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Public Administration and Constitutional Affairs Committee

Parliamentary and Health Service Ombudsman Scrutiny 2022–23

Third Report of Session 2023–24

Report, together with formal minutes relating to the report

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Public Administration and Constitutional Affairs Committee

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

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Summary

The Parliamentary and Health Service Ombudsman (PHSO) examines complaints of "maladministration" that have caused harm or injustice within public services delivered by UK Government Departments, public bodies, or the NHS. 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 PHSO, particularly its Annual Report and Accounts. As in previous year, the Committee has based its scrutiny of the PHSO on four categories:

- The PHSO's casework performance and productivity;
- Staff management;
- Value for money; and
- The Impact on other organisations.

The PHSO's casework performance and productivity

The PHSO considered more than 35,000 complaints in 2022–23, 20% above the pre-pandemic level in 2018–19 but 3% lower than in 2021–22. There was evidence that the PHSO had improved its investment in staff, supported training, and held effective engagement events. We also received concerns, such as examples of PHSO services not fully responding to the needs of people with disabilities and the elderly; and that cases can take a long-time to resolve and there can be poor communications.

We call on the PHSO to outline in its response to this reports the steps it proposes to take to address the concerns we have heard in our written evidence, in particular in relation to service provision to people with disabilities and the elderly.

We were also concerned that the PHSO failed to meet its targets for the proportion of cases subject to further investigation it would resolve within 13, 26 and 52 weeks. Similarly, the PHSO has persistently had low scores in responses to its Service Charter surveys related to gathering information, explaining decisions, and making and communicating the final decision to complainants in a timely fashion.

We recommend that the PHSO should present information on the time involved in case resolution, separating those cases which are part of the COVID-19 backlog and those received since the end of the pandemic. The PHSO should also provide details of the methodology it uses for deciding its targets. The PSHO should also set out, in its response, the steps it is taking to drive continual improvement in the key areas where it has low scores.

The PHSO has promoted mediation as an alternative approach to resolving cases. The PHSO stressed that the cultural attitudes of stakeholders, notably in the NHS, were a barrier to increasing the number of cases resolved through mediation.

The PHSO should outline how it is working with stakeholders to place a stronger emphasis on mediation in the Complaint Standards for the NHS and for Government.

It should tell us whether it has met its ambition for 2023–23 to maintain the number of cases resolved by mediation and to appropriately widen the type of cases resolved by mediation. It should also set out its medium and long-term aims and measures for mediation. The Government should support by outlining how it is working with stakeholders, including NHS England, to promote a culture and training that is supportive of mediation.

In dealing with the COVID backlog the PHSO temporarily adopted a 'severity of injustice' scale, which has six levels assessing how severe has been the impact on complainants. Cases assessed as being in the two lowest Levels, 1 and 2, are not taken forward. The PHSO are planning a review of this approach.

We reiterate the concerns that we expressed in our 2021–22 report at the PHSO's continuation of the severity of injustice approach, and recommend that the PHSO should set out publicly the criteria it will use during the review to determine its future approach.

Staff management

There has been a welcome increase in the number of PHSO staff, including caseworkers, and the amount of training provided. It has also retained specialist workers. The PHSO thought that its turnover of staff could be the result of a lack of opportunity for career development and its different policy on hybrid working compared to other ombudsmen.

We recommend the PHSO reviews hybrid working and the factors causing staff turnover and shares it findings with us before our next scrutiny session.

Value for Money

The PHSO enjoyed a 17% real-terms increase in its budget for 2022–23 compared to 2021–22. It has faced pressure due to higher than expected inflation and demand for its services. It also outlined its digital ambition, such as giving complaints real-time access to information about their complaint.

We request that the PHSO provide in its next Annual Reports and Account a further update on progress towards achieving its digital ambition, including any financial savings expected to be made as a result.

The PHSO reiterated its support for legislative reforms. Previous proposals have included consolidating ombudsmen schemes into a single Public Service Ombudsman and changes to the powers of Ombudsman. The Government has rejected reform of the Ombudsmen structure, arguing that the issue is not an urgent issue. We disagree, thinking that legislative reform has been neglected for too long and further delay is no longer tenable.

We recommend that the Government should reconsider its position, consult with a wide range of stakeholders, and set out its plans ahead of the general election. All political parties should include in their manifestos a commitment to early legislation in the next Parliament to enact legislative reform.

Impact on other organisations

We note that the PHSO has been commended for spreading best practice, for example its development of resolving cases through mediation, which it has shared with international ombudsmen.

The PHSO is also championing the use of Complaint Standards by the NHS and by Government departments.

We commend this and ask the PHSO to provide further information on the training it has offered on its Complaint Standards. We also recommend that the Government should outline how many departments and public bodies have signed up and its plans and timetable to introduce these Standards across departments and public bodies.

Introduction

Role of the Parliamentary and Health Service Ombudsman

1. The Parliamentary and Health Service Ombudsman (PHSO) combines the statutory roles of Parliamentary Commissioner for Administration and Health Service Commissioner for England. The post has been held by Rob Behrens CBE since 2017, with his tenure due to end in March 2024. Rebecca Hilsenrath was appointed as Chief Executive in July 2023, following the departure of Amanda Amroliwala CBE, having previously been Director of Strategy in the organisation since 2021.

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 (NDPBs), the NHS in England, and certain other public bodies such as the Electoral and Boundary Commissions. Maladministration can be defined as "the public body not having acted properly or fairly or having given a poor service and not put things right".[1] It investigates complaints and can make recommendations for redress and changes to practices.

3. The Ombudsman can also lay reports before Parliament. These usually consist of summaries of similar cases, or reports on specific cases, which highlight issues of wider public interest. These are often referred to as "thematic reports". A recent example of this is the PHSO's report *Broken trust: making patient safety more than just a promise.*[2]

4. 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.[3] There are separate ombudsmen responsible for local government and social care in England, and for public services in Scotland, Wales, and Northern Ireland. These do not fall within the scrutiny remit of PACAC.

5. The PHSO's *Corporate Strategy 2022–2025* committed it to three strategic objectives:

> People who use public services have a better awareness of the role of the Ombudsman and can easily access our service;
>
> People we work with receive a high quality, empathetic and timely service, according to international Ombudsman principles;
>
> We contribute to a culture of learning and continuous improvement, leading to high standards in public service.[4]

6. We launched our annual scrutiny inquiry for the period 2022/23 on 13 September 2023. We asked for written submissions from those with knowledge or experience of the PHSO's:

- performance on its casework and productivity;

1 House of Commons Library, Parliamentary Ombudsman (May 2022)
2 Parliamentary and Health Service Ombudsman, *Broken trust: making patient safety more than just a promise*, HC (2022–23) 1444.
3 House of Commons, *Standing Orders: Public Business 2023*, HC (2023–24) 1932, SO 146(1)
4 Parliamentary and Health Service Ombudsman, Corporate Strategy 2022–25 (April 2022), p 5.

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

The call for evidence was open until 20 October 2023, and we are grateful to everyone who provided a submission, including those who drew on often deeply personal and painful experiences.

7. On 14 November 2023, we held an oral evidence session with the Ombudsman, Rob Behrens CBE, and the Chief Executive Officer, Rebecca Hilsenrath. This report sets out our conclusions and recommendations following this evidence session, and also draws on the written submissions we have received.

1 PHSO case-work performance and productivity

Casework management

8. The PHSO considered more than 35,000 complaints in 2022/23. This is an increase of 20% on pre-pandemic levels in 2018–19, but 3% lower than in 2021/22. Its caseload is driven by over 129,000 enquiries.[5] PHSO's casework follows a three-step process:

- An initial check, to see if it is within PHSO's remit and ready for investigation;
- A primary investigation, which can include mediation, to see if it can be resolved quickly or otherwise can be investigated by PHSO; and
- A further, detailed, investigation if the case meets the necessary criteria.[6]

9. As in previous years, in 2022/23, the vast majority of decisions were made following initial checks (77.1%), followed in scale by those made after primary investigations (21.0%), with a smaller proportion of decisions made after detailed investigations (1.7%). The proportion of detailed investigations has fallen since 2018–19, when it was 6.2%. The biggest shift in 2022/23 is an increase in the proportion of decisions made following primary investigations, up from 18.5% to 21.0%, very close to the proportion seen in 2018/19.[7]

10. We received written submissions that commended the PHSO's service provision. Organisations singled out its piloting of Complaint Standards in NHS primary care for particular praise.[8] There was also praise for the PHSO's investment in staff to investigate complex continuing healthcare cases,[9] the quality of staff training, and the example that this training sets to other organisations.[10] Organisations connected with local areas, healthcare, and refugees also complimented the PHSO's engagement events.[11]

11. At the same time, several pieces of written evidence detailed issues with casework performance. While we cannot extrapolate from individual cases, the evidence we received highlighted a few areas of concern to us:

5 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, pp 34, 36.
6 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, pp 15–17.
7 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p 36.
8 Tennant Street Medical Practice (HSO0003), The Isle of Wight NHS Trust (HSO0027)
9 Continuing Healthcare Alliance, Parkinson's UK (HSO0009)
10 Caribbean & African Health Network (CAHN) (HSO0035)
11 Tennant Street Medical Practice (HSO0003), RAMA Refugee, Asylum Seeker and Migrant Action (HSO0011), Catalyst Stockton-on-Tees Ltd (HSO0014)

- Issues with PHSO services not fully responding to the needs of people with disabilities and the elderly, especially compared to other ombudsmen services.[12] For context, the PHSO's Annual Report states that 44% of PHSO users declare a disability.[13]
- Complaints about how long cases take to resolve and poor communications, including in relation to the group of cases focused on the Department for Work and Pensions' communications about changes to the state pension age for women.[14]
- Reductions in the number of detailed investigations since 2016/17.[15]
- The insufficiency of the internal review processes - and of the need to resort to judicial review—as avenues for redress against PHSO decisions.[16]
- A lack of medical knowledge among PHSO caseworkers.[17]

12. During our oral evidence session, we raised the concerns shared with us about the service provided to people with disabilities. The Chief Executive said the PHSO would consider the concerns we had raised and "reflect on what …[they]… could do". She also explained that, when the PHSO receive a complaint, staff seek to understand whether adjustments, such as different ways of communicating, are needed. She added that staff, including caseworkers, receive training under the Equality Act 2010 and that the PHSO seeks to provide inclusive ways of working.[18]

13. **We have heard praise of the PHSO's handling of casework, but we have also received evidence of concerns with some aspects of its service provision. The PHSO told us that it would reflect on the concerns about the service it provided to people with disabilities while outlining the measures it takes to meet the needs of complainants. *In its response to this report, the PHSO should outline to us the steps it proposes to take to address the concerns we have heard in our written evidence, in particular in relation to service provision to people with disabilities and the elderly.***

Targets for case resolution

14. The PHSO's *Annual Report and Accounts 2022 to 2023* included the targets the organisation sets itself for the proportion of cases it should have decided within a given time. The table below shows the targets the PHSO set itself for each of the different categories, and how it has performed against it:

12 The Adam Bojelian Foundation CIC (HSO0039), Dr John Davis (HSO0047)
13 Parliamentary and Health Service Ombudsman, The Ombudsman's Annual Report and Accounts 2022 *to 2023*, HC (2022–23) 1642, p 44.
14 The WASPI Campaign (HSO0023), Mr Nicholas Wheatley (HSO0028), The Adam Bojelian Foundation CIC (HSO0039)
15 Mr Nicholas Wheatley (HSO0028)
16 Mr Trevor Mayes (HSO0001), David Czarnetzki (HSO0006), Mrs Gerry Billington (HSO0025), C N Rock (HSO0031), The Adam Bojelian Foundation CIC (HSO0039), Sean Richardson (HSO0042), David Willingham (HSO0043)
17 Ms Liz Perloff (Independent Nurse Prescriber at FTPO Ltd) (HSO0026), The Adam Bojelian Foundation CIC (HSO0039)
18 Q22

Time taken to reach a decision		2018/19	2019/20	2020/21	2021/22	2022/23	Target
Decided following initial checks	Within 7 days	93%	96%	99%	99%	99%	95%
Decided following further consideration	Within 13 weeks	41%	48%	24%	32% (31%)	40%	50%
	Within 26 weeks	72%	80%	52% (49%)	49% (48%)	51%	75%
	Within 52 weeks	92%	93%	89% (85%)	81% (81%)	77%	95%

Source: Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p. 38. The figures on time taken exclude the three-month pause in the PHSO's complaint handling that took place in 2020 to help the NHS focus on dealing with the pandemic. The figures in brackets for 2020–21 and 2021–22 include that three-month pause.

We note and welcome the PHSO's success in meeting its target for 'decided following initial checks'. However, we are concerned by PHSO's failure to meets its targets for the amount of time taken to decide those cases subject to further consideration.

15. During the oral evidence session, we asked the Ombudsman about the trend in these figures. He told us that closing 77% of cases which required further consideration within 52 weeks was "good in comparison to where we have been", with an overall reduction in the queue of cases. He also said the PHSO would be criticised by the public and by us if it set a lower target.[19] The Chief Executive said that there was a "lag effect of the cases that we close". As the queue of cases created by the COVID-19 pandemic was cleared, "the cases that we are closing have been in the queue for a long time … it is inevitably the case that the statistics will say that the cases that we are closing are older and have been waiting for longer". She expressed the expectation that a reduction in the queue would mean the time taken on cases "will drop dramatically".[20] Asked whether the 95% target was still realistic, the Chief Executive stated it was "basically ombudsman standard", across different ombudsmen.[21]

16. **We welcome the fact that the PHSO has worked hard to reduce the backlog of cases created by the COVID-19 pandemic and met its target for making initial decisions about cases within seven days. However, we remain concerned by the fact that the PHSO has missed its targets on deciding cases subject to further consideration. The PHSO attributed this to the lag effect of closing cases that had been in the queue for a long time and expect that the time taken to complete further consideration will drop dramatically once the backlog has been cleared. *In order to clarify how far the work***

19 Qq33–35
20 Q38
21 Q37

being undertaken to clear the backlog of cases is the main cause of the length of time taken to resolve cases subject to further consideration, the PHSO should find a way to present the information on the time involved in case resolution by giving separate figures for those cases which are part of the COVID-19 backlog and those others which have been received since the end of the pandemic.

17. **We do not accept the Ombudsman's argument that we would have been critical of the PHSO for setting lower, yet more realistic, targets for case resolution. The setting of unrealistic targets leads to them being missed, and draws unwarranted criticism where realistic targets would not do so. Rather, we are of the view that targets should be simultaneously ambitious and realistic, to allow the public and us to assess the performance of the organisation more clearly.** ***In its response to this report, the PHSO should provide details of the methodology it uses for deciding its targets for how quickly it should resolve cases subject to further consideration, and outline any steps it will take to review that methodology to arrive at more realistic targets to be used in the future.***

Mediation

18. At our predecessor Committee's pre-appointment hearing with Mr Behrens in 2017, he indicated his strong support for mediation as a way to resolve cases, following best practice among ombudsmen in other countries.[22] Since 2019/20, the PHSO has published data showing the number of cases resolved through mediation, which means they do not need further consideration.[23] In the 2022 oral evidence session, the Ombudsman had said that the number of cases resolved by mediations would "more than double" over the next year,[24] and that the mediation team in PHSO believed 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.[25]

In its response to our 2021–22 report, the PHSO set out its ambition to double the number of mediations again in 2023/24.[26] It did acknowledge that, for this ambition to be achieved "complainants and organisations need to be committed to and available to take part" in mediation.[27]

19. The PHSO has indeed increased the number of cases resolved by mediation. This has risen from 29 in 2021/22 to 74 in 2022/23. This amounted to 0.2% of all cases, compared to only 0.08% of cases in 2021/22, and meant the PHSO met its ambition for 2022/23 to

22 Oral evidence taken on 18 January 2017, HC (2016–17) 810, Q11

23 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p 36.

24 Oral evidence taken on 29 November 2022, HC (2022–23) 745, Q17

25 Oral evidence taken on 29 November 2022, HC (2022–23) 745, Q18

26 Public Administration and Constitutional Affairs Committee, Sixth Special Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22: Government and PHSO response, HC 1437, p 7.

27 Public Administration and Constitutional Affairs Committee, Sixth Special Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22: Government and PHSO response, HC 1437, p 8.

double the number of cases resolved through mediation. This is a positive outcome of the work the PHSO has undertaken to promote mediation as an alternative form of complaint resolution.[28]

20. During the oral evidence session for this inquiry, the Ombudsman praised the PHSO's record on mediation. He pointed to the doubling of the number of mediations in 2022/23 and stated the aim of the PHSO to "do that again this current financial year".[29] He said the PHSO now have staff with "the professional qualifications and experience of conducting mediation". Consequently, the PHSO is considered a leader amongst European ombudsmen in using mediation.[30] The PHSO also works with the Medical Mediation Foundation to promote mediations in the NHS, and has trained its caseworkers and clinical advisers in mediation.[31] To encourage mediation as an option complainants might consider, the PHSO is seeking to advertise successful examples of mediation whilst respecting the confidentiality owed to those involved.[32]

21. The Ombudsman argued that the challenge with increasing the number of cases resolved by mediation was that it requires the agreement of both parties. He said the NHS had, post-pandemic, "been reluctant to commit people to be engaged in mediation because they think, particularly clinicians, that it is not a terribly good use of their time".[33] He said there was a cultural barrier to mediation:

> many of the people who I meet say to me that they were trained as doctors to be self-reliant and to get on with things without being bothered about what other people say. Those are not ideal characteristics to engage in mediation.[34]

The Chief Executive said these problems are common across different sectors, and have been "exacerbated by covid, by the broken trust that we see between people and service providers".[35]

22. The Ombudsman subsequently wrote to us reiterating the actions the PHSO is taking to promote mediation. He also stated that the PHSO "do not have a target to close 25% of cases through mediation". Instead, its target for 2023/24 "is to maintain the number of cases that we close by mediation, but to widen the scope of mediation to include more complex cases and cases outside our health jurisdiction".[36]

23. **We welcome the increase in the number of cases resolved by mediation and PHSO's ambition to widen the range of cases resolved by mediation in 2023/24. The PHSO stressed that the cultural attitudes of stakeholders, notably in the NHS, were a barrier to increasing the number of cases resolved through mediation. *The PHSO should outline how it is working with stakeholders to place a stronger emphasis on mediation in the Complaint Standards for the NHS and for Government. The PHSO should also write to us before our next annual inquiry into the PHSO, setting out whether it has matched***

28 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p 36.
29 Q39
30 Q39, Q41
31 Q42 (Rob Behrens)
32 Q39, Q42 (Rebecca Hilsenrath)
33 Q39
34 Q42 (Rob Behrens)
35 Q42 (Rebecca Hilsenrath)
36 Correspondence from Rob Behrens to William Wragg MP, 23 November 2023

its ambition for 2023/24 to maintain the number of cases resolved by mediation and to appropriately widen the types of cases resolved to include more complex cases and cases beyond those focused on healthcare. It should also set out what its medium- and long-term aims are for mediation and the measures it is intending to take to achieve those aims.

24. **The potential barriers presented by training and culture among NHS staff to increasing mediation cannot be overcome solely by the PHSO. Other stakeholders, including the Government, have a role to play in promoting mediation.** ***The Government should outline how it is working with NHS England and other relevant stakeholders to promote a culture and training that is supportive of mediation among NHS staff and those working in government departments.***

The COVID-19 Backlog

25. The COVID-19 pandemic caused a significant backlog of cases for the PHSO, which the PHSO attributed to its briefly pausing the processing of complaints at the start of the pandemic and to a reduction in the capacity of public services to deal with complaints when it resumed processing.[37]

26. In April 2021, to address the backlog, the PHSO adopted a new approach to focus only on "health-related complaints that involve more serious failings". A severity of injustice scale, which has six levels based around how severe the impact has been on the complainant, was introduced to determine whether the PHSO takes a case forward.[38] Cases assessed as being at Level 1 or Level 2 on the scale are not taken forward. The Chief Executive described these cases as being where:

> we think that there is a limited amount of impact on the individual and where there are no systemic failings to be addressed. An example of a case like that might be somebody who had to wait an extra half hour for a GP appointment.[39]

However, further consideration will take place in cases where the injustice is limited but the PHSO think there is a systemic failing (for instance, the refusal to let somebody with an assistance dog enter a hospital).[40]

27. Our report for the 2021/22 period expressed concern that 1,700 complaints in the previous 18 months had been assessed at Level 1 and Level 2 on the scale, below the PHSO's 'injustice threshold' and classified as a 'lower severity injustice', meaning that the PHSO does not consider them any further. They were not subject to further consideration, after which recommendations could potentially have been made for redress and reform where the PHSO found in favour of the complainant. 114 cases in these categories had nonetheless been resolved in the relevant period.[41] In our 2021–22 report, we asked for the criteria being used to assess whether to continue with the 'severity of injustice' approach to

37 Written evidence taken in Parliamentary and Health Service Ombudsman Scrutiny 2021–22, PHSO (PHS22)
38 Parliamentary and Health Service Ombudsman (HSO0036), Parliamentary and Health Service Ombudsman, Financial remedy, accessed 30 November 2023
39 Q37
40 Q37
41 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, para 28.

case management.[42] The PHSO stated it had reviewed its approach in August 2022, taking into consideration "our casework data, the impact of our approach on case outcomes and feedback from complainants, alongside comparisons from other Ombudsman services". The result of the review had been that the PHSO decided "to continue to focus on these more serious cases, in-line with the wider Ombudsman community". It argued that, given pressures on public services, focusing resources on matters with a less serious impact on people "is not a reasonable use of public funds" and that cases not proceeded with would not generally have required detailed investigation or a final result that would have had a significant impact for wider service provision.[43]

28. The PHSO states that the overall number of cases awaiting allocation reduced from 2,200 in March 2022 to 1,050 in March 2023.[44] In oral evidence in November 2023, we were told this had fallen to approximately 770 cases and that the backlog was due to have been removed entirely by the close of the 2023/24 financial year.[45] The number of cases falling below the 'injustice threshold' fell, according to the PHSO, from 1,319 complaints in 2021–22 to 1,029 complaints in 2022–23, of which 77 were resolved.[46] The Chief Executive reiterated that the PHSO's approach was in line with other ombudsmen across the world and provided a quicker resolution for people than would have occurred had further investigation taken place.[47]

29. The Chief Executive and Ombudsman said that once the backlog had been cleared, the PHSO would again review the 'severity of injustice' model. The Chief Executive also said that in future the PHSO:

> want to develop a public value model in terms of adopting that ombudsman principle of proportionality. We will be looking at things like whether or not a case shows evidence of systemic failings, what the likelihood of severity of injustice looks like, proportionality and equality of access.[48]

This proposed approach would be put to the PHSO Board for review.[49] The Ombudsman said he was open to publishing the agreed future approach to case management.[50]

30. **We reiterate the concerns we expressed in our 2021–22 report about the PHSO's continuation of the 'severity of injustice' approach to case management which means certain cases are very unlikely to be resolved and are not subject to detailed investigation. This was introduced as a temporary measure during the pandemic. The PHSO have stated it intends to review its future approach when the backlog of cases caused by the COVID-19 pandemic has been dealt with, with this likely to take place**

42 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, para 36.
43 Public Administration and Constitutional Affairs Committee, Sixth Special Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22: Government and PHSO response, HC 1437, p 6.
44 Parliamentary and Health Service Ombudsman (HSO0036)
45 Q36
46 Q43 (Rebecca Hilsenrath)
47 Q37
48 Q43 (Rebecca Hilsenrath)
49 Q44
50 Q45

towards the end of the 2023/24 financial year. ***We reiterate the recommendation from our 2021–22 report that the PHSO should set out publicly the criteria it will use during the review to determine its future approach.***

Service Charter

31. The PHSO's Service Charter sets out the standard of service that people can expect to receive at each stage of the process when they bring a complaint to the PHSO. Feedback is collected by an independent company, with people asked to evaluate its service against 13 commitments, grouped into three Key Performance Indicators (KPIs):

- Giving you the information you need, KPI target of 84% agreement; overall section score in 2022/23 of 78%;
- Following an open and fair process, KPI target of 70%; overall section score in 2022/23 of 69%; and
- Giving you a good service, KPI target of 70%; an overall section score in 2022/23 of 66%.

32. The PHSO's three overall section scores were higher compared to 2021/22. Equally, its scores were higher for 11 of the 13 commitments compared to 2021/22, while its score for one was the same and for one was lower.[51] We welcome this overall trend of improvement. However, the overall section scores were still below the targets for all three KPIs. The three lowest scores were recorded for the following commitments:

- "we will gather all the information we need, including from you and the organisation you have complained about, before we make our decision" (55% agreed, compared to 48% in 2021/22);
- "we will explain our decision and recommendations, and how we reached them" (49% agreed, compared to 47% in 2021/22); and
- "we will give you a final decision on your complaint as soon as we can" (43% agreed, compared to 46% in 2021/22).[52]

33. Low scores in these three areas have persisted year on year since the Service Charter was first launched in July 2016.[53] We have previously recommended that the PHSO set out how it plans to address these long-term, low performing scores relating to how evidence is gathered, how decisions are reached and how timely final decisions are made and communicated.[54]

34. The PHSO said in written evidence it has redesigned the Service Charter survey. The new style of survey was rolled out in May and June 2023, and asks fewer questions. We had also previously recommended that survey data should distinguish between those

51 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, pp 40–41.

52 Parliamentary and Health Service Ombudsman, The Ombudsman's Annual Report and Accounts 2022 *to 2023*, HC (2022–23) 1642, p 41.

53 Public Administration and Constitutional Affairs Committee, First Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2020–21, HC 213, p 13 (Table 8).

54 Public Administration and Constitutional Affairs Committee, First Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2020–21, HC 213, para 27.

respondents whose complaint was upheld and those whose complaint was rejected.[55] This would be similar to the PHSO's practice of differentiating responses to its customer satisfaction survey from 2014/15 to 2018/19.[56] The PHSO said it intends to differentiate responses in this way. It would, however, require six to nine months of data to produce a reliable analysis. Therefore, data from the new style survey and differentiation by outcome were not available in time for our inquiry but should be available for review in our inquiry into performance in 2023/24.[57]

35. In our oral evidence session, we raised with the Ombudsman and Chief Executive the persistently low scores the PHSO received for gathering all the information needed, explaining how decisions and recommendations and how they were reached, and communicating the final decision to complainants in a timely fashion. The Chief Executive acknowledged that the data had not changed very much year on year. She noted that the planned changes to the survey would mean that the PHSO could return to give evidence to us in 2024 "with a far richer seam of data and with the ability to talk to improvements that we will be expecting to make, depending on what the data tells us".[58]

36. **We welcome the PHSO's actions following our previous recommendation, resulting in reforms to how it conducts its Service Charter survey and differentiating the data depending on the outcome of a complaint's case. However, we remain concerned that these changes do not address the underlying problems revealed by missing the targets for the three KPIs, and by the persistently low scores related to gathering information, explaining decisions, and making and communicating the final decision to complainants in a timely fashion. *The PHSO should set out in its response to this report the steps it is taking to drive continual improvement in its scores in these key areas.***

55 Public Administration and Constitutional Affairs Committee, First Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2020–21, HC 213, para 35.

56 Della Reynolds (HSO0034), Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2016–17*, HC (2017–19) 207, pp 13–14.

57 Parliamentary and Health Service Ombudsman (HSO0036)

58 Q47

2 Staff management and training

Staff recruitment and training

37. The PHSO employed 549 permanent employees in 2022/23, compared to 477 in 2021/22. Overall, it recruited 144 new members of staff in 2022/23.[59] The PHSO stated in written evidence that, despite the appeal of competitors in the labour market, it had successfully recruited in "roles that have historically been difficult to fill, including in areas such as ICT and digital".[60] This recruitment had mostly been focused on reducing the queue of cases following the COVID-19 pandemic.[61]

38. In 2022/23, the PHSO delivered 3,855 working days' worth of training, an average of 6.8 days per person. This was an increase from 2021/22, when staff received 2,048 working days, an average of 4.17 days of training. The PHSO also highlighted the training of 57 additional caseworkers through its Training Academy, and its accreditation programme for experienced caseworkers.[62] The PHSO's 2022 Staff Survey states that 95% of respondents agreed that they had the skills needed to do their job effectively, and 77% agreed that they can access the right learning and development opportunities at the right time for their current role.[63]

Staff turnover

39. Staff turnover for 2022–23 was 16%, the same as in 2021/22. Turnover of permanent staff was 12%, compared to 11% in 2021/22.[64] The PHSO's written evidence indicated that this rate was lower than in the wider public sector.[65]

40. In our oral evidence session, the Ombudsman and Chief Executive attributed the current levels of staff turnover to "the consequences of covid", as opposed to either uncompetitive pay or lower levels of staff engagement.[66] The Ombudsman said that it was "the nature of being a disciplined and successful organisation" that it would lose good people.[67] He also said that the "labour market is extremely attractive to people to develop their careers outside the organisation".[68] The Chief Executive said that every organisation has a churn of staff, and that as PHSO is "a small organisation … there is always going to be a limit to what we can provide for people's career opportunities".[69] The PHSO's 2022 Staff Survey found that while 83% of staff agreed that working for the PHSO had helped with their personal and career development, 59% agreed that there were opportunities to develop their career in the PHSO.[70]

59 Parliamentary and Health Service Ombudsman, The Ombudsman's Annual Report and Accounts 2022 *to 2023*, HC (2022–23) 1642, pp 81, 84.
60 Parliamentary and Health Service Ombudsman (HSO0036)
61 Q48
62 Parliamentary and Health Service Ombudsman (HSO0036)
63 Parliamentary and Health Service Ombudsman, 2022 Staff Survey (May 2023), pp 13, 16.
64 Parliamentary and Health Service Ombudsman, The Ombudsman's Annual Report and Accounts 2022 *to 2023*, HC (2022–23) 1642, pp 81, 84.
65 Parliamentary and Health Service Ombudsman (HSO0036)
66 Qq52–53 (Rebecca Hilsenrath)
67 Q54 (Rob Behrens)
68 Q50 (Rob Behrens)
69 Q54 (Rebecca Hilsenrath)
70 Parliamentary and Health Service Ombudsman, 2022 Staff Survey (May 2023), p 14.

Hybrid working

41. In 2021/22, the PHSO trialled a hybrid working model where staff have to spend two days a week in the office over the course of the year. From January 2023 it introduced a new hybrid working model, where staff have to spend at least 40% of their time, averaged over four-weeks, in the office.[71]

42. Our 2021–22 report noted the benefits that the hybrid working approach had brought to the PHSO but recognised that any such policy needed to be continuously monitored. We asked for information concerning the monitoring of the impact of the requirement to work in the office 40% of the time. We also asked for an update on how PHSO had upgraded the tools and infrastructure needed to support hybrid working.[72] In its response, the PHSO said it had integrated its telephone and ICT systems; enhanced wireless networks; and from autumn 2023 would reorganise its Citygate office in Manchester to increase "collaborative and quiet spaces".[73] The PHSO's *Annual Reports and Accounts 2022 to 2023* reported that its hybrid working approach had reduced energy usage and removed the need for it to increase its office space, despite a 13% increase in workforce, while it expected efficiency savings in 2023/24 to result from analysis of office occupancy rates.[74]

43. The Ombudsman told us that, while the PHSO has a policy of requiring staff to work in the office 40% of the time, other ombudsmen services permitted 100% homeworking. He acknowledged that the PHSO had lost staff to other organisations as a result of this policy difference.[75] The Chief Executive said the PHSO would review its hybrid working policy in 2024, saying she thought "it is flexible and in large part we get very positive feedback about it".[76]

44. **We note the welcome increase in the PHSO's number of staff, especially its new caseworkers. Likewise, we welcome the fact that it has retained specialist workers and has increased the amount of training it delivers to staff. This increase in training means it is even more important for the PHSO to retain staff, given the additional investment now being made in them. The Ombudsman and Chief Executive suggested current levels of staff turnover could be the result of a lack of opportunity for career development and the PHSO's different policy on hybrid working compared to other ombudsmen. We welcome the PHSO's intention to review its hybrid working policy next year. The PHSO should separately assess whether there are further steps it can and should take to reduce staff turnover, including how far its hybrid working policy is leading to higher turnover than other ombudsmen. *The PHSO should look to complete its reviews of hybrid working and the factors causing staff turnover by the summer of 2024, and share its findings with us ahead of our next scrutiny session for the 2023/24 period.***

71 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, para 67; Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p 71.

72 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, paras 79–80.

73 Public Administration and Constitutional Affairs Committee, Sixth Special Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22: Government and PHSO response, HC 1437, p 12.

74 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p 51.

75 Q53 (Rob Behrens)

76 Q53 (Rebecca Hilsenrath)

3 Value for Money

The PHSO's budget

45. In 2022/23, the PHSO's net expenditure was over £40.5 million, compared to nearly £32.5 million in 2021–22. Over three-quarters of overall expenditure went on staff costs, and the increase in expenditure mostly resulted from the rise in staff costs.[77] There was also a marked increase in spending on consultancy, rising from £22,000 in 2021/22 to £588,000 in 2022/23.[78]

46. The Government's 2021 Spending Review resulted in the PHSO receiving a 17% real-terms increase in its budget in 2022/23 compared to 2021/22. This reflected the impact of the COVID-19 pandemic, the pressure on its services, and its ambitions for change, such as expanding casework teams.[79] In our oral evidence, the Chief Executive noted that this was a "very positive settlement" which had enabled additional recruitment of staff, the improvement of casework operations, and increased outreach activities.[80] She did say that the spending review had been predicated on 2% inflation, rather than 10%. The review also expected demand for PHSO services to fall over time, whereas demand has in fact remained at a higher level than before the pandemic. There is also uncertainty resulting from the timing of the next UK General Election, and the possibility of a one-year spending review soon after.[81]

47. Consequently, the PHSO has sought to make efficiency savings, for example through making a robust challenge to the rent it pays for its London office, and through scrutinising all vacancies for senior leadership positions to avoid unaffordable spending commitments.[82]

Digital ambition

48. In oral evidence, the Chief Executive particularly emphasised the importance of funding for the PHSO's "digital ambition", saying "we need to have the resources to do it well".[83] The PHSO's *Annual Report and Accounts for 2022 to 2023* stated that in 2022/23 the PHSO "started a transformation programme that will bring digital and other innovation to how we work". This has included increasing the use of digital devices, such as replacing handset telephones with a Microsoft Teams IT systems.[84]

49. The Chief Executive also stressed the importance of PHSO's "digital roadmap" for future developments. These would include the PHSO becoming "a more efficient organisation" that would automate back-office functions and "free up more caseworkers to

77 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p 105.
78 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 t 2023*, HC (2022–23) 1642, p 86.
79 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, para. 59
80 Q48
81 Q57
82 Q57
83 Q3
84 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, pp 18, 54.

do more cases". It would also improve the exchange of data and access of information in the NHS; enable data mining to identify systemic failings more easily; and give complainants real-time access to information about their complaint.[85] She said:

> We will want to go back to the Treasury for more support and resource in order to be able to do that. If we don't get it, we will do it anyway but it will take us more time.[86]

50. The PHSO's *Corporate Strategy 2022–2025* also explained that it would "harness new technology to provide a more efficient, effective and inclusive service for people who work with us".[87] Therefore the PHSO's digital ambition could lead to longer-term savings, increasing the organisation's value for money whilst delivering higher quality service.

51. **We welcome the PHSO's digital ambition and believe that this is a sensible way to increase value for money. *We request from the PHSO a further update on progress towards achieving these aims, along with a detailed analysis of any financial savings expected to be made as a result, with both to be included in the PHSO's next Annual Report and Accounts.***

Legislative reform

52. Our previous committee reports on the PHSO have called for legislative reform to its structure and operations.[88] This inquiry heard renewed calls from the PHSO and from other stakeholders for changes to the legislation governing the PHSO. Legislative reforms that have previously been advocated for have included:

- 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 to the Ombudsman with the consent of an MP;
- Granting "own-initiative powers" to the PHSO to investigate issues rather than having to receive a complaint, in line with the powers of the Northern Ireland and Wales Ombudsmen;

85 Q48, Q58
86 Q58
87 Parliamentary and Health Service Ombudsman, Corporate Strategy 2022–25 (April 2022), p 7.
88 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, paras 81–2, Public Administration and Constitutional Affairs Committee, First Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2020–21, HC 213, paras 70–71, Public Administration and Constitutional Affairs Committee, Seventh Report of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2019–20, HC 843 para 41, Public Administration and Constitutional Affairs Committee, Second Report of Session 2019–21, Parliamentary and Health Service Ombudsman Scrutiny 2018–19, HC 117, paras 51–52, Public Administration and Constitutional Affairs Committee, Sixteenth Report of Session 2017–19, PHSO Annual Scrutiny 2017/18: Towards a Modern and Effective Ombudsman Service, HC 1855, para 41.

- Granting Complaint Standards Authority powers to allow the PHSO to establish and monitor standards governing complaint handling akin to Scottish and Welsh Ombudsmen.[89]

53. Despite these calls, comprehensive legislative reform, such as creating a new Public Service Ombudsman, has not been forthcoming, with no significant progress since the Draft Public Service Ombudsman Bill was published in 2016. Our previous reports, and those of our predecessor committees, have consistently supported the growing calls for legislative reform, with our 2022 report calling for the Government to prioritise Ombudsman reform and to introduce a Bill before the end of the current Parliament.[90] In response, the Government said that it:

> is not convinced that fundamental reform is a priority at the current time, nor that legislation is the answer to many of the identified issues. We are, however, content to keep this under review and to look at specific proposals for reform on a case by case basis.[91]

54. In written evidence to this inquiry, the PHSO mentioned research it had commissioned from the not-for-profit organisation Social Finance. Social Finance has estimated that, over a five-year period, legislative reforms would save £7.7million in nominal terms due to a reduction in fixed costs arising from having a single Ombudsman and through improving complaint handling. The reforms would also reduce the volume of complaints, by helping public services to improve their service quality and handling of complaints.[92] In March 2023, the PHSO held a roundtable and panel discussion with the Institute for Government, other ombudsmen, and parliamentarians "to build consensus on key priorities for Ombudsman reform". The Ombudsman has also visited the Northern Ireland Public Service Ombudsman to learn how it made use of its own initiative powers. The PHSO said in its written submission that "[f]urther delay [to Ombudsman reform] undermines justice for citizens whilst also limiting the potential impact, quality and value for money of taxpayer-funded public services".[93]

55. The Ombudsman also argued the different legislative frameworks created inconsistencies between the practices of different ombudsmen, which leads to financial irregularities. He cited the situation that the PHSO is legally prevented from charging for the training it delivers to health service practitioners and complaint handlers. This contrasts with the ability of the Local Government and Social Care Ombudsman (LGSCO) to charge local councils for its training programmes. The Ombudsman said:

> [w]e are very pleased to do that [provide free training] because we know that it is a public service, but there should not be that distinction between two ombudsman services that are both looking at health and social care.[94]

89 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, para 70.
90 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, para 82.
91 Public Administration and Constitutional Affairs Committee, Sixth Special Report of Session 2022–23, Parliamentary and Health Service Ombudsman and Government Response to the Committee's Sixth Report, HC 1437, p 17.
92 Parliamentary and Health Service Ombudsman (HSO0036)
93 Parliamentary and Health Service Ombudsman (HSO0036)
94 Q65 (Rob Behrens)

56. Calls for reform were supported in other written evidence we received during our inquiry: the need for urgent reforms was pressed for by the Professional Standards Authority for Health and Social Care. It called for the PHSO to have the power to initiate its own investigations.[95] The Ombudsman Association favoured abolishing the MP filter, citing the recent removal of the similar "democratic filter" when social tenants complained to the Housing Ombudsman.[96] The Scottish Public Services Ombudsman and Chris Field, President of the International Ombudsman Institute, both supported the whole range of reforms proposed by the PHSO outlined above.[97]

57. Regarding interactions with Government, in oral evidence the Ombudsman said that the PHSO had consulted with the Ministry of Justice, leading to the removal of the MP filter for complainants that have been victims of crime, which has been included in the Victims and Prisoners Bill currently going through Parliament.[98] However, although there had also been fruitful discussions with Baroness Neville-Rolfe, Minister of State in the Cabinet Office, "there does not seem to be … a lead Department on ombudsman reform in the Government at the moment". Instead, the existing complexity of different ombudsmen's remits was being exacerbated by the Government creating additional ombudsmen. The Ombudsman said there were now too many regulators and ombudsmen, especially in health care.[99] The Chief Executive said that "[i]t is very difficult for members of the public to understand that they are dealing with this ombudsman and not that ombudsman".[100]

58. **We renew our call for legislative reform of the PHSO, the principle of which enjoys widespread support among stakeholders and the ombudsmen that would be directly affected. The PHSO have outlined to us some concrete examples of the operational issues that are being caused, and exacerbated over time, by the lack of reform. Reforms are long overdue, and we do not agree with the Government that this is not an urgent issue; rather it has been neglected too long and further delay is no longer tenable. *The Government should reconsider its position on reforms and set out its plans, ahead of the general election. It should consult with a wide variety of stakeholders, including different ombudsmen, parliamentarians and PHSO service users. All political parties should include a commitment to reforming the legislation relating to the PHSO in their upcoming manifestos ahead of the next General Election, coupled with a commitment to introduce such legislation early in the next Parliament.***

95 Professional Standards Authority for Health and Social Care (PSA) (HSO0046)
96 Ombudsman Association (HSO0038)
97 Mr Chris Field (President at International Ombudsman Institute) (HSO0012), Scottish Public Services Ombudsman (HSO0015). See also Robert Thomas (Professor of Public Law at University of Manchester) (HSO0010)
98 Q59, Victims and Prisoners Bill, Clause 23 [HL Bill 31 (2023–24)]
99 Q60 (Rob Behrens)
100 Q62 (Rebecca Hilsenrath)

4 Impact on other organisations

Engagements with other organisations

59. The second objective of the PHSO's *Corporate Strategy 2022–2025* touches upon working with organisations. The objective is that the "[p]eople we work with receive a high quality, empathetic and timely service, according to international Ombudsman principles".[101] As evidence of this, the PHSO detailed in its *Annual Report and Accounts* and in written and oral evidence to us its interactions with ombudsmen in other countries and other parts of the UK, and its dealing with other public bodies.

60. The PHSO detailed meetings held by the Ombudsman throughout 2022/23 with other ombudsmen across the world:

- In November 2022, the Ombudsman and then Chief Executive met with their counterpart from Ukraine, the Ukrainian Parliamentary Human Rights Commissioner.
- In December 2022, the Ombudsman, representing the Board of the International Ombudsman Institute, travelled to Kyiv and Irpin. The Ombudsman continues to have formal partnerships with the South African Office of the Health Ombudsman and the Ombudsman of Israel.
- In 2022/23, the Ombudsman also hosted informal learning exchanges with ombudsmen from Bermuda, the Netherlands and Kenya.[102]

The Nova Scotia Ombudsman representative submitted evidence to the inquiry, praising the PHSO, including for its role in "the global Ombudsman community".[103]

61. Our oral evidence session also explored the PHSO's cooperation with other UK ombudsmen:

- the Ombudsman told us that the PHSO is a member of the Ombudsman Association and there are regular meetings and exchanges of ideas among ombudsmen.
- the Ombudsman sits on the board of the Local Government and Social Care Ombudsman (LGSCO), who in turn sits on the PHSO board;
- the PHSO also leases some of its property to the Housing Ombudsman.
- the Chief Executive explained that the LGSCO and PHSO have a joint working team that cooperate on issues that cover health and social care.[104]

101 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p 22
102 Parliamentary and Health Service Ombudsman, The Ombudsman's Annual Report and Accounts 2022 to 2023, HC (2022–23) 1642, p 23
103 Nova Scotia Office of the Ombudsman (HSO0008)
104 Q62

The Housing Ombudsman Service also submitted written evidence praising the PHSO for its collaboration over sharing data and understanding between ombudsmen to help widen access for hard-to-reach groups.[105]

62. A number of organisations submitted written evidence to us praising the PHSO's collaborative work with them.[106] Areas of collaboration included:

- Regular meetings and presentations to inform organisations about the PHSO.[107]
- Advising on operational delivery in handling complaints, conducting investigations, and building relationships with other public authorities.[108]

63. **We welcome the PHSO's continual collaboration with ombudsmen in other countries and across the UK, along with its collaboration with other organisations. *In its response to this report the PHSO should outline the lessons it has learnt and best practices it has adopted because of its collaboration with other ombudsmen.***

UK Government and NHS Complaint Standards

64. The third objective of the PHSO's *Corporate Strategy 2022–2025* is to "contribute to a culture of learning and continuous improvement, leading to high standards in public service". The PHSO's main means of achieving this objective has been seeking to improve complaint handling in the public service, through publishing Complaint Standards for the UK Government and for the NHS to adopt.[109]

65. In March 2021, the PHSO launched its Complaint Standards for the NHS, initially as a pilot with twelve different healthcare providers for the NHS. The Standards were developed following engagement with NHS organisations, patient advocacy groups and the public. An evaluation of the pilot of the NHS Complaint Standards was published in March 2023, which concluded that the pilot had met its objective of providing tailored support and materials for NHS staff.[110] From April 2023 the PHSO began delivering Complaint Standards training to all NHS organisations. By September, 643 people had registered on the PHSO's training Platform and 400 had been awarded CPD certificates for completing the training. In the long-term, the PHSO hopes that the Complaint Standards will lead to fewer complaints coming to it, due to more complaints being resolved by trained individuals in healthcare organisations themselves, and the resulting changes in practices helping to drive improvements in public services.[111] The PHSO's role, including the training and support offered during the pilot, was praised in written evidence by the Isle of Wight NHS Trust.[112] In oral evidence, the Chief Executive emphasised that whilst the Complaint Standards could help with "upskilling and supporting frontline complaints handling teams", the Standards are also important to improve culture and leadership.[113]

105 Housing Ombudsman Service (HSO0020)
106 NHS Resolution (HSO0013), The Isle of Wight NHS Trust (HSO0027), General Medical Council (HSO0032)
107 Healthcare Safety Investigation Branch / Health Services Safety Investigations Body (HSO0007)
108 Independent Monitoring Authority for the Citizens' Rights Agreements (IMA) (HSO0021)
109 Parliamentary and Health Service Ombudsman, *The Ombudsman's Annual Report and Accounts 2022 to 2023*, HC (2022–23) 1642, p 24.
110 Parliamentary and Health Service Ombudsman, NHS Complaint Standards: 2021–2022 pilot evaluation report (March 2023)
111 Parliamentary and Health Service Ombudsman (HSO0036)
112 The Isle of Wight NHS Trust (HSO0027)
113 Q65 (Rebecca Hilsenrath)

66. In October 2022, the PHSO launched its UK Government Central Complaint Standards. In our report for 2021–22, we recommended that the PHSO and Cabinet Office continue to encourage other Government departments and public bodies to adopt these Standards.[114] The PHSO's response to that report said that a report on the progress that organisations have made in embedding the Standards will be published in early 2024/25.[115] In its written submission to this inquiry, the PHSO stated that the Standards had received a positive reception across Government departments, and that the PHSO was working closely with partner organisations to ensure its materials and guidance can be used effectively in any Government department and arms-length body.[116] Five Government organisations have already agreed to adopt the Standards, including HM Revenue and Customs (HMRC), the Cabinet Office and the Department for Transport, something we welcomed in our report for the 2021/22 period.[117] The UK Government also has a Government complaint champion, Angela MacDonald, who is the Second Permanent Secretary at HMRC.[118]

67. The PHSO is also developing Complaint Standards training for Government departments and arms-length bodies. This will be piloted by the Cross Government Complaints Forum and rolled out across UK Government in 2024.[119] The Chief Executive emphasised the value of the "self-assessment matrix tool" within the Complaint Standards, which is helping Government departments "identify what their current practice looks like and measuring that against the standards". The Cabinet Office has piloted use of the matrix tool and has highlighted the UK Government Complaint Standards in amended Government-wide guidance on handling complaints.[120]

68. **We welcome the progress that has been made in developing and rolling out Complaint Standards for the UK Government and the NHS. These Standards have the potential to improve the quality of public services and the handling of complaints. Ensuring that staff know about and act on these Standards is critical to achieving these goals.** ***In its response to this report, the PHSO should set out both the proportion and number of all relevant NHS and UK Government staff who have been trained in its respective Complaint Standards, broken down by department where appropriate, and inform us of its targets for training over the 2023–24 financial year.***

69. ***We reiterate the recommendation from our previous report that the Cabinet Office should strongly encourage Government departments and public bodies to sign up to the Government Complaint Standards. In its response to this report, the Government should outline how many departments and public bodies have now signed up to the PHSO Complaint Standards, and set out its plan and timetable to introduce these Standards across all departments and public bodies.***

114 Public Administration and Constitutional Affairs Committee, Sixth Report of Session 2022–23, Parliamentary and Health Service Ombudsman Scrutiny 2021–22, HC 745, para. 97.
115 Public Administration and Constitutional Affairs Committee, Sixth Special Report of Session 2022–23, Parliamentary and Health Service Ombudsman and Government Response to the Committee's Sixth Report, HC 1437, p 13.
116 Parliamentary and Health Service Ombudsman (HSO0036)
117 Q65 (Rebecca Hilsenrath)
118 Q65 (Rebecca Hilsenrath)
119 Parliamentary and Health Service Ombudsman (HSO0036)
120 Q65 (Rebecca Hilsenrath)

5 Priorities for scrutiny

As in our previous reports, this table sets out our priorities for scrutiny of the PHSO for the financial year 2022/23.

Table 1: Areas of Scrutiny

Area of scrutiny	Example of expected evidence	Areas of particular interest
PHSO casework performance	Casework and staff data in the Annual Report and Accounts Service Charter scores. Written evidence from service users and organisations	Impact of COVID-19 on service delivery and casework management.
Staff management and training	Staff survey scores. Written evidence from the PHSO	Numbers of staff and turnover Training opportunities available to staff Staff views on learning and development
Value for money	PHSO Annual Report and Accounts Written evidence from PHSO and service users.	Changes in budget and spending Impact of hybrid working Modernisation and reform
Impact on other organisations	PHSO Annual Report and Accounts. Written evidence from similar organisations.	Outreach engagement activities and cooperation/ collaboration with other bodies. The impact of the PHSO's Complaint Standards Framework.

Conclusions and recommendations

PHSO case-work performance and productivity

1. We have heard praise of the PHSO's handling of casework, but we have also received evidence of concerns with some aspects of its service provision. The PHSO told us that it would reflect on the concerns about the service it provided to people with disabilities while outlining the measures it takes to meet the needs of complainants. *In its response to this report, the PHSO should outline to us the steps it proposes to take to address the concerns we have heard in our written evidence, in particular in relation to service provision to people with disabilities and the elderly.* (Paragraph 13)

2. We welcome the fact that the PHSO has worked hard to reduce the backlog of cases created by the COVID-19 pandemic and met its target for making initial decisions about cases within seven days. However, we remain concerned by the fact that the PHSO has missed its targets on deciding cases subject to further consideration. The PHSO attributed this to the lag effect of closing cases that had been in the queue for a long time and expect that the time taken to complete further consideration will drop dramatically once the backlog has been cleared. *In order to clarify how far the work being undertaken to clear the backlog of cases is the main cause of the length of time taken to resolve cases subject to further consideration, the PHSO should find a way to present the information on the time involved in case resolution by giving separate figures for those cases which are part of the COVID-19 backlog and those others which have been received since the end of the pandemic.* (Paragraph 16)

3. We do not accept the Ombudsman's argument that we would have been critical of the PHSO for setting lower, yet more realistic, targets for case resolution. The setting of unrealistic targets leads to them being missed, and draws unwarranted criticism where realistic targets would not do so. Rather, we are of the view that targets should be simultaneously ambitious and realistic, to allow the public and us to assess the performance of the organisation more clearly. *In its response to this report, the PHSO should provide details of the methodology it uses for deciding its targets for how quickly it should resolve cases subject to further consideration, and outline any steps it will take to review that methodology to arrive at more realistic targets to be used in the future.* (Paragraph 17)

4. We welcome the increase in the number of cases resolved by mediation and PHSO's ambition to widen the range of cases resolved by mediation in 2023/24. The PHSO stressed that the cultural attitudes of stakeholders, notably in the NHS, were a barrier to increasing the number of cases resolved through mediation. *The PHSO should outline how it is working with stakeholders to place a stronger emphasis on mediation in the Complaint Standards for the NHS and for Government. The PHSO should also write to us before our next annual inquiry into the PHSO, setting out whether it has matched its ambition for 2023/24 to maintain the number of cases resolved by mediation and to appropriately widen the types of cases resolved to include more complex cases and cases beyond those focused on healthcare. It should also set out what its medium- and long-term aims are for mediation and the measures it is intending to take to achieve those aims.* (Paragraph 23)

5. The potential barriers presented by training and culture among NHS staff to increasing mediation cannot be overcome solely by the PHSO. Other stakeholders, including the Government, have a role to play in promoting mediation. *The Government should outline how it is working with NHS England and other relevant stakeholders to promote a culture and training that is supportive of mediation among NHS staff and those working in government departments.* (Paragraph 24)

6. We reiterate the concerns we expressed in our 2021–22 report about the PHSO's continuation of the 'severity of injustice' approach to case management which means certain cases are very unlikely to be resolved and are not subject to detailed investigation. This was introduced as a temporary measure during the pandemic. The PHSO have stated it intends to review its future approach when the backlog of cases caused by the COVID-19 pandemic has been dealt with, with this likely to take place towards the end of the 2023/24 financial year. *We reiterate the recommendation from our 2021–22 report that the PHSO should set out publicly the criteria it will use during the review to determine its future approach.* (Paragraph 30)

7. We welcome the PHSO's actions following our previous recommendation, resulting in reforms to how it conducts its Service Charter survey and differentiating the data depending on the outcome of a complaint's case. However, we remain concerned that these changes do not address the underlying problems revealed by missing the targets for the three KPIs, and by the persistently low scores related to gathering information, explaining decisions, and making and communicating the final decision to complainants in a timely fashion. *The PHSO should set out in its response to this report the steps it is taking to drive continual improvement in its scores in these key areas.* (Paragraph 36)

Staff management and training

8. We note the welcome increase in the PHSO's number of staff, especially its new caseworkers. Likewise, we welcome the fact that it has retained specialist workers and has increased the amount of training it delivers to staff. This increase in training means it is even more important for the PHSO to retain staff, given the additional investment now being made in them. The Ombudsman and Chief Executive suggested current levels of staff turnover could be the result of a lack of opportunity for career development and the PHSO's different policy on hybrid working compared to other ombudsmen. We welcome the PHSO's intention to review its hybrid working policy next year. The PHSO should separately assess whether there are further steps it can and should take to reduce staff turnover, including how far its hybrid working policy is leading to higher turnover than other ombudsmen. *The PHSO should look to complete its reviews of hybrid working and the factors causing staff turnover by the summer of 2024, and share its findings with us ahead of our next scrutiny session for the 2023/24 period.* (Paragraph 44)

Value for Money

9. We welcome the PHSO's digital ambition and believe that this is a sensible way to increase value for money. *We request from the PHSO a further update on progress*

towards achieving these aims, along with a detailed analysis of any financial savings expected to be made as a result, with both to be included in the PHSO's next Annual Report and Accounts. (Paragraph 51)

10. We renew our call for legislative reform of the PHSO, the principle of which enjoys widespread support among stakeholders and the ombudsmen that would be directly affected. The PHSO have outlined to us some concrete examples of the operational issues that are being caused, and exacerbated over time, by the lack of reform. Reforms are long overdue, and we do not agree with the Government that this is not an urgent issue; rather it has been neglected too long and further delay is no longer tenable. *The Government should reconsider its position on reforms and set out its plans, ahead of the general election. It should consult with a wide variety of stakeholders, including different ombudsmen, parliamentarians and PHSO service users. All political parties should include a commitment to reforming the legislation relating to the PHSO in their upcoming manifestos ahead of the next General Election, coupled with a commitment to introduce such legislation early in the next Parliament.* (Paragraph 58)

Impact on other organisations

11. We welcome the PHSO's continual collaboration with ombudsmen in other countries and across the UK, along with its collaboration with other organisations. *In its response to this report the PHSO should outline the lessons it has learnt and best practices it has adopted because of its collaboration with other ombudsmen.* (Paragraph 63)

12. We welcome the progress that has been made in developing and rolling out Complaint Standards for the UK Government and the NHS. These Standards have the potential to improve the quality of public services and the handling of complaints. Ensuring that staff know about and act on these Standards is critical to achieving these goals. *In its response to this report, the PHSO should set out both the proportion and number of all relevant NHS and UK Government staff who have been trained in its respective Complaint Standards, broken down by department where appropriate, and inform us of its targets for training over the 2023–24 financial year.* (Paragraph 68)

13. *We reiterate the recommendation from our previous report that the Cabinet Office should strongly encourage Government departments and public bodies to sign up to the Government Complaint Standards. In its response to this report, the Government should outline how many departments and public bodies have now signed up to the PHSO Complaint Standards, and set out its plan and timetable to introduce these Standards across all departments and public bodies.* (Paragraph 69)

Formal minutes

Tuesday 27 February

Members present:

Mr William Wragg, in the Chair

Ronnie Cowan

Mr David Jones

John McDonnell

Damien Moore

Tom Randall

John Stevenson

Parliamentary and Health Service Ombudsman Scrutiny 2022–23

Draft Report (*Parliamentary and Health Service Ombudsman Scrutiny 2022–23*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 69 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Third 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 12 March 2024 at 9.30am

Witnesses

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

Tuesday 14 November 2023

Rob Behrens CBE, Parliamentary and Health Service Ombudsman, Parliamentary and Health Service Ombudsman; **Rebecca Hilsenrath**, Chief Executive Officer, Parliamentary and Health Service Ombudsman	Q1–65

Published written evidence

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

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

1 Billington, Mrs Gerry (HSO0025)

2 Brooks, Maggie (HSO0045)

3 CEDAWinLAW (HSO0018)

4 Caribbean & African Health Network (CAHN) (HSO0035)

5 Catalyst Stockton-on-Tees Ltd (HSO0014)

6 Continuing Healthcare Alliance; and Parkinson's UK (HSO0009)

7 Czarnetzki, David (HSO0006)

8 Davis, Dr John (HSO0047)

9 Field , Mr Chris (HSO0012)

10 General Medical Council (HSO0032)

11 Hartley-Brewer, Mr Gregory (HSO0033)

12 Healthcare Safety Investigation Branch / Health Services Safety Investigations Body (HSO0007)

13 Hibbert, Dylan (HSO0041)

14 Housing Ombudsman Service (HSO0020)

15 Independent Monitoring Authority for the Citizens' Rights Agreements (IMA) (HSO0021)

16 Lilley, Victor (HSO0044)

17 MDDUS (HSO0037)

18 Mayes, Mr Trevor (HSO0001)

19 NHS Resolution (HSO0013)

20 Nova Scotia Office of the Ombudsman (HSO0008)

21 Ombudsman Association (HSO0038)

22 Parliamentary and Health Service Ombudsman (HSO0036)

23 Perloff, Ms Liz (HSO0026)

24 Prentice, Brenda (HSO0017)

25 Professional Standards Authority for Health and Social Care (PSA) (HSO0046)

26 RAMA Refugee, Asylum Seeker and Migrant Action (HSO0011)

27 Reynolds, Della (HSO0034)

28 Richardson, Sean (HSO0042)

29 Ridley, Ms Rosamund (HSO0022)

30 Rock, C N (HSO0031)

31 Scottish Public Services Ombudsman (HSO0015)

32 Thomas, Robert (Professor of Public Law, University of Manchester) (HSO0010)

33 Tennant Street Medical Practice (HSO0003)

34 The Adam Bojelian Foundation CIC (HSO0039)

35 The Isle of Wight NHS Trust (HSO0027)

36 The WASPI Campaign (HSO0023)

37 Wheatley, Mr Nicholas (HSO0028)

38 Willingham, David (HSO0043)

List of Reports from the Committee during the current Parliament

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

Session 2023–24

Number	Title	Reference
1st	The Appointment of Douglas Chalmers CB DSO OBE as Chair of the Committee on Standards in Public Life	HC 243
2nd	Parliamentary Scrutiny of International Agreements in the 21st century	HC 204
1st Special	Civil Service People Survey: Government response to the Committee's Ninth Report of Session 2022–23	HC 462

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
6th	Parliamentary and Health Service Ombudsman Scrutiny 2021–22	HC 745
7th	The Role of Non-Executive Directors in Government	HC 318
8th	Where Civil Servants Work: Planning for the future of the Government's estates	HC 793
9th	Civil Service People Survey	HC 575
10th	Appointment of Baroness Deech as Chair of the House of Lords Appointments Commission	HC 1906
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

Number	Title	Reference
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
6th Special	Parliamentary and Health Service Ombudsman Scrutiny 2021–22: Government and PHSO response	HC 1437
7th Special	The Role of Non-Executive Directors in Government: Government response to the Committee's Seventh Report of Session 2022–23	HC 1805
8th Special	Where Civil Servants Work: Planning for the Future of the Government's Estates: Government and Office for National Statistics response to the Committee's Eighth Report	HC 1868

Session 2021–22

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

Session 2019–21

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