

Written evidence from Nick Burton (PHS 21)

Public Administration and Constitutional Affairs Committee Parliamentary and Health Service Ombudsman Scrutiny 2019-20 inquiry

- Ask the PHSO to explain why its report “*Response and Accountability - the Ombudsman Review of Complaint Handling by Government Department*” for the FY 2018/19 has been delayed for at least 12 months?
- Ask the PHSO when its report “*Response and Accountability - the Ombudsman Review of Complaint Handling by Government Department*” for the FY 2019/20 will be published?
- Note the value of the PHSO report in monitoring regulators’ performance on complaints
- Consider circulating the complaints best practice guidance for government departments to other Select Committees responsible for overseeing regulators and ensuring progress towards its implementation is published in the regulators’ annual reports
- Consider whether the UK Regulators Network should have a wider role in publishing comparative data including on complaints handling

Background

My name is Nick Burton and this evidence is submitted as a private individual. I have had limited experience of the PHSO, but have been looking at the performance of several government regulators, particularly the Financial Conduct Authority, in dealing with complaints. This has been partly based on the PHSO’s report into complaints across all government departments.

Evidence

The following items are submitted in evidence for your consideration and follow up with the PHSO:

1. The PHSO has failed to publish its report “*Response and Accountability - the Ombudsman Review of Complaint Handling by Government Department*” for the FY 2018/19. The previous year’s report was published 8 months after the end of the FY in Dec 2018. When I recently submitted an FOI request the response (on 28 Oct 2020) was that publication was due in 1 months’ time. No explanation for the report’s delay of at least 12 months was offered. This is probably the single most important collective, rather than individual, report of the PHSO and this delay is not acceptable and should be investigated by the Select Committee.
2. The FOI response was within the timescale, but failed to offer any timescale for the 2019/20 equivalent report. This should also be investigated by the Select Committee.
3. I have used to latest available data from 2017/18 to construct the following table. This shows an initial attempt to compare several UK regulators’ performance in handling complaints. This is based on data from the regulators themselves and the Parliamentary and Health Service Ombudsman.

	Total Complaints received by the Regulator	Complaints about the Regulator to external complaint reviewer	% Complaints about the Regulator against complaints received	Complaints assessed – (PHSO phrase)	Fully or Partially Upheld by external complaint review	Percentage Upheld rate
Charity Commission	2269	29	1.28	5	0	0
Information Commissioner's Office	10809	167	1.55	56	0	0
Ofcom	5774	10	0.17	2	1	10
Ofwat	57	8	14.04	1	0	0
FCA	557	96	<u>17.24</u>	13	<u>9</u>	9.38

The assessment of complaints about the regulators is based on the Parliamentary and Health Service Ombudsman's performance table in the above quoted report except for the FCA which is unique in having its own independent Complaints Commissioner. The data in this table is not truly compatible as the types and definitions of a complaint can be markedly different across different regulators. Despite this the table shows how poor the performance of the FCA, which it does not acknowledge. It has the highest rate of further complaints about it after it has failed to satisfy complainants and the only regulator to have a significant number of complaints upheld about it. On the evidence of the FCA's Complaints Commissioner the performance of the FCA has further deteriorated in the past 2 years, but the serious unexplained delay in the publication of the PHSO report prevents the comparison being updated.

4. The initiative of the Select Committee in seeking the summary of best practice on complaints handling from the PHSO is commended, but these lessons need to be more widely shared and their implementation encouraged by those responsible for overseeing the various regulators. It is appreciated that the current best practice document is focussed on the NHS, but one is promised on other government departments. Two of the key lessons are:
 - a. Culture change from defence and denial about complaints to management embracing them as a business improvement opportunity; and
 - b. The need to freely apologise without the constraint of it being an admission of liability

The Select Committee should seek a timescale for this second instalment of best practice. It should also consider endorsing it by circulating to all Select Committees with regulators within their remit, particularly those listed in the table above. It should also consider whether all such regulators should be required to publish their progress in adopting the new guidance in their annual report, and how this might be implemented.

5. The UK Regulators Network (UKRN) is an umbrella organisation of four of the UK's consumer service regulators (Ofwat, Ofgem, Ofcom and the FCA). I am not aware of

its history or its detailed responsibilities. It does publish some comparative data, but not that for complaints. The Select Committee may consider whether the UKRN would have a useful role in developing best practice as outlined in para 4 above, including expanding its membership and adding complaints data to its performance data. Alternatively it may consider whether another body should undertake this remit.

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