



PACAC (Public Administration and Constitutional Affairs Committee)

House of Commons · London SW1A 0AA

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Rob Behrens CBE
Parliamentary and Health Service Ombudsman
By email

Monday 12th October 2020

Dear Rob

PHSO Scrutiny 2019-20

I am writing to you in relation to the Committee's inquiry into PHSO scrutiny 2019-20. I would be grateful if you could provide answers to the following questions.

Demand for PHSO services

In the previous scrutiny session, you informed the Committee that the PHSO had experienced an increase of demand, saying:

Since then, the volume of cases being submitted to us has risen, as with most ombudsman services, by 13%. [Q47.]

In the PHSO's annual report and accounts for 2019-20, it states (page 31):

In 2019-20, we helped complainants with 103,965 enquiries. Direct year on year comparison of enquiry numbers is not possible due to changes in how we recorded this data on our new CMS from November 2019. However, prior to this, we saw an increase of 13% compared to 2018-2019. The new procedure is more robust, and a better reflection of the number of enquiries we receive.

This point has also been raised in an article by Bruce Newsome in the Critic. The Annual Report and Accounts would seem to suggest it was not possible to make an exact declaration that the PHSO's demand had increased by the suggested 13%. In any event, the enquiry numbers for 2019-20 is given as 103,965, compared to the figure of 112,262 for 18-19.

1. Does the PHSO stand by the figure of a 13% increase in demand that was provided to the Committee at the previous evidence session?

The annual report also says on page 31 that "during the year PHSO, like other Ombudsman services, saw a sustained increase in demand for our service. We could identify no single underlying cause for the increase". Page 41 of the report also

asserts "Overall Service Charter scores have remained similar to the previous year, at a time when we have seen a significant increase in demand for our service."

2. What is the evidence base that demand for PHSO services had increased in the financial year 2019-20 compared to 2018-19?

The Annual report and Accounts also says that the new procedure is "more robust" and a "better reflection of the number of enquiries that we receive."

3. Was there a known margin of error for the enquiry numbers in previous PHSO annual report and accounts? If so, what was that margin of error and is there a margin of error for the figure provided in the 2019-20 report?

Change to KPI targets

The PHSO has various KPIs relating to its service charter. The target section score KPIs appear to have increased in the 2019-20 annual report:

- Giving you the information you need: 75% -> 84%
- Following an open and fair process: 65% -> 69%
- Giving you a good service: 67% -> 71%

It is of course laudable for the PHSO to set more ambitious targets but during the previous scrutiny hearing we asked about the way the target section scores were calculated (Q8+9) and no indication was made to us that those targets were going to be changed. In the PHSO's response to our previous scrutiny report, the PHSO noted that "As PHSO is the only public Ombudsman service collecting and publishing the type of information set out in the Service Charter, we are unable to benchmark the scores".

4. How were the target section scores originally set for performance against the Service Charter?

5. For what reason were the target section scores changed? And how were the new target scores determined?

The PHSO's response to our previous report also raises the introduction of a Quality Assurance Framework, which is also mentioned in the annual report and accounts, which has replaced the previous internal assurance scores that were published in the previous year's report.

6. Please explain how the new Quality Assurance Framework operates and what information from this internal process will be made publicly available.

Time limits for complaints

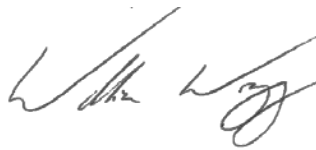
We have received correspondence from service users on the PHSO's time limit of one year for complaints. This time limit is of course set out in statute, although the Ombudsman can still investigate if he believes it is reasonable to do so.

7. What guidance or principles does the PHSO use to help determine whether it will investigate cases that are not brought to the PHSO within the one-year time limit and are there mitigating factors, for example, if a person is not informed by the organisation that they can bring a complaint to the PHSO? How do lengthy delays or investigations by the original organisation affect that time limit?

One person described how, when they correspond with a bank, their attention is always drawn to the existence of the Financial Ombudsman, if they would wish to make a complaint.

8. Are you taking steps to help ensure that bodies within the PHSO's remit should draw complainant's attention to the PHSO and the associated time limit immediately in their complaints process?

Thank you in advance for your assistance with these questions. The Committee may have further questions, particularly in response to written evidence it receives as part of the scrutiny inquiry.

A handwritten signature in black ink, appearing to read 'William Wragg', is centered on the page.

William Wragg MP
Chair, Public Administration and Constitutional Affairs Committee

Response to the letter from the Chair of PACAC, dated 12 Oct 2020

30 October 2020

Dear William,

Thank you for your letter of 12 October 2020, which highlighted a number of questions from the Committee as part of its scrutiny of PHSO's performance in 2019-20. I have set out below my response.

- 1. Does the PHSO stand by the figure of a 13% increase in demand that was provided to the Committee at the previous evidence session?**
- 2. What is the evidence base that demand for PHSO services had increased in the financial year 2019-20 compared to 2018-19?**
- 3. Was there a known margin of error for the enquiry numbers in previous PHSO annual report and accounts? If so, what was that margin of error and is there a margin of error for the figure provided in the 2019-20 report?**

In the first eight months of 2019-20, there was a 13% increase in the number of enquiries we received compared to the same period in 2018-19, using the same method of recording enquiries.

In December 2019, we introduced a new digital casework management system. The new system has many benefits and enables a more robust way of recording information about casework. However, this means that the number of enquiries received in the final four months of 2019-20 is not directly comparable with the same period the year before. This means the total number of recorded enquiries received in 2019-20 overall is lower than in 2018-19, despite the increased enquiries received in the first eight months of 2019-20.

There was no margin of error in the previous method of recording enquiries. The key difference is that the previous system logged repeat enquiries from the same complainant individually, whereas the new method links repeat enquiries and records new incoming enquiries and complaints more effectively.

The increased enquiries received in the first eight months of 2019-20 translated into an increase in the number of new complaints we received in 2019-20 as a whole, compared to the year before. In 2019-20 we received 31,365 new complaints, which is 7.2% more than the 29,264 in 2018-19.

- 4. How were the target section scores originally set for performance against the Service Charter?**
- 5. For what reason were the target section scores changed? And how were the new target scores determined?**

PHSO is the only UK public service Ombudsman scheme that regularly conducts a survey of this nature. This means we are unable to benchmark survey scores or targets against another comparable organisation.

Instead, we look at PHSO's past performance and use this to set realistic but ambitious targets. For example, the targets for 2018-19 were set based on the scores achieved in the first nine months of 2017-18. After we exceeded the Service Charter KPIs in 2018-19, we set higher

targets for 2019-20, based on a combination of past performance and a commitment to improve. Our objective was to ensure that targets are ‘realistic but stretching’ to maintain the focus on continuous improvement.

6. Please explain how the new Quality Assurance Framework operates and what information from this internal process will be made publicly available.

In 2019-20 we developed a new, more robust and consistent approach to monitoring and assuring quality. This includes a comprehensive new set of quality standards covering all aspects of casework. The standards are benchmarked against other Ombudsman services, the Ombudsman Association Service Standards Framework, and the internationally recognised ISO9001 quality management criteria.

The new approach also includes three layers of quality control and assurance. Managers of casework teams quality control the work of their teams, followed by independent quality assurance from PHSO’s quality team. The Ombudsman and Deputy Ombuds also review a random sample to provide an additional layer of assurance, feedback and learning to support ongoing improvement.

The ability to collect data about PHSO’s performance against the new quality standards has been affected by the impact of COVID-19 pandemic. The pause on NHS complaints means we have been handling fewer complaints than usual and therefore have a significantly reduced sample size of cases. We aim to publish initial information about PHSO’s performance against the new quality standards on a quarterly basis from the end of Quarter 1 2021-22 onwards. We will publish more comprehensive information in the 2021-22 Annual Report.

7. What guidance or principles does the PHSO use to help determine whether it will investigate cases that are not brought to the PHSO within the one-year time limit and are there mitigating factors, for example, if a person is not informed by the organisation that they can bring a complaint to the PHSO? How do lengthy delays or investigations by the original organisation affect that time limit?

PHSO’s service policy sets out guidance for caseworkers as to how to approach the time limit.¹² It emphasises that, if a complainant brings a case to PHSO after the 12-month time limit, the caseworker must consider the complainant’s particular reasons doing so.

While the guidance makes clear that each decision must be case-by-case, it also makes it clear that we would expect to accept a case if the reason for delay was that the complainant was going through the local resolution process. So if there was a lengthy delay by the organisation complained about, we would expect to take that into account unless there was some particular reason that meant it was not right to do so, such as – for example - the complainant’s conduct.

Where there is delay by the organisation complained about, we would expect the complainant to come to us quickly after the process had concluded. It is good practice for bodies to signpost complainants to us, and more information is enclosed below about how we ensure organisations in PHSO’s jurisdiction and referring MPs are aware of PHSO’s service.

If a complainant did not bring their complaint to PHSO promptly after local resolution had concluded, then we would have to consider the particular reasons why the complainant did not consider their options before we made a decision about whether to accept the case.

¹² PHSO’s service policy is published on our website:

<https://www.ombudsman.org.uk/sites/default/files/Service%20Model%20Main%20Guidance%2016.0.pdf>

Fundamentally, our aim is to reach a fair balance between the need for bodies in jurisdiction to have some certainty about their situation and for complainants to pursue complaints in circumstances where there are genuine mitigating reasons for a delayed complaint.

8. Are you taking steps to help ensure that bodies within the PHSO's remit should draw complainants' attention to the PHSO and the associated time limit immediately in their complaints process?

We conduct significant activity to ensure that organisations and MPs signpost to our service. For instance, when we find as part of our casework that an organisation has not done this properly as part of their complaint handling, we make recommendations to address this. In addition, in 2019-20, PHSO's liaison team held over 100 meetings with 78 organisations, which often included specific training sessions for complaints staff to explain the role of PHSO, how our service works and how legislative requirements such as the time limit or our approach to alternative legal remedy operate in practice. The feedback the liaison team receives for this training is overwhelmingly positive.

At the start of the new Parliament, we e-mailed all MPs with information about PHSO and how to bring complaints to us about Government departments and agencies. We also attended an in-person induction event in Parliament in February and delivered a presentation about how MPs and their constituents can access our service, and responded to questions from MPs' staff. Parliament's Customer Service, Governance and Central Services Team also ensured that the parliamentary intranet contained up-to-date information about the role of PHSO and the complaints process.

In addition to the activity we carry out on social media to promote our work, we also produce literature about PHSO for MPs and NHS bodies to share with complainants. As well as sharing physical copies of this material on request, more than 5,000 copies of these leaflets were downloaded from our website in 2019-20. This material includes specific information about the time limit.

As the Committee will have seen in PHSO's draft corporate strategy for 2021-24, we are concerned, however, that awareness of PHSO's service is not at the level it should be. Depending on the outcome of the current one-year CSR, one of PHSO's future priorities will be to address this by conducting research to understand who is and who is not using our service and the reasons for this. We then intend to develop public awareness material that we can target at the under-represented groups we identify to boost their awareness and understanding of what we do. We welcome the Committee's support for this proposed activity in its response to the consultation we recently conducted on PHSO's draft strategy.

Yours sincerely,

Rob Behrens

Rob Behrens CBE
Ombudsman and Chair
Parliamentary and Health Service Ombudsman