

From the Ombudsman **Robert Behrens CBE**

Mr William Wragg MP
Chair, Public Administration and Constitutional Affairs Committee
By Email only



5 January 2022

Dear Chair,

I am writing following the Public Administration and Constitutional Affairs Committee's scrutiny and contract extension hearings on 14 December 2021, which I attended alongside Amanda Amroliwala, the Parliamentary and Health Service Ombudsman's Chief Executive Officer.

I am grateful for the courtesy shown to us, and I value the learning that came from the exchanges. We look forward to reading the published report and continuing the dialogue. I am also encouraged by the Committee's swift decision, after close questioning, to recommend the extension of my contract as Ombudsman to the full seven-year term, until 2024.

NHS Complaint Standards pilots

In the oral evidence session, the Committee expressed an interest in learning more about the evaluation of the NHS Complaint Standards project. I would therefore like to clarify the estimated timings for the key milestones of this activity:

- **Autumn 2022 (COVID-19 dependent)** - Complaint Standards pilot ends
- **End of 2022** - Reporting on the evaluation, in conjunction with the roll out of the Complaint Standards
- **Spring 2023** - Formal reporting on the Complaint Standards will begin.

I welcome the Committee's interest. We would be happy to update you further as the project develops. The Committee has previously indicated an intention to conduct a special inquiry into our work on the NHS Complaints Standards.

Removal of the 'MP filter'

During the hearing, we exchanged views about Ombudsman reform and the removal of the MP filter. Historically, the Committee and its predecessor Committee have been strong supporters of Ombudsman reform of and (the predecessor Committee) specifically the removal of the MP filter.

The predecessor Committee was unequivocal in [Time for a Peoples Ombudsman Service](#) (1 April 2014) in its support of Ombudsman reform and the removal of the MP filter:



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- *The continuing prohibition of direct access for all complaints is the denial of equal access to administrative justice and is an anachronism which is at odds with the expectations of today's citizens. This defies all logic. It disempowers citizens, obstructs access to their rights, and deters people from making complaints (Paragraph 55). [Emphasis is added].*
- *We recommend that the Government's new legislation to create a simpler and more straightforward Ombudsman service includes provision to abolish the **iniquitous** prohibition on citizens' direct and open access to the Parliamentary and Health Service Ombudsman (PHSO), known as the "MP filter". This would allow citizens to make a complaint unimpeded to PHSO in respect of all complaints about government departments and public bodies, as is already the case in respect of NHS complaints (Paragraph 56). [Emphasis is added].*

In its [2019-20 Scrutiny Report](#), the Committee, with you as Chair, repeated in paragraph 38: *'its predecessor Committee's calls for modernising legislation, which is plainly necessary to improve the effectiveness and value for money of the Parliamentary and Health Service Ombudsman.'*

In paragraph 39 the Report goes on to say: *'Specific matters that should be considered as part of any reform include [...] the MP filter (as part of any change to remove the MP filter, the role of Members in assisting complainants must be secured.)'* [Emphasis is added]

For the record, while I accept this is not an unconditional commitment to remove the MP filter, I can explicitly confirm that we support your principled position of securing the role of Members of Parliament in assisting complainants as part of any removal of the MP filter. I am happy to discuss in the coming months how this might work in practice.

Historic complaints

I understand that the limited time available to each scrutiny hearing means it is not possible to cover all issues that may be of relevance. One issue that we did not discuss at the hearing and which I would like to bring to your attention is the issue of the handling of unresolved historic complaints.

As you know there are a small number of historic cases that I believe warrant further independent investigation. I have previously raised these with the Committee and have written to the Government about them.

The most significant of these cases concerns the death of Robbie Powell and his father's thirty-one-year campaign to establish a public record of the service failures, deception and cover-ups associated with the death of his son. Will Powell is a vocal critic without equal. Given the time that has lapsed since PHSO investigated this case and the jurisdictional changes following devolution in Wales, it is not appropriate for PHSO to launch a new investigation, but one is clearly needed, and I remain a strong public supporter of Mr Powell's unremitting fight for justice through further formal and independent inquiry.

I raised this issue during PHSO's 2016-2017 scrutiny hearing. The previous Committee, in their 2016-2017 Scrutiny [Report](#), stated that *'PHSO is not the correct body to carry out inquiries into historic cases'*, and called for the *'Department of Health and Social Care [to] develop a*



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proportionate, time limited, mechanism to independently investigate and address those cases where legitimate questions or grievances remain'.

In 2018, the Government said it was considering possible approaches before determining the next steps. However, there has been no action or progress on this to date, and I would therefore ask the Committee to revisit the issue in its forthcoming scrutiny report.

I hope this is helpful. I stand ready in the coming weeks to discuss the Committee's forthcoming report including the issues I have raised in this letter.

Yours sincerely,

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