate on 10 January 2023, where current Minister of State in the Cabinet Office, Baroness Neville-Rolfe DBE CMG, reiterated that the Government “do[es] not currently view large-scale ombudsman reform as a priority for this Parliament” and confirmed that there are “no plans at this time to create a new single public service ombudsman for England”.<sup>117</sup>

72. The Ombudsman explained in oral evidence to the Committee that, pending any legislative change, the PHSO is taking some non-legislative steps to improve its service, including collaborating with other ombudsman services in the UK. However, he maintained that these efforts are limited by the outdated nature of the relevant legislation.<sup>118</sup> The Committee reiterated its suggestion that a Private Members’ Bill could be a possible route to introduce reform.<sup>119</sup>

73. The 2022 Peer Review Panel concurred that the PHSO’s statutory framework is out of date and in many respects does not comply with the Venice Principles. Of 25 Venice Principles, the Panel found the PHSO is either partially consistent or not consistent with 13.<sup>120</sup> In oral evidence to the Committee, the Ombudsman explained the implications of the Government’s delay on this:

...because of the outdated mode of the ombudsman statute in the United Kingdom, we have about 16 different ombudsman schemes that people have to choose to go through. In most of my counterpart organisations, there are one or two national ombudsmen in their country so it is very easy to know where to go. A lot of our time has to be spent on raising people’s awareness of who we are and where they have to go to. It is very difficult to do that if you have a choice of 16 different ombudsman schemes to go to, which is why the Peer Review Panel said it was essential for the Government—thank you for your support on this—to introduce ombudsman reform as quickly as possible, although we have been waiting for years and years and nothing has happened.<sup>121</sup>

**74. The Committee is pleased that the PHSO was able to secure an increased budget in the 2021 Spending Review to cope with the increased demand on its service as a result of the pandemic. This has had a positive impact on its casework improvement programme. However, we are concerned that the wider economic pressures across the public sector are likely to impact the organisation and urge the PHSO to consider potential mitigations for any real-term reductions to its budget for 2023–24.**

**75. *The PHSO should put in place robust plans to deliver further efficiencies across the organisation and report back to the Committee next year on any work taken forward in this regard.***

**76. In the Committee’s PHSO Annual Scrutiny Report 2020–21, we called for a Peer Review of the PHSO to be undertaken as soon as possible. We are pleased that this**

117 HL Deb 826, 10 January 2023, [col 1298](#)

118 [Q76](#)

119 [Q75](#)

120 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, pp.28–31.

121 [Q6](#)

took place in 2022 and reported before our annual scrutiny session. The Committee welcomes that the PHSO was the first body to undergo a review by an accredited Panel, and in line with our previous recommendation, the Panel included a member with auditor experience. The Committee notes the positive results of the Peer Review, as well as areas identified for improvement. Although the Peer Review Panel did not provide any in-depth value-for-money analysis of the PHSO's service, it has helpfully identified areas where the organisation is performing well and where it could improve in the future. We therefore support and encourage the continued use of periodic peer reviews to assess the effectiveness of the PHSO.

77. The Committee was disappointed to learn that some of the data provided by the PHSO to inform the Committee's PHSO Scrutiny 2020–21 Report had been revised unjustifiably ahead of this year's inquiry, preventing easy comparability between reports. For the Committee to accurately fulfil its responsibilities to assess the performance of the PHSO, it is vital that the PHSO collects and publishes accurate and consistent data going forward.

78. *It is unsatisfactory that data provided to this Committee has been subsequently revised. The PHSO should report back to the Committee on what steps it is taking to quality assure its data before it is published and used by the Committee.*

79. The Committee notes the benefits that hybrid working has brought to the PHSO, notably the ability to increase its workforce by 20% without expanding its office footprint. However, the impact of hybrid working on organisational productivity, culture, and employee wellbeing should be continually monitored, and the requirement to be in the office 40% of the time revised as necessary.

80. *The PHSO should provide an update in its response to this Report regarding what tools and infrastructure have been upgraded to support hybrid working, as mentioned in the Business Plan for 2022–23. The Committee would also appreciate information on what the PHSO is doing to continually monitor the impact of the requirement to work in the office 40% of the time on organisational productivity, culture, and employee wellbeing.*

81. The Committee firmly agrees with need for legislative change of the PHSO. It has been seven years since the draft Public Service Ombudsman Bill was presented by the Government. Given that there is widespread consensus on the need to reduce the complexity of the ombudsman system in England and to bring the legislation in line with international best practice, the Government's reluctance to address this long-standing issue is unacceptable.

82. *The Government has delayed legislative reform for too long and the Committee is particularly disappointed by the Government's refusal to set out a legislative timetable before the end of this year. Regardless of other pressures on the Government's legislative programme, ombudsman reform needs to be prioritised. Work to introduce a Bill should not have to wait until the next Parliament.*

## 6 Impact on other organisations

### Complaint Standards

83. In March 2021, the PHSO launched the NHS Complaint Standards initiative. The Standards were developed following engagement with NHS organisations, patient advocacy groups and the public. In addition to the eleven official pilot sites, an additional 70 health organisations voluntarily introduced the Standards in 2021–22 into their working practices.<sup>122</sup> The Ombudsman explained to the Committee that “the complaint standards initiative is designed to increase the quality of complaints handling... so that many of the less serious cases can be resolved at the frontline, which means they do not have to come to [the PHSO]”.<sup>123</sup> The PHSO reports “positive feedback from the pilot and in 2023, [it] will work with the NHS in England to embed the standards into working practices across all parts of the NHS system”.<sup>124</sup>

84. Work was also undertaken by the PHSO in 2021–22 to develop UK Central Government (UKCG) Complaint Standards in partnership with Government Departments and public bodies, with the relevant Standards being published in October 2022. These will now be piloted in 2022–23. Five Government organisations,<sup>125</sup> including the Cabinet Office, have agreed to adopt the Standards.<sup>126</sup> The Peer Review Panel compliments the development of the Complaint Standards but notes that their non-statutory basis weakens them and means that there is an inconsistent approach across the UK.<sup>127</sup> On the Government Standards, the Panel took the view that the PHSO should track and publish the progress of public bodies in adhering to them.<sup>128</sup> Indeed, in oral evidence to the Committee, the Ombudsman admitted that “the next challenge is to deliver monitoring and reporting in a way in that Departments and trusts do not think is bureaucratic or authoritarian”. The Ombudsman indicated that staff had undertaken more than 200 visits to trusts and Government Departments and would report back to the Committee on good practice, as well as areas for improvement on the frontline as the Standards are further adopted.<sup>129</sup>

85. A number of organisations submitted written evidence to the Committee praising their collaborative work with the PHSO. This includes NHS Resolution, the Local Government and Social Care Ombudsman, the Healthcare Safety Investigation Branch (HSIB), Her Majesty’s Revenue and Customs (HMRC), and the General Medical Council (GMC). Areas of collaboration include:

- Information-sharing through informal mechanisms and joint working groups/boards;

122 [PHSO22](#)

123 [Q37](#)

124 [PHSO22](#)

125 The five organisations are the Department for Transport and all of its arm’s-length bodies, Her Majesty’s Revenue and Customs, the Food Standards Agency, the Cabinet Office, and the Department for Education (and Student Loans Company as an arm’s-length body of the department).

126 [PHSO22](#)

127 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.30.

128 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, pp.16.-17.

129 [Q84](#)



- Joint working on NHS Complaint Standards and UK Government Complaint Standards;
- Input into PHSO strategy development;
- Jointly produced guidance and reports; and
- Shared training and events.<sup>130</sup>

86. The only constructive criticism made in this subset of written evidence was that HMRC suggested that the PHSO’s communication on the UKCG Complaint Standards could have been clearer.<sup>131</sup>

## PHSO Reports

87. As well as investigating individual complaints, the Ombudsman can lay reports before Parliament. These usually consist of summaries of cases that highlight issues of wider public interest. The PHSO has published several reports in recent years, including:

- In July 2021 Unlocking Solutions in Imaging was published, which highlighted recurrent failings in the way X-rays and scans are reported and followed up across the NHS;<sup>132</sup>
- In July 2021, a report was published on the first stage of an investigation into the communication of changes to the state pension age for women.<sup>133</sup> The PHSO found Department for Work and Pensions (DWP) failed to publicise the changes to women affected. The second stage was published in December 2022, with a final report expected before the end of March 2023. This has not yet been published; and
- In a separate investigation into DWP, the PHSO laid a report before Parliament in January 2022 on the DWP’s handling of migration to Employment and Support Allowance, and found maladministration had occurred.<sup>134</sup>

88. The PHSO can also lay reports before Parliament to highlight instances of non-compliance with its recommendations for remedy, as was the case with the “Earl Report” relating to a case raised against the Environment Agency.<sup>135</sup>

89. The Peer Review Panel highlights the difficulties in measuring the impact of the PHSO reports across the public sector.<sup>136</sup> Across 2021–22, the PHSO made 989 recommendations, with 863 recommendations being complied with.<sup>137</sup> However, during the oral evidence session, it was raised that sometimes Departments do not comply with

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130 [PHSO17](#), [PHSO32](#), [PHSO37](#), [PHSO39](#), [PHSO40](#).

131 [PHSO39](#)

132 Parliamentary and Health Service Ombudsman, *Unlocking Solutions in Imaging*, [HC 393](#), July 2021

133 Parliamentary and Health Service Ombudsman, *Women’s State Pension Age: Our findings on the Department for Work and Pensions’ communication of changes*, [HC, 444](#), July 2021

134 Parliamentary and Health Service Ombudsman, *An investigation into the Department for Work and Pensions’ handling of Ms U’s migration to Employment and Support Allowance*, [HC 956](#), January 2022

135 Parliamentary and Health Service Ombudsman, *the Earl Report: An investigation into a complaint about the Environment Agency*, [HC 1233](#), March 2022.

136 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.22.

137 Parliamentary and Health Service Ombudsman, *Annual Report and Accounts 2021–22*, [HC 526](#), p.33.

the recommended remedies proposed by the PHSO. The Chief Executive suggested that this is where Select Committees can step in and scrutinise departments for their decisions not to comply with the PHSO’s recommendations.<sup>138</sup> Written evidence received by the Committee demonstrates the perception that reports are often ignored.<sup>139</sup> The Peer Review Panel suggested that the PHSO could publish responses from the Government and public bodies to its systemic report; and add weblinks to relevant Parliamentary debates and Select Committee evidence sessions and Reports concerning the Ombudsman’s reports to enhance understanding of their impact.<sup>140</sup>

90. The predecessor Committee to PACAC recommended that departmental Select Committees “would benefit from learning about findings against Departments ahead of sessions with Permanent Secretaries on the annual reports and accounts”.<sup>141</sup> However, as departmental Select Committees have generally not pursued PHSO matters, this Committee and its predecessors have acted when it was deemed necessary to do so. For example, the Committee recently pushed the PHSO for an update on when it expects to complete all stages of the ongoing investigation into DWP’s communication of changes in the state pension age for women during its oral evidence session with the Ombudsman and subsequent correspondence.<sup>142</sup> Furthermore, the Chair wrote to both the Chief Executive of the Environment Agency and the Secretary of State for the Environment, Food, and Rural Affairs in relation to requesting a response to the PHSO’s report on the Environment Agency’s non-compliance with PHSO recommendations be laid before Parliament.<sup>143</sup>

## Outreach

91. The Ombudsman told the Committee in oral evidence in November 2022 that reaching “marginalised and vulnerable communities” is a core element of the 2022–25 Corporate Strategy. He explained:

All the research shows ombudsmen across Europe tend to get complaints from a narrow group of people who are better educated and more connected to public administration...<sup>144</sup>

92. The Chief Executive explained to the Committee that legislation requires a complaint to the PHSO to be put in writing, which can act as a barrier to accessing the PHSO’s service for some individuals. The Ombudsman stated that in the next financial year the PHSO would be undertaking outreach activities, similar to those of “[his] Irish, Dutch,

138 [Q103](#)

139 [PHSO41](#)

140 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, pp.6–25.

141 Second Report of the House of Commons Public Administration and Constitutional Affairs Committee of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2018–2019, [HC 117](#), para 55

142 [Q102](#); Letter from the Chair of the Public Administration and Constitutional Affairs Committee to Rob Behrens CBE, Parliamentary and Health Service Ombudsman, [Update to PACAC on the investigation into changes to women’s state pension page](#), dated 14 December 2022

143 Letter from the Chair of the Public Administration and Constitutional Affairs Committee to the Chief Executive of the Environment Agency, Sir James Bevan, [Implementation of Parliamentary and Health Service Ombudsman Recommendations](#), 19 July 2022; Letter from the Chair of the Public Administration and Constitutional Affairs Committee to Rt Hon Thérèse Coffey MP, Secretary of State for Environment, Food, and Rural Affairs, [Environment Agency Response to the Parliamentary and Health Service Ombudsman’s “Earl Report”](#), 13 December 2022

144 [Q2](#)

and Catalan counterparts who take their office out in the local communities, meet with local stakeholders and advertise who they are”. He explained that some individuals who are not regular complainants to the PHSO need “looking at very closely”. This includes young carers, as well as communities with English as a second language, and refugee communities in England.<sup>145</sup> The PHSO’s 2022–23 Business Plan includes its “Access to Justice Programme” which will:

develop our outreach into different communities... identify barriers to awareness and access, offer guidance to organisations and build on partnerships with [Members of Parliament] and stakeholders to increase the awareness and accessibility of our service...<sup>146</sup>

93. The Annual Reports and Accounts include statistics on the diversity of people who use the Ombudsman service, which it states will be used to “better understand the barriers to using our service and how to remove them”.<sup>147</sup> Data is collected on the percentage of complainants that are:

- Male;
- Female;
- Ages 18–34, 35–54, 55–74, and 75+;
- People with disabilities;
- Non-disabled;
- Asian, Black, Mixed Ethnicity and Other Ethnic Group; and
- White.

94. During the evidence session, the Chief Executive said she would consider whether complainant diversity data could be split further to assess whether correlations exist between complainants’ backgrounds, the types of complaint they make, and their routes to complain, for example via their MP or via self-referral.<sup>148</sup> The Peer Review Panel recommended that the PHSO does more to raise its public profile with particular stakeholders who represent cohorts of the population that make fewer complaints, and to publish information on this work.<sup>149</sup> In its response, the PHSO said research is being undertaken in this area.<sup>150</sup>

95. The PHSO’s written evidence to our inquiry states that it is planning “increased engagement with MPs and their staff in their constituencies and in Westminster to promote awareness of [its] role”.<sup>151</sup> During the oral evidence session, it was suggested that the PHSO should engage MPs’ staff in mediation and pre-mediation services. In response, the Chief Executive indicated that mediation training had already been offered to those

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145 [Q81](#)

146 Parliamentary and Health Service Ombudsman, [Business Plan 2022/23](#), p.10

147 Parliamentary and Health Service Ombudsman, [Annual Report and Accounts 2021–22](#), [HC 526](#), p.37

148 [Q83](#)

149 International Ombudsman Institute, [Ombudsman Peer Review of the Parliamentary and Health Service Ombudsman, UK](#), November 2022, p.17

150 Parliamentary and Health Service Ombudsman, [Peer Review 2022: response from PHSO](#), November 2022, pp. 1–4.

151 [PHSO22](#)

in the frontline health service and could “easily move across into MPs’ offices as well”.<sup>152</sup>

96. The Committee welcomes the PHSO’s progress in developing the NHS and UK Central Government Complaint Standards, in close collaboration with partner organisations. We are encouraged by the number of organisations that have volunteered to adopt the Standards. We agree that the Complaint Standards initiative has the potential to significantly reduce pressures on the PHSO’s services by addressing more complaints on the frontline. We look forward to hearing from the PHSO on good practice, as well as areas for improvement as the Standards are adopted into the working practices of organisations.

97. *The Committee is encouraged by five organisations that have volunteered to adopt the UK Central Government Complaint Standards. We urge the PHSO to continue to engage with Government Departments and public sector organisations to increase this figure, and to report back to the Committee on how proportionate monitoring and reporting on the Standards could be delivered. As an early adopter of the Standards, the Cabinet Office should play a role in working with other Government departments and public bodies to sign up to the Standards by the end of 2023.*

98. The PHSO’s ability to lay reports before Parliament regarding thematic failings and instances of non-compliance with its recommendations should be a powerful mechanism to bring cases to the attention of parliamentarians, and for the subjects of those reports to be properly and fully held to account. However, it seems that this system is not working effectively if PHSO reports laid before Parliament are ignored by the addressees of such reports.

99. Whilst the Committee discharges its scrutiny role by examining the overall administration of the PHSO and its Annual Report and Accounts on a regular basis, it should be for departmental Select Committees to scrutinise the relevant thematic PHSO reports laid before Parliament that relate to their subject areas.

100. *We recommend that the PHSO increases its engagement with departmental Select Committees to encourage them to scrutinise PHSO reports laid before Parliament, particularly when those reports relate to findings against individual departments and public bodies under their remit.*

101. The Committee supports the PHSO’s work in promoting its services within vulnerable and marginalised communities. We welcome the PHSO’s ambition to identify barriers to access, offer guidance to organisations, and increase awareness of its services with MPs and stakeholders. We support the suggestion from the Peer Review Panel to publish details of the PHSO’s outreach work.

102. *Ahead of the next annual scrutiny hearing, the PHSO should provide an update to the Committee on progress with its outreach activities and any evidence of its impact on the diversity of complainants and types of complaints it receives. We would welcome clarification on whether complainant diversity data in the Annual Report and Accounts could be used to assess whether correlations exist between complainants’ backgrounds, the types of complaint they make, and their routes to complain.*

*103. We also welcome the PHSO's efforts to engage with MPs and their staff on the use of its services, but we believe that still more could be done in this space. The PHSO should increase its engagement with staff based in MPs' constituency offices in particular to improve awareness of its services amongst those who deal directly with referrals, including providing relevant training on mediation services.*

# Conclusions and recommendations

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## PHSO Corporate Strategy 2022–25

1. The Committee considers the objectives of the Parliamentary and Health Service Ombudsman (PHSO) Strategy for 2022–25 to be appropriate to achieve the aims of “becoming an even more modern and vibrant Ombudsman service”. This includes promoting greater awareness of the PHSO’s services, providing a high quality, empathetic and timely service, and continuously improving the organisation. We welcome the reference to international benchmarks in the Strategy for the first time, the emphasis on data, and the organisation’s plans to gather direct feedback from service users and members the public. However, while it is included in the 2022–23 Business Plan, the absence of any reference to how the organisation will cope with the ongoing impacts of Covid-19 and high levels of cases brought to the PHSO is regrettable. The ambition to promote awareness and accessibility of the PHSO’s role and service is positive and welcome, but the Strategy does not set out how the organisation would cope with potentially increased service demand. (Paragraph 15)
2. *We agree with the Peer Review Panel that the PHSO should provide clear reporting in an accessible format on delivering the Corporate Strategy for 2022–25 and that the PHSO should put in place detailed plans for dealing with the potential service demand implications of its increased public awareness and accessibility. In its response to this Report, the PHSO should provide further information on how an empathetic and timely service will be delivered if service demand increases due to such measures. The PHSO should also provide an update on its progress in establishing a panel of users and members of the public to provide feedback on the PHSO’s services, including how regularly the panel will be consulted and its expected outputs.* (Paragraph 16)

## PHSO casework and productivity

3. The Committee recognises that the PHSO has made significant efforts to cope with the huge pressures placed on its services as a result of the Covid-19 pandemic. We note that the backlog of cases has been reduced significantly and welcome the ambition to completely clear the queue of unallocated cases by the end of the 2022–23 business year. Equally, we are encouraged by the ambitions of the casework improvement programme and implementing the end-to-end review of casework processes to drive efficiencies and improve service quality. However, whilst we cannot generalise from individuals’ experiences with the PHSO’s service, there were a number of pieces of written evidence received by the Committee during this inquiry highlighting that perceived poor handling of cases remains a significant concern from service users. This includes details of lengthy investigations, poor communication by complaint handlers, sudden change of caseworker mid-investigation, loss of records, and issues with the complexity of the complaints process. The changes resulting from the end-to-end review of casework process, including changes to complaint forms, while positive, are relatively minor compared to the scale of these perceived issues. (Paragraph 33)

4. *In its response to this Report, the PHSO should provide a detailed account of the changes being taken forward as a result of the end-to-end review of casework and the casework improvement programme, with examples of how this will improve a complainant's 'user journey' and how it will review what further improvements may be required. (Paragraph 34)*
5. The Committee accepts that some mechanism for prioritising the number of health complaints is needed and notes that there is international precedent for doing so. Nevertheless, we remain concerned with the continued approach of not processing complaints at Levels 1 and 2 on the severity of injustice scale, and the lack of ambition to return to the previous patterns of complaint-handling. We note that in the past 18 months around 1,500 cases have not been taken forward as a result of this approach and that the PHSO has decided to continue with this prioritisation method until the end of the business year 2022–23 (Paragraph 35)
6. *We are concerned by the number of Level 1 and 2 cases that are not being considered by the PHSO due to the approach of prioritising health complaints using the severity of injustice scale. We recommend that the PHSO sets out in its response to this Report the evidence base for continuing with this approach for another business year and provides detail on how this decision compares to other ombudsman institutions, both domestically and internationally. Furthermore, we request that an explanation of the criteria being used to make a final decision on the future approach at the end of the business year is provided to the Committee. (Paragraph 36)*
7. The Committee welcomes the improvements the PHSO has made to its website to give clarity on how complaints will be considered using the severity of injustice scale. *However, as indicated in the PHSO's response to the Committee's PHSO Scrutiny 2020–21 Report in May 2022, the PHSO should report back to the Committee in its response to this Report on whether more detailed information could be provided on its website to give members of the public and Members of Parliament an indication of how long it may take for a case to be considered. (Paragraph 37)*
8. The increased use and focus on developing the PHSO's mediation capacity as a means to speed up casework is extremely welcome. However, considering the Ombudsman said that there is the potential to resolve 25% of cases by mediation rather than investigation, the scale of its use in the 2021–22 period to resolve less than 0.1% of cases is very disappointing. (Paragraph 38)
9. *The Committee appreciates that there are issues to address with the use of mediation, such as the fact that the PHSO cannot publish the details of parties' engagement through private mediation. However, finding solutions to these issues should be a priority for the PHSO in order to improve its overall efficiency and quality of service. The Committee should develop a plan for how mediation capability will be built up within the organisation, with a target date for when the PHSO expects to be able to resolve 25% of cases by mediation. (Paragraph 39)*
10. The Committee is concerned by the fact that the PHSO has not met any of its targets for the overall section Service Charter scores in the 2021–22 financial year. The Committee had previously understood that the scores were expected to improve as waiting times for cases to be allocated and closed were reduced. However, during

the oral evidence session in November 2022, it was reiterated that the main driver of higher customer satisfaction is whether a case has been upheld regardless of the quality of customer service. If the latter is true, it is clear that the current mechanism for collecting customer feedback through the Service Charter is unsatisfactory. (Paragraph 40)

11. *The PHSO should update the Committee on the outcomes of the review of how the PHSO obtains feedback from service users, including the Service Charter, and what changes will be put in place as a result. The Committee understands that the PHSO is awaiting data from an independent research agency to determine whether survey data can be split by those cases upheld and not upheld; we would urge this work to be prioritised, and expect an update on both these areas of work in its response to this Report.* (Paragraph 41)

### Staff management and training

12. The Committee commends the pace in which the PHSO has increased its number of caseworkers across 2021–22 and developed a 10-month training academy to support their induction and development in these roles. The Committee welcomes the continued investment in training and development opportunities across the organisation, including the accreditation scheme for senior caseworkers, the establishment of four Parliamentary focus teams, and the ongoing Quality Programme to continuously improve casework management. However, we also note the slight increase in staff turnover in 2021–22 and believe this should be monitored closely. Furthermore, we agree with the Peer Review Panel’s conclusion that further changes should be put in place to improve casework management, including how staff communicate with complainants. (Paragraph 52)
13. *In light of the increase in staff turnover in 2021–22, we reiterate our call from the Committee’s PHSO Annual Scrutiny Report 2020–21 for the PHSO to consider other development opportunities to encourage staff retention. Whilst the development of a 10-month training academy for new caseworkers is welcome, the PHSO must ensure there is minimal loss to institutional knowledge and the quality and pace of casework management is not impacted by staff turnover. The Committee would welcome further information on how the newly-established four Parliamentary focus teams mentioned in the Annual Report and Accounts for 2021–22 will improve performance in handling Parliamentary cases. Furthermore, while the Ombudsman told the Committee in November 2022 that the Peer Review Panel’s recommendations in relation to casework management will be implemented incrementally, in its response to this Report, the PHSO should set out exactly what changes will be put in place and to what timetable.* (Paragraph 53)
14. The Committee welcomed in its PHSO Scrutiny 2020–21 Report the positive steps that the PHSO has taken to improve the use of clinical advice in investigations. It is encouraging to see that this work has not lost momentum, with 23 of 25 of the recommendations from the “Donaldson Review” now implemented, and the development of a Clinical Advice Quality Framework underway. (Paragraph 54)
15. *The PHSO should clarify how the Clinical Advice Quality Framework will improve trust and confidence in the quality and standards of the PHSO’s casework, what changes*



*have been made to date, and how success will be measured. Furthermore, whilst we acknowledge the challenges associated with the outstanding recommendations from the Donaldson Review, the PHSO should reach a decision as soon as possible on whether to take forward naming clinical advisers in decision reports and sharing provisional reports with advisers, given the review was published four years ago. (Paragraph 55)*

16. The Committee welcomes the positive results of the staff survey, which saw increases in scores in headline areas, such as leadership and managing change, inclusion, and learning and development. The only headline score to deteriorate was related to pay and benefits, which the Committee recognises reflects similar trends across the public sector and wider economy, alongside difficulties in recruiting in areas such as digital and programming. The Committee also welcomes the continued positive statistics on the diversity of the PHSO's workforce, particularly in terms of gender and Asian, Black, Mixed Ethnicity and Other Ethnicity Group representation, and the culture of diversity and inclusion the leadership team are seeking to embed in the organisation. However, we note the under representation of employees aged over 50 compared to the population benchmark. (Paragraph 56)
17. *The PHSO should report back to the Committee on how the organisation intends to continue to attract and retain staff, including those in technical digital roles and those who are over the age of 50, in light of wider trends across the public sector and economy relating to pay and benefits and labour market demographics. (Paragraph 57)*
18. *The PHSO should report back to the Committee in its response to this Report on the viability of breaking down a wider variety of staff diversity data by grade in its Annual Report and Accounts, as it already does for the gender of senior managers. (Paragraph 58)*

### Value for money

19. The Committee is pleased that the PHSO was able to secure an increased budget in the 2021 Spending Review to cope with the increased demand on its service as a result of the pandemic. This has had a positive impact on its casework improvement programme. However, we are concerned that the wider economic pressures across the public sector are likely to impact the organisation and urge the PHSO to consider potential mitigations for any real-term reductions to its budget for 2023–24. (Paragraph 74)
20. *The PHSO should put in place robust plans to deliver further efficiencies across the organisation and report back to the Committee next year on any work taken forward in this regard. (Paragraph 75)*
21. In the Committee's PHSO Annual Scrutiny Report 2020–21, we called for a Peer Review of the PHSO to be undertaken as soon as possible. We are pleased that this took place in 2022 and reported before our annual scrutiny session. The Committee welcomes that the PHSO was the first body to undergo a review by an accredited Panel, and in line with our previous recommendation, the Panel included a member with auditor experience. The Committee notes the positive results of the Peer Review, as well as areas identified for improvement. Although the Peer Review Panel

did not provide any in-depth value-for-money analysis of the PHSO's service, it has helpfully identified areas where the organisation is performing well and where it could improve in the future. We therefore support and encourage the continued use of periodic peer reviews to assess the effectiveness of the PHSO. (Paragraph 76)

22. The Committee was disappointed to learn that some of the data provided by the PHSO to inform the Committee's PHSO Scrutiny 2020–21 Report had been revised unjustifiably ahead of this year's inquiry, preventing easy comparability between reports. For the Committee to accurately fulfil its responsibilities to assess the performance of the PHSO, it is vital that the PHSO collects and publishes accurate and consistent data going forward. (Paragraph 77)
23. *It is unsatisfactory that data provided to this Committee has been subsequently revised. The PHSO should report back to the Committee on what steps it is taking to quality assure its data before it is published and used by the Committee.* (Paragraph 78)
24. The Committee notes the benefits that hybrid working has brought to the PHSO, notably the ability to increase its workforce by 20% without expanding its office footprint. However, the impact of hybrid working on organisational productivity, culture, and employee wellbeing should be continually monitored, and the requirement to be in the office 40% of the time revised as necessary. (Paragraph 79)
25. *The PHSO should provide an update in its response to this Report regarding what tools and infrastructure have been upgraded to support hybrid working, as mentioned in the Business Plan for 2022–23. The Committee would also appreciate information on what the PHSO is doing to continually monitor the impact of the requirement to work in the office 40% of the time on organisational productivity, culture, and employee wellbeing.* (Paragraph 80)
26. The Committee firmly agrees with need for legislative change of the PHSO. It has been seven years since the draft Public Service Ombudsman Bill was presented by the Government. Given that there is widespread consensus on the need to reduce the complexity of the ombudsman system in England and to bring the legislation in line with international best practice, the Government's reluctance to address this long-standing issue is unacceptable. (Paragraph 81)
27. *The Government has delayed legislative reform for too long and the Committee is particularly disappointed by the Government's refusal to set out a legislative timetable before the end of this year. Regardless of other pressures on the Government's legislative programme, ombudsman reform needs to be prioritised. Work to introduce a Bill should not have to wait until the next Parliament.* (Paragraph 82)

### Impact on other organisations

28. The Committee welcomes the PHSO's progress in developing the NHS and UK Central Government Complaint Standards, in close collaboration with partner organisations. We are encouraged by the number of organisations that have volunteered to adopt the Standards. We agree that the Complaint Standards initiative has the potential to significantly reduce pressures on the PHSO's services

by addressing more complaints on the frontline. We look forward to hearing from the PHSO on good practice, as well as areas for improvement as the Standards are adopted into the working practices of organisations. (Paragraph 96)

29. *The Committee is encouraged by five organisations that have volunteered to adopt the UK Central Government Complaint Standards. We urge the PHSO to continue to engage with Government Departments and public sector organisations to increase this figure, and to report back to the Committee on how proportionate monitoring and reporting on the Standards could be delivered. As an early adopter of the Standards, the Cabinet Office should play a role in working with other Government departments and public bodies to sign up to the Standards by the end of 2023.* (Paragraph 97)
30. The PHSO's ability to lay reports before Parliament regarding thematic failings and instances of non-compliance with its recommendations should be a powerful mechanism to bring cases to the attention of parliamentarians, and for the subjects of those reports to be properly and fully held to account. However, it seems that this system is not working effectively if PHSO reports laid before Parliament are ignored by the addressees of such reports. (Paragraph 98)
31. Whilst the Committee discharges its scrutiny role by examining the overall administration of the PHSO and its Annual Report and Accounts on a regular basis, it should be for departmental Select Committees to scrutinise the relevant thematic PHSO reports laid before Parliament that relate to their subject areas. (Paragraph 99)
32. *We recommend that the PHSO increases its engagement with departmental Select Committees to encourage them to scrutinise PHSO reports laid before Parliament, particularly when those reports relate to findings against individual departments and public bodies under their remit.* (Paragraph 100)
33. The Committee supports the PHSO's work in promoting its services within vulnerable and marginalised communities. We welcome the PHSO's ambition to identify barriers to access, offer guidance to organisations, and increase awareness of its services with MPs and stakeholders. We support the suggestion from the Peer Review Panel to publish details of the PHSO's outreach work. (Paragraph 101)
34. *Ahead of the next annual scrutiny hearing, the PHSO should provide an update to the Committee on progress with its outreach activities and any evidence of its impact on the diversity of complainants and types of complaints it receives. We would welcome clarification on whether complainant diversity data in the Annual Report and Accounts could be used to assess whether correlations exist between complainants' backgrounds, the types of complaint they make, and their routes to complain.* (Paragraph 102)
35. *We also welcome the PHSO's efforts to engage with MPs and their staff on the use of its services, but we believe that still more could be done in this space. The PHSO should increase its engagement with staff based in MPs' constituency offices in particular to improve awareness of its services amongst those who deal directly with referrals, including providing relevant training on mediation services.* (Paragraph 103)

## 7 Priorities for Scrutiny

As in our previous reports, this section sets out the Committee’s priorities for scrutiny of the PHSO for the year 2021–22.

**Table 2: Areas of scrutiny**

Area of scrutiny	Example of expected evidence	Areas of particular interest
PHSO Corporate Strategy for 2022–25	<p>Written evidence from the PHSO and service users.</p> <p>PHSO Corporate Strategy</p> <p>PHSO Business Plan</p> <p>Peer Review Report</p>	<p>Organisational priorities, and how these compare to previous years.</p> <p>Delivery of the Strategy, assessed alongside the annual Business Plan and Covid-19 recovery.</p>
PHSO casework performance	<p>Casework and staff data in the Annual Report and Accounts</p> <p>Service Charter scores</p> <p>Written evidence from service users and organisations</p> <p>Peer Review Report</p>	<p>Impact of Covid-19 on service delivery and casework management.</p> <p>Quantity, quality, and timeliness of investigations.</p> <p>Implementation of the casework improvement programme</p> <p>Mediation capabilities</p> <p>Changes in Service Charter scores</p>
Staff management and training	<p>Staff survey scores</p> <p>Written evidence from the PHSO</p> <p>Annual Report and Accounts, employee data including diversity</p>	<p>Numbers of staff and turnover</p> <p>Training opportunities available to staff</p> <p>Staff views on learning and development</p> <p>Diversity of the workforce</p> <p>Use of clinical advice</p>
Value for money	<p>PHSO Annual Report and Accounts</p> <p>Peer Review Report</p> <p>Written evidence from PHSO and service users</p>	<p>Findings of the Peer Review</p> <p>Changes in budget and spending</p> <p>Impact of hybrid working</p> <p>Modernisation and reform</p>

<p>Impact on other organisations</p>	<p>PHSO Annual Report and Accounts, data on compliance with recommendations</p> <p>Written evidence from similar organisations</p> <p>Implementation of the Complaint Standards Framework</p>	<p>The impact of the PHSO's Complaint Standards Framework.</p> <p>Maximising impact of PHSO reports laid in Parliament</p> <p>The PHSO's outreach activity, including engagement with marginalised communities and MPs.</p>
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# Formal minutes

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**Tuesday 28 March 2023**

**Members present:**

Ronnie Cowan

Jo Gideon

Damien Moore

Karin Smyth

John Stevenson

Beth Winter

In the absence of the Chair, John Stevenson was called to the chair.

Draft Report (*Parliamentary and Health Service Ombudsman Scrutiny 2021–22*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 103 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Sixth 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.

[Adjourned till Tuesday 18 April 2022 at 9.30am

## Witnesses

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

### Tuesday 29 November 2022

**Rob Behrens CBE**, The Ombudsman, Parliamentary and Health Service Ombudsman; **Amanda Amroliwala CBE**, Deputy Ombudsman and CEO, Parliamentary and Health Service Ombudsman

[Q1–103](#)

## Published written evidence

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

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

- 1 Barford, Mr Paul Robert ([PHS0026](#))
- 2 Clitheroe, Graham ([PHS0011](#))
- 3 Czarnetzki, Mr David ([PHS0020](#))
- 4 Dewsbury, Mr ([PHS0001](#))
- 5 General Medical Council ([PHS0040](#))
- 6 Havercroft, Mrs Daphne ([PHS0013](#))
- 7 Healthcare Safety Investigation Branch ([PHS0037](#))
- 8 His Majesty Revenue and Customs ([PHS0039](#))
- 9 Kent, D ([PHS0021](#))
- 10 Local Government and Social Care Ombudsman ([PHS0032](#))
- 11 Mayes, Mr Trevor ([PHS0006](#))
- 12 McMinn, Brett ([PHS0044](#))
- 13 Moulton, Zoe (Policy and Strategy Manager, NHS Resolution) ([PHS0017](#))
- 14 Nicholson, Linda ([PHS0045](#))
- 15 Parliamentary and Health Service Ombudsman ([PHS0022](#))
- 16 Prentice, Mrs Brenda (Retired pensioner, DWP) ([PHS0016](#))
- 17 Ridley, Ms Rosamund ([PHS0027](#))
- 18 Rudley, Maureen ([PHS0034](#))
- 19 Smith, Mr Keith ([PHS0028](#))
- 20 Thorp, Major (Rtd) David ([PHS0009](#))
- 21 Walford, David ([PHS0029](#))
- 22 West, Dr Peter ([PHS0042](#))
- 23 Wheatley, Nicholas ([PHS0041](#))



# List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

## Session 2022–23

Number	Title	Reference
1st	Parliamentary and Health Service Ombudsman Scrutiny 2020–21	HC 213
2nd	The Work of the Electoral Commission	HC 462
3rd	Governing England	HC 463
4th	Propriety of Governance in Light of Greensill	HC 888
5th	Governing England: Follow up to the Government's response to the Committee's Third Report of Session 2022–23	HC 1139
1st Special	Coronavirus Act 2020 Two Years On: Government response to the Committee's Seventh Report of Session 2021–22	HC 211
2nd Special	The Cabinet Office Freedom of Information Clearing House: Government Response to the Committee's Ninth Report of Session 2021–22	HC 576
3rd Special	Parliamentary and Health Service Ombudsman Scrutiny 2020–21: PHSO and Government responses to the Committee's First Report	HC 616
4th Special	The Work of the Electoral Commission: Government Response to the Committee's Second Report	HC 1065
5th Special	The Work of the Electoral Commission: Electoral Commission response to the Committee's Second Report of Session 2022–23	HC 1124

## 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

<b>Number</b>	<b>Title</b>	<b>Reference</b>
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

<b>Number</b>	<b>Title</b>	<b>Reference</b>
1st	Appointment of Rt Hon Lord Pickles as Chair of the Advisory Committee on Business Appointments	HC 168
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
1st Special	Electoral law: The Urgent Need for Review: Government Response to the Committee's First Report of Session 2019	HC 327
2nd Special	Parliamentary and Health Service Ombudsman Scrutiny 2018–19: Parliamentary and Health Service Ombudsman's response to the Committee's Second report	HC 822
3rd Special	Delivering the Government's infrastructure commitments through major projects: Government Response to the Committee's Third report	HC 853
4th Special	A Public Inquiry into the Government's response to the Covid-19 pandemic: Government's response to the Committee's Fifth report	HC 995

<b>Number</b>	<b>Title</b>	<b>Reference</b>
5th Special	Parliamentary Scrutiny of the Government's handling of Covid-19: Government Response to the Committee's Fourth Report of Session 2019–21	HC 1078
6th Special	The Fixed-term Parliaments Act 2011: Government's response to the Committee's Sixth report of Session 2019–21	HC 1082
7th Special	Parliamentary and Health Service Ombudsman Scrutiny 2019–20: Government's and PHSO response to the Committee's Seventh Report of Session 2019–21	HC 1348