Memorandum to the Public Administration and Constitutional Affairs Committee by the Parliamentary and Health Service Ombudsman

Scrutiny inquiry 2019-20

30 October 2020

Summary

In 2019-20, PHSO continued its journey towards becoming an exemplary Ombudsman service by making further improvements to the way we handle complaints and the way we run the organisation.

Despite the scale of these changes, we maintained casework productivity and closed cases more quickly, on average, than the previous year.

We continued to develop PHSO's external engagement with the wider Ombudsman community, the public, and the bodies in PHSO's jurisdiction. We shared learning and good practice to support improvement in public services.

Along with the rest of the nation, PHSO faced the challenge of the COVID-19 crisis towards the end of 2019-20. We responded promptly, pausing work on health complaints to allow the NHS to focus resources on the emergency response while keeping the PHSO phone lines open to the public. We also continued working on complaints about Government departments and agencies.

2020-21 is the final year of PHSO's current corporate strategy. Although we are currently on track to deliver the commitments made, we have had to pause or defer some planned activities due to the impact of COVID-19. This means that some changes and improvements may not be as fully embedded by the end of 2020-21 as we had previously planned. We will keep PACAC updated on progress.

Looking ahead, we have received positive feedback about PHSO's future plans during the recent public consultation on the draft 2021-24 corporate strategy. Following the Government's recent announcement that the current CSR will result in a one-year financial settlement, we are awaiting a decision about PHSO's funding for 2021-22. We will update the Committee in due course on the implications of this for the new strategy.

We could achieve an even greater impact, and better access to justice, if Government brought forward legislation to modernise PHSO's powers, in line with the international benchmarks of Ombudsman practice as set out in the Venice Principles[1], and as per the recommendation made by PACAC during its previous scrutiny inquiry into PHSO. The Government has indicated that fundamental reform will not take place in this

[1] https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)005-e

Parliament. This means that important incremental reforms, such as the removal of the outdated MP filter, should be achieved as part of another legislative vehicle where possible to 'level up' access to our service for all citizens.

1. Introduction

1.1. PHSO's vision

To be an exemplary public services Ombudsman providing an independent, impartial and fair complaints resolution service, while using our casework to help improve public services.

1.2. PHSO's role

PHSO makes final decisions on complaints that have not been resolved by UK Government departments, the NHS in England and some other UK public organisations. We do this impartially and independently of Government, holding public bodies to account. PHSO is not part of Government, the NHS in England or a regulator. We are neither a consumer champion nor an advocacy service, but as an Ombudsman service hold firm to the principles of independence, transparency impartiality and fairness, especially where there is an imbalance of power between the parties to a complaint.

1.3. How we work

PHSO looks into complaints where an individual or group believes there has been injustice or hardship because an organisation has not acted properly or fairly, or has provided a poor service and not put things right.

When we first receive a complaint, we make initial checks to see if we can deal with it. We may also work with a complainant and the organisation they are complaining about to see if we can help resolve issues at this early stage.

If a complaint moves past this stage, then we take a closer look to decide how best to resolve matters. We may decide to investigate, or we may be able to achieve a resolution without needing to pursue an investigation.

If we decide to investigate, we will gather information from the complainant and the organisation they are complaining about before we make our final decision about the complaint. When we uphold a complaint, we recommend what the organisation should do to put things right.

PHSO shares findings from casework with Parliament to help it hold organisations that provide public services to account. We also share findings more widely to promote improvements in public services.

1.4. Data about PHSO's performance

In December 2019, PHSO introduced a new digital system to manage casework. The new system records some information about casework in a different way to how it was recorded previously. This means that although the new system provides more robust

data, it does not provide an exact like-for-like comparison with some casework data that was reported before December 2019.

At the end of each financial year, we carry out checks on performance data to make sure it is accurate before we publish it in PHSO's annual report. As a result, the data that appears in the 2020-21 Annual Report when it is published in 2021 may differ slightly from 2020-21 data provided to the Committee before then.

2. The impact of COVID-19 on PHSO

PHSO's ways of working began to change from early March 2020 as we followed Government instructions for office-based workers. It had already become harder for NHS organisations to respond to our enquiries and for caseworkers to gather specialist advice from expert clinicians as NHS staff focused on the COVID-19 emergency response.

Only 20% of PHSO staff were equipped to work remotely before the COVID-19 crisis. However, in a short space of time almost all staff were provided with the technology and systems necessary to work from home.

PHSO paused work on health complaints on 26 March 2020 to allow the NHS to focus on responding to the COVID-19 crisis. We took this decision after listening to advocacy groups and NHS organisations. We also learnt that NHS complaints teams were increasingly being re-deployed to support the pandemic response. Between 26 March and 30 June 2020, NHS England and Improvement also advised NHS organisations that they could choose to pause the complaints process. The Local Government and Social Care Ombudsman also paused all casework which needed input from councils and care providers between the end of March and the end of June 2020.

We maintained a service by keeping PHSO's phone lines open and continuing to progress complaints about Government departments and agencies. We were also able to continue some work on complaints about the NHS where we could make progress without needing to contact NHS organisations or staff, for instance where we had already received key documentation and clinical advice.

After careful consideration, we re-started work on health complaints on 1 July 2020. Since then we have been closely monitoring incoming complaints about the way the NHS and Government departments responded to the pandemic, as well as complaints about the indirect impact of COVID-19, such as delays in NHS treatment for other conditions. We will work to identify any common themes in these complaints and share the learning from these cases to support public services to make improvements.

PHSO wrote to the Chancellor of the Duchy of Lancaster in May 2020 to highlight the importance of using the learning from public services' response to the pandemic to inform improvement in policy and practice in future. We also contributed evidence[2] to PACAC's inquiry into the response to COVID-19 and the Coronavirus Act.

Although it is not possible to predict precisely how the pandemic will affect the number of complaints PHSO will receive about public services' response to the pandemic, we are in regular contact with NHS organisations, Government

[2] https://www.ombudsman.org.uk/sites/default/files/2020-07/PACAC_COVID-19_PHSO-submission_13July20_FINAL_logo.pdf

departments and advocacy groups to understand the level of complaints they are seeing. Early indications suggest that there is likely to be an increase in these complaints over the next period, although the timing of when they will reach PHSO's service remains uncertain. It is also likely a number of these cases will bring added complexity as we balance the demands placed on staff in the NHS and public services during the pandemic with the essential requirement to provide an effective service.

As PHSO is the last step in the complaints process, the full extent of any increase in demand may not be seen for 12-18 months. We have modelled a range of different scenarios to understand how we would need to respond to changes in demand and we are monitoring the volume of incoming complaints closely.

In October 2020, we published *The Ombudsman, coronavirus and crisis management*, an interim report on the findings from research carried out by PHSO with members of the International Ombudsman Institute (IOI). In June 2020, IOI members were asked about the challenges their organisations face, the challenges brought about by the COVID-19 crisis and the strategies being used to tackle them. The full set of results from the survey will be published in the final report early next year.

3. Managing and improving PHSO

3.1. Strengthening the organisation

In 2019-20 PHSO took further steps towards becoming an exemplary Ombudsman service by introducing changes and improvements to the organisation.

PHSO's staff received 1,711 days of formal training in 2019-20 to further improve their skills and capability. This equates to nearly four days of formal training for each caseworker and senior caseworker, and nearly five and a half days of formal training for managers of casework teams. Staff also engaged in learning through coaching and mentoring, conferences, external events, formal professional qualifications relevant to their role, and a series of Learning Labs with speakers ranging from former complainants to the National Institute for Health and Care Excellence.

We continued to run leadership and management development training to support staff in management roles to lead people and teams effectively. We have already seen improvements in staff survey scores relating to people management, with more staff reporting they receive regular feedback from their manager and that their manager motivates them to be more effective at work.

We invested over £2.1m in ICT capability in 2019-20. We completed extensive improvements, replacing several outdated legacy systems, software and services within a short timeframe, including all ICT infrastructure and support capability. We also replaced the main digital system for managing casework. The previous system was outdated and difficult to adapt to changing requirements. The new system is easier to use and is capable of providing better recording, reporting and analysis of data.

Towards the end of 2019-20 and into 2020-21, we made further improvements to PHSO's technology to support staff to work remotely.

PHSO's new Expert Advisory Panel was established in 2019-20, bringing together external expertise in advocacy, investigations, and patient safety to support and challenge PHSO's continued improvement. The Panel includes Dr Bill Kirkup, James

Titcombe, Suzy Ashworth, and Dr Nick Coleman. It is already making an important contribution to improving service quality and the impact of casework.

3.2. Managing the organisation

We successfully delivered these substantial improvements while achieving savings of more than £2.1m in 2019-20. Between 2016-17 and 2019-20, PHSO delivered a real terms reduction in spending of over 24%.

Following the overwhelming improvements seen in PHSO's staff survey results in 2018-19, we largely sustained high scores in the 2019-20 Civil Service People Survey. While a slight reduction on 2018-19, PHSO's staff reported an overall engagement score that remained higher than the average for civil service organisations (65% vs 63%).

We introduced a new pay and grading framework for PHSO's staff in 2019-20. The previous approach lacked transparency and was too complicated, with 150 different pay points and people working in the same role paid substantially different rates. The new framework is much simpler and more transparent, streamlining pay rates into seven pay grades. We designed the new approach after listening to feedback from staff and trade unions, but we were unable to reach an agreed position before the 2019 staff survey took place. Frustration with this is reflected in some of the survey feedback and overall engagement score.

Going forward, PHSO will no longer be able to participate in the Civil Service People Survey, as the participation criteria have changed to exclude independent bodies such as PHSO that are not part of central Government. However, we will seek to maintain consistency across most question areas to allow PACAC and the public to compare PHSO's previous scores and those of the civil service. We will also use this opportunity to expand on specific question areas, such as career development, to give us better insight. We have commissioned an independent agency to run the 2020-21 staff survey.

In 2019 we launched a new Equality, Diversity and Inclusion Strategy, focused on building and maintaining a diverse, inclusive workforce, and increasing access to PHSO's service. In 2020-21 we have focused on changes to the recruitment process to ensure we attract talented candidates from a diverse range of backgrounds and we have adjusted processes to ensure there is rigour and equity of opportunity in PHSO's recruitment and development programmes. We have provided opportunities for staff to share feedback on the barriers to inclusion they experience and are using their feedback to develop specific actions, We are also working to better understand who is bringing complaints to us and how we ensure that the service meets the diverse requirements of individuals and groups.

4. Operational performance and improvement

4.1. Improving PHSO's casework

PHSO introduced a number of important improvements to casework in 2019-20.

We continued to develop ways to reach a decision on complaints earlier in the process. After piloting a range of mediation and early dispute resolution methods, we embedded early resolution in PHSO's casework. This involves facilitating a conversation between complainants and the organisations they complain about to

focus on achieving a resolution. Both complainants and organisations have shared positive feedback about the new approach.

We also adopted a more effective approach to identifying complaints that can be closed earlier in the process without the need for an investigation, either because something has gone wrong but there are no unremedied failings, no signs that someone suffered an injustice as a result, or where there are no signs that anything has gone wrong. In these cases, we are now working with the complainant and the organisation to close the complaint without the need for an investigation. We closed 1,215 cases using this method in 2019-20. These improvements not only provide an outcome for the complainant more quickly, but also offer better value-for-money for the taxpayer.

We took further steps to strengthen the skills and capability of PHSO's caseworkers. We rolled-out the sector-leading accreditation programme for senior caseworkers that was piloted in 2018-19. We also launched a Training Academy to support new caseworkers to develop their skills and knowledge. The Training Academy provides induction and training modules for new staff, as well as high levels of support and guidance from a manager and senior caseworker as they build their capability in their first few months in post.

In March 2019, we published a review of PHSO's use of specialist advice from expert clinicians. The review was chaired by Sir Alex Allan, with the former Chief Medical Officer for England, Sir Liam Donaldson, acting as independent advisor. In 2019-20, we started implementing the recommendations of the review. This includes sharing clinical advice with complainants and the organisations complained about, as well as holding multidisciplinary meetings where colleagues with expertise in different fields can discuss complex cases before reaching a provisional view on a complaint. PHSO also published more information to help complainants understand the role of clinical advice in casework. More recently, in May 2020, we also published guidance on how we balance the evidence we receive when we look into a complaint.[3]

All of these improvements are supported by a new framework for assessing and assuring the quality of PHSO's casework. The new framework sets out clear standards for casework quality that support managers to maintain and improve the quality of PHSO's complaint-handling. A new Quality and Improvement team offers additional assurance and support, leading continuous improvement across all aspects of PHSO's casework service. Looking ahead, we are planning to introduce a new set of public-facing quality measures that better complement the complainant feedback and from which we can better assess comparative performance.

4.2. Casework performance and impact

PHSO received over 103,000 enquiries in 2019-20. This included more than 73,000 enquiries where we provided people with advice and signposting.

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. This initially led to a rise in the number of complaints waiting to be allocated to a caseworker, but we took

[3] https://www.ombudsman.org.uk/publications/balancing-evidence-guidance

steps to recruit additional caseworkers and improve productivity to bring down the queue.

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 increases experienced and recorded in the first eight months of 2019-20.

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.

We closed nearly 31,000 complaints in total in 2019-20, again, an increase on 2018-19. Despite the scale of the changes we made in 2019-20, we maintained casework productivity and closed cases more quickly than in the previous year:

- We closed 48% of complaints within 13 weeks, up from 41% in 2018-19;
- 80% were closed within 26 weeks, up from 72%; and
- 93% were closed within 52 weeks, a small improvement on 92%.

This means that we resolved complaints in an average of 140 days in 2019-20 – 15 days faster than in in 2018-19.

As well as providing a timelier decision, closing cases at an earlier stage of the process can also help put things right for the complainant sooner. For example, in one case about a type of NHS-funded care called Continuing Healthcare, we achieved more than £250,000 of financial remedy for the complaint without needing to conduct an investigation. We completed fewer formal investigations in 2019-20 as we moved to earlier resolutions, but of those we did investigate, we upheld or partly upheld a larger proportion (54%) compared with 2018-19 (41%).

In 2019-20 PHSO made 1,366 recommendations for organisations to put things right for complainants and learn from failings following an investigation. This included 507 formal apologies, 491 service improvements, and payments worth more than £626,000 to complainants for financial loss or to recognise the impact of what went wrong. This is in addition to the payments agreed with organisations earlier in PHSO's process without the need for an investigation.

We collect regular feedback from people who use PHSO's service through a survey conducted by an independent research agency. We assess user satisfaction against PHSO's Service Charter, which sets out the quality of service people can expect from PHSO. Service Charter scores in 2019-20 remained similar to the previous year.

In 2019-20, we set more ambitious targets for complainant satisfaction. This reflects PHSO's commitment to continuous improvement, while recognising that complainants' feedback can be affected by whether they received the decision they were hoping for from PHSO. For example, previous analysis of complainants' survey results found that 86% of people whose complaint was upheld following an investigation said they were satisfied with PHSO's service, compared to 47% of people whose complaints were not upheld. This is one of the reasons why improvements to PHSO's service do not always lead directly to immediate increases in Service Charter feedback scores.

5. Sharing good practice and insight

5.1. Engaging externally

Throughout 2019-20 PHSO continued to strengthen its engagement with the wider Ombudsman community nationally and internationally. We shared good practice and learning with other Ombudsman services, from Catalonia to Canada. In September 2019 we jointly hosted a seminar on peer review with the International Ombudsman Institute (IOI), building on PHSO's experience of peer review in 2018-19 and following PACAC's recommendation that we conduct an independent study along these lines. Following the seminar, PHSO led the development of an IOI best practice guide, which has already been used within the wider international Ombudsman community. In January 2020, the Ombudsman led an IOI-sponsored peer review of the Ombudsman of Catalonia, in partnership with his Belgian counterpart.

We held PHSO's annual Open Meeting in October 2019, where we were joined by people who use PHSO's service, frontline complaint-handlers, and organisations we investigate. In addition to the live audience, we also made the event accessible through an online livestream, to offer a wider opportunity to hear directly from the Ombudsman, Chief Executive and guest speakers.

We launched five new episodes of PHSO's regular podcast series, Radio Ombudsman, in 2019-20. Featured guests included Rachel Power, Chief Executive of the Patients Association, and Rebecca Hilsenrath, Chief Executive of the Equality and Human Rights Commission.

5.2. Sharing the learning from complaints

Complaints offer a unique source of insight to support improvement in NHS services, Government departments and their agencies. PHSO shares the learning from the complaints we receive in order to raise standards in public services and inform improvements in policy and practice. We lay reports in Parliament, publish summaries of cases, and share data about the complaints we handle each year.

In June 2019, PHSO published *Missed Opportunities*, a report which looked at failings in the care of two young men who died shortly after being admitted to the former North Essex Partnership NHS Foundation Trust. We found that the Trust had failed to learn from previous mistakes, despite the support and intervention of regulators who raised concerns about the safety and quality of care. NHS England and Improvement accepted PHSO's recommendation to carry out a review of what happened at the Trust and share the learning from this review across the mental health system.

In July 2019, we published the report of PHSO's second investigation into failings in the Care Quality Commission's regulation of the way NHS organisations make sure their senior leaders are 'fit and proper' for their role. We highlighted learning from the case to the then Chair of the Health and Social Care Select Committee.

In March 2020 we published the first Ombudsman's Annual Casework Report. This report showcased the learning from more than 30 complaints about Government departments, their agencies, and NHS organisations. It included complaints ranging from failings by the Child Support Agency that led to a parent missing out on more than £10,000 in child maintenance, to failings by the Marine Management Organisation

that resulted in two people losing their livelihoods as fishermen. We highlighted the learning from these cases to the chairs of the relevant Select Committees across Parliament.

We supported the Paterson Inquiry by sharing the learning from relevant complaints. We also highlighted the improvements that have been made in the way regulators and oversight bodies share information and escalate risks to the safety and quality of care, as well as the importance of initiatives such as Freedom to Speak Up Guardians in supporting staff to raise concerns.

We shared insights from casework through consultations and inquiries including the National Audit Office's investigation into NHS penalty charge notices and the Health and Social Care Select Committee's inquiry into the NHS Long Term Plan's legislative proposals.

More recently, we published a complaint about UK Visas and Immigration (UKVI), where we found that there was an unreasonable delay in making a decision about the complainant's immigration status through the Windrush Scheme. This led to a delay in enabling the complainant to take alternative steps to resolve their immigration status. We found that UKVI's action showed that it did not treat the complainant with respect and its delays resulted in a loss of dignity and pushing the complainant to the verge of destitution. We recommended that UKVI reviews the learning from this complaint to remove any unnecessary delays in the Windrush Scheme process, improve the openness and transparency of the process, and apologises to the complainant. We have asked UKVI to share the outcome of their learning with PACAC and the Home Affairs Select Committee.

We have taken further steps to enable PHSO to start routinely publishing casework decisions online by the end of March 2021. This is one of the key commitments we made in PHSO's 2018-21 strategy. In 2019-20, we worked with complainants, organisations in PHSO's jurisdiction, advocacy groups and other stakeholders to understand how they would like to use PHSO's decisions when they are published, so we could take this into account as we develop our approach. We also started making changes to the way we write decision reports to ensure they will be anonymised and accessible for an external audience. We are now developing the digital publishing platform that will allow us to publish decisions on PHSO's website.

5.3. Improving the quality of frontline complaint-handling

As set out in PHSO's 2018-21 strategy, we are committed to working in partnership with advocacy groups, Government departments, and NHS organisations to improve the quality of frontline complaint-handling. To support this, in 2019-20 we held over 100 meetings with organisations to share good practice in complaint-handling and hear feedback about PHSO's service.

By engaging extensively with complainants, complaint-handlers, advocacy groups, and regulators throughout 2019-20, PHSO led the development of a single new Complaints Standards Framework for the NHS. The draft Framework was due to be published for public consultation in March 2020, but we made a decision to postpone the launch until July in light of the impact of the COVID-19 crisis. We are now using the overwhelmingly positive and constructive feedback gathered through the public consultation to update and strengthen the Framework before it is formally launched and rolled-out.

Over the next period we will continue working with Government departments to develop a version of the Framework which can be used across these organisations and their agencies.

6. Improving PHSO's impact

A modern Ombudsman service with updated powers is essential to improve access to justice.

PHSO's casework helps people who use public services to achieve justice and resolution when things go wrong. The learning from this casework also helps public services to make improvements that benefit everyone. Through our relationship with PACAC and other Select Committees, we also support Parliament to scrutinise Government and hold it to account.

We would be able to achieve an even greater impact if the outdated legislation that underpins our work was reformed. As the independent review of PHSO's value-for-money found in 2018, "PHSO is now out of line with other UK public services Ombudsman offices and wider international practice".[4] Reforming the Ombudsman would enable "more effective access to justice for all citizens and seek to improve public service delivery". PHSO's powers are also out of step with established international benchmarks of good practice, as defined in the *Venice Principles on the Protection and Promotion of the Ombudsman Institution,*[5] which we hope will be adopted by the United Nations in the near future as the standard for all Ombudsman offices internationally.

In its report following the previous inquiry into PHSO's performance, PACAC recommended that "the Government should start the legislative process for Ombudsman reform anew, with an updated draft [Public Service Ombudsman] Bill for consultation and pre-legislative scrutiny. As part of such legislative reform, the PHSO and the Local Government and Social Care Ombudsman should be replaced with a single Public Service Ombudsman".[6] PHSO welcomes and supports PACAC's recommendation. However, the Government has since confirmed to PACAC that "there is no active work in Government to continue exploring the merger of these two organisations".[7]

In the absence of more substantive reform, we would welcome opportunities for a small number of significant, but straightforward, reforms by including amendments to relevant legislation that is already planned during the current session.

For example, access to justice could be fundamentally improved if the outdated 'MP filter' were removed. Currently, members of the public are prevented from bringing a complaint about a UK Government department or agency to PHSO unless it is referred to us by their local MP. MPs play a vital role in supporting constituents to resolve their concerns and removing the filter would not stop them from being able to refer their constituents' complaints to us. It is simply not right, however, that if a citizen does

[4] https://www.ombudsman.org.uk/sites/default/files/Value%20for%20Money%20report%20final.pdf

[5] https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)005-e

[6] https://committees.parliament.uk/publications/1733/documents/16787/default/

[7] https://committees.parliament.uk/publications/2479/documents/24646/default/

not wish to approach their MP for any reason, they are effectively barred from accessing justice via the Ombudsman.

Removing the 'MP filter' could also enable democratically-elected representatives in the three devolved legislatures in Wales, Scotland and Northern Ireland to refer a complaint to PHSO on behalf of their constituents – something they are currently barred from doing, despite PHSO being the Ombudsman service for the whole of the UK.

Amendments to current and planned legislation, such as the Environment Bill, could achieve this and open up access to justice.

Unlike Ombudsman institutions in Wales and Northern Ireland, PHSO does not have the power of 'own initiative'. This means we are unable to look at the injustice or hardship faced by people who are unable or unwilling to complain, such as people who are long-term inpatients in mental health and learning disability services, where they may fear their care and treatment will be adversely affected if they make a complaint. This leaves people who are in vulnerable circumstances without the opportunity to achieve justice if they have been let down by the public services they should be able to rely on.

While the forthcoming launch of the Complaints Standards Framework will help to improve the quality of complaints-handling in public services, PHSO's ability to influence this improvement is limited by the absence of modernised statutory powers. Unlike the Scottish Public Service Ombudsman, we do not have the power of a 'Complaints Standards Authority' to set the standards for complaints-handling. Such powers would add greater authority to the Complaints Standards Framework and allow us to take action where public services are not meeting those standards.

PHSO plays a unique role as an independent and impartial public service Ombudsman. As well as resolving complaints, PHSO helps thousands more people through advice and signposting. We also use the vital learning from the complaints we see to help improve public services and support scrutiny of Government departments and the NHS. Modernised powers would not only enable PHSO to strengthen its impact for the individuals and organisations we work with, it would also increase access to justice for those who most need it.

Appendices:

A. Recent feedback from complainants[8]

B. PHSO's performance against the Service Charter

C. Staff survey results 2019

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

[8] We have included a selection of positive feedback to give balance for the Committee, who might otherwise only see feedback from the regular contributors to PACAC scrutiny inquiries, that is generally more negative in nature.

Appendix A: Recent feedback from complainants

"We are so impressed with how thoroughly you have investigated this and the time and patience you have shown in your approach."

"I would like to thank you for the excellent work you did on the complaint and for your professionalism."

"Thank you for your professionalism, understanding and attention in considering my complaint"

"I wish to express my gratitude to [PHSO's caseworker and their manager] for their professionalism while also taking account of my situation. I am so pleased with the excellent service I have received"

"The clarity of your explanations throughout have allowed me to be confident that, whatever the outcome, the case had been thoroughly investigated."

"We are so impressed with how thoroughly you have investigated this and the time and patience you have shown in your approach"

"Thank you so much for all of your work on our case. We greatly appreciate the work that you have put into it, for listening to our grievances throughout the process and for following up and taking these to [the organisation complained about]… We want to, one last time, express our sincere gratitude to you, personally, and to PHSO."

"I appreciate and thank you for all your time and consistency throughout this process.

For us as a family, almost 12 months on, this has given us some closure on what has been a very stressful and heart-breaking period for us all.

I also feel we have got justice for my [relative]… I am so grateful, thank you again"

"You have been kind, thorough and professional throughout. I am of course deeply disappointed with your conclusions, but I can understand how you reached them. Thank you again for your reply, I have truly appreciated your time and effort especially in these trying times"

"Thank you for your assistance with this and for listening in full to what I went through. I can finally get closure after a really difficult time and I am grateful for that. Your honesty and time given was much appreciated"

"I would like to thank you and your colleagues for the care and sensitivity which you have dedicated to the investigation of my complaint. You have left me with a very positive impression and I am very grateful to you"

"We would like to thank you for your diligence in dealing with the complaint. I feel as though I have been listened to and not fobbed off. I hope it means other families won't have to go through the same thing"

"[We] would like to thank you for your diligence in dealing with the complaint. …I feel as though I have been listened to and not fobbed off due to my mental health issues. I hope it makes them think before they do the same to other people and stops other families going through the hell that we have."

"I would like to thank you and [another caseworker] sincerely for all your hard and persistent work in getting to the bottom of what actually happened… Without your intervention we would never have obtained the truth"

"I was relieved that I didn't have to go through an investigation as I would have had to go over all the memories of [my spouse's] last months. I am really happy to draw a line under it and I feel like [PHSO's caseworker] had understood what was needed."

Appendix B: PHSO's performance against the Service Charter

PHSO's Service Charter[9] makes commitments about the service we provide throughout the different stages of PHSO's process. We use these commitments to seek feedback on how well we are delivering our service and understand where we need to improve.

We developed the Service Charter with people who have used PHSO's service and the organisations we investigate and work with, to find out what matters to them.

We collect and publish feedback from complainants to provide a better view of our service from those who use it. In the second half of 2018-19 we piloted collecting feedback from organisations we investigate as well. Since the second half of 2019-20, the reliability of the survey of organisations we investigate was affected, firstly by changes to the way we record casework data following the launch of PHSO's new casework management system, and, more recently, by PHSO's temporary pause on health casework during the COVID-19 crisis between late March and the start of July 2020.

We use an independent research agency to collect and collate feedback from complainants and organisations we investigate. We are currently the only UK public service Ombudsman that carries out regular surveys of this nature.[10]

PHSO's Service Charter also includes a commitment to provide an impartial service: "We will evaluate the information we've gathered and make an impartial decision on your complaint". This commitment – commitment no. 10 – is not reported in this table as we collect feedback on this commitment in a different way to the other Service Charter commitments.

An independent research agency was commissioned to discuss with complainants how best to assess the impartiality of PHSO's service and if it would be possible to ask a specific question in the complainant survey that helped our understanding of this issue. The research found that a number of other Service Charter commitments are particularly important to complainants' perception of the impartiality of PHSO's service. As a result, PHSO uses these as 'key impartiality indicators' that provide us with a sense of how well we are doing on the things that should help reassure people about this, rather than seeking complainant feedback specifically through a single direct question on impartiality. We will publish the results of this in the 2020-21 Annual Report.

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[9] PHSO's Service Charter is published in full on our website: https://www.ombudsman.org.uk/making-complaint/how-we-deal-complaints/our-service-charter

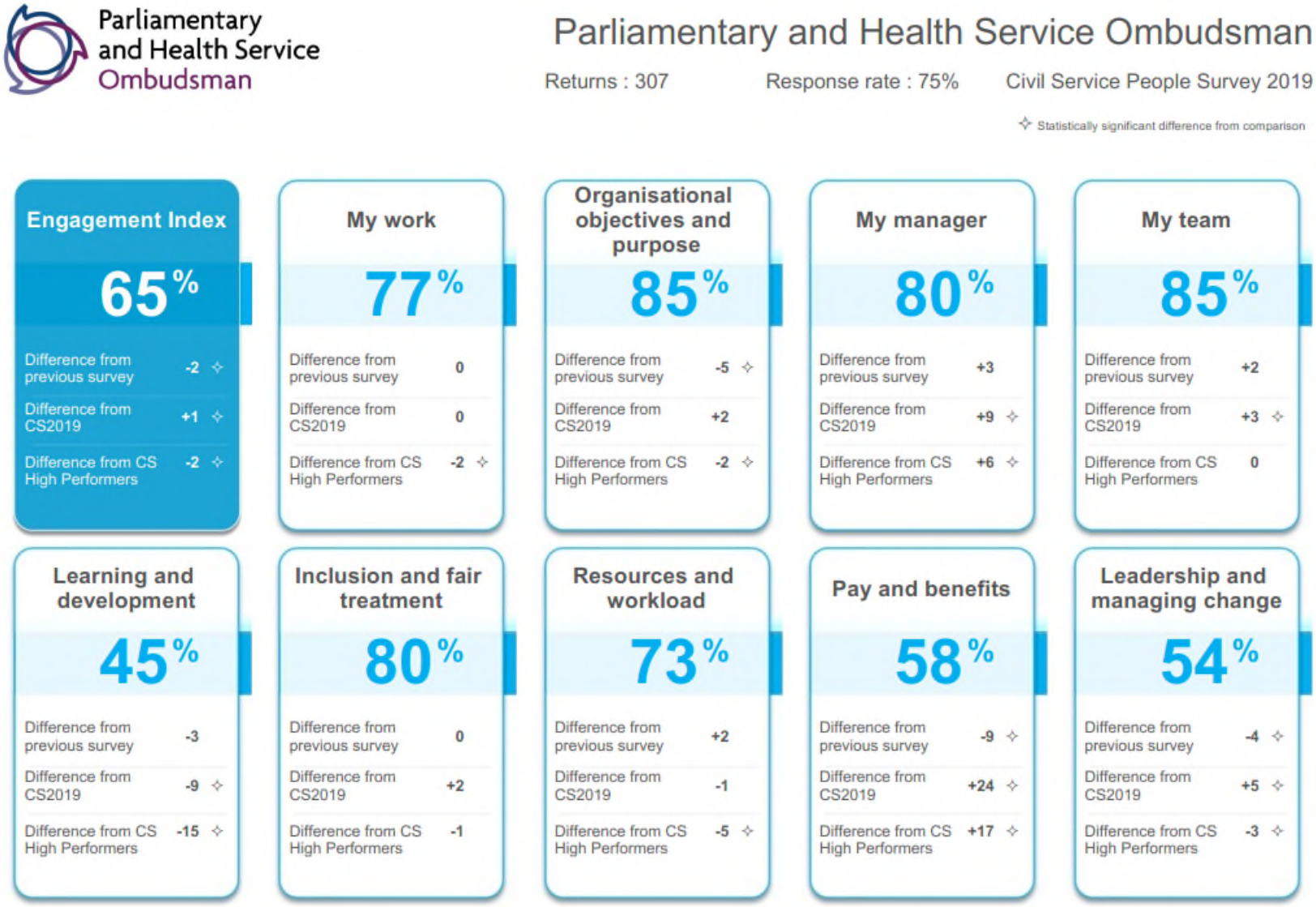
[10] This means there is no standard benchmark or UK public service Ombudsman against which to compare the results of our Service Charter surveys.

Commitment		2019-20	2018-19	2017-18
Giving you the information you need				
1	We will explain our role and what we can and cannot do	79%	79%	78%
2	We will explain how we handle complaints and what information we need from you	79%	80%	79%
3	We will direct you to someone who can help with your complaint if we are unable to, where possible	72%	78%	85%
4	We will keep you regularly updated on our progress with your complaint	79%	81%	75%
	Overall feedback score for this section	**77%**	**79%**	**80%**
	Target score	**84%**	**75%**	**-**
Following an open and fair process				
5	We will listen to you to make sure we understand your complaint	72%	73%	70%
6	We will explain the specific concerns we will be looking into	87%	88%	84%
7	We will explain how we will do our work	77%	77%	71%
8	We will gather all the information we need, including from you and the organisation you have complained about before we make our decision	51%	48%	45%
9	We will share facts with you, and discuss with you what we are seeing	70%	68%	62%
11[11]	We will explain our decision and recommendations, and how we reached them	47%	53%	58%

[11] Service Charter commitment 10, "we will evaluate the information we've gathered and make an impartial decision on your complaint" is not included in this table for the reasons set out on the previous page.

	Overall feedback score for this section	**67%**	**68%**	**65%**
	Target score	**69%**	**65%**	**-**
Giving you a good service				
12	We will treat you with courtesy and respect	89%	90%	88%
13	We will give you a final decision on your complaint as soon as we can	50%	53%	53%
14	We will make sure our service is easily accessible to you and give you support and help if you need it	65%	67%	61%
	Overall feedback score for this section	**68%**	**70%**	**67%**
	Target score	**71%**	**67%**	**-**

Appendix C: Staff survey results 2019



Appendix D: 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.

[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

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.

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?

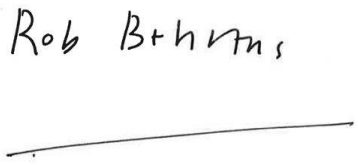
We conduct significant activity to ensure that organisations and MPs signpost to our service. For instance, when we find as part of our casework that an organisation has not done this properly as part of their complaint handling, we make recommendations to address this. In addition, in 2019-20, PHSO's 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 CBE
Ombudsman and Chair
Parliamentary and Health Service Ombudsman