

**From:** [phso the facts](#)  
**To:** -  
**Cc:** [Sykes Sally](#)  
**Subject:** FW: PHSO Pressure Group reply.  
**Date:** 02 June 2014 19:21:03  
**Attachments:** [Sally Sykes letter.doc](#)

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Hi

Are you able to give a response to our letter in the near future? The seminar is just over three weeks away and we all want to be fully prepared.

Many thanks,

[phsothefacts.com](#)

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From: phso-thefacts@outlook.com  
To: ombudsman.org.uk  
CC: sally.sykes@ombudsman.org.uk  
Subject: PHSO Pressure Group reply.  
Date: Thu, 15 May 2014 18:36:08 +0100

Dear

I have attached our reply to Sally Sykes letter about the seminar in June. I have copied her in directly.

We will wait to hear from you.

Many thanks

[phsothefacts.com](#)

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15<sup>th</sup> May 2014

Dear Sally,

Thank you for your letter concerning the seminar on June 26<sup>th</sup>. We are all aware that with twenty of us present we will not have time to discuss any detailed analysis of our own cases. However, these cases constitute our personal customer experience of PHSO and provide important examples of service delivery failure. Our experiences are indeed the 'gold dust' so often quoted, but so rarely valued.

In order to maximise the time available a number of us have drawn up three questions based on our own experience of service delivery. We will be handing these questions in at the end of the meeting, with our contact details, so that PHSO can give us a considered response. When we have all had the chance to speak it would be a good idea to hold a plenary session so that we can collectively draw together the common themes. Perhaps someone can act as scribe for this purpose?

Many of the issues which will arise are identified in our summary report. I attach a copy for your attention. We would like to discuss some key issues from this report, so it would be a good idea to circulate copies to all members of staff who are attending. From the report discussion we hope that action points will be generated for PHSO to address. Listening without action is pointless. A short summary of the whole meeting needs to be drawn up by PHSO which lists the key themes identified and action points agreed, based on our experiences and report. Action points should, of course, be SMART and time bonded. Will someone keep meeting minutes?

On the subject of attendance, can you confirm that the Ombudsman herself, Dame Julie Mellor will be attending? The importance of 'leadership' has been emphasised by Dame Julie herself and also by Bernard Jenkin at PASC. We all feel that it is very important that the Ombudsman attend the meeting and share this experience with us as she is at the helm of your 'ongoing improvement journey'. We have twenty members due to attend and I will be able to send you a complete list of names nearer the time. We welcome members of IFF to the seminar and would appreciate a complete list of staff members who will be in attendance in due course.

We hope that this meets with your own agenda and we are happy to discuss the matter further if necessary. Thank you for this opportunity to speak directly with PHSO staff about our concerns. I am sure it will be a very valuable day all round.

Kind regards,

PHSO Pressure Group.

**From:** [phso the facts](#)  
**To:**  
**Cc:** [Sykes Sally](#)  
**Subject:** FW: Out of Office: PHSO Pressure Group reply.  
**Date:** 02 June 2014 19:23:30

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We would like a reply to the correspondence below before the 10th June if at all possible.

Many thanks,

[phsothefacts.com](http://phsothefacts.com)

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**From:** ombudsman.org.uk  
**To:** phso-thefacts@outlook.com  
**Date:** Mon, 2 Jun 2014 19:21:02 +0100  
**Subject:** Out of Office: PHSO Pressure Group reply.

Apologies I am out of the office now returning the 10th of June I will respond to emails on my return, if it is urgent please contact on T: or email

E: [@ombudsman.org.uk](mailto:@ombudsman.org.uk)

Kind regards

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**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Cc:** -  
**Subject:** PHSO seminar.  
**Date:** 09 June 2014 10:25:10  
**Attachments:** [reply to Sally Sykes 9.6.14.doc](#)  
[PHSO Full Report to go.docx](#)  
[PRESPONSE TO PASC REPORT to go.doc](#)  
[Response to More complaints please.doc](#)

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Dear Sally,

Thank you for your recent correspondence. We have discussed the content of your letter as a group and drawn up our response which is attached to this email.

A full list of attendees will follow shortly. Some people are bringing a partner as support but they will not contribute to the meeting. I hope that this is ok with you. Our group will not exceed 20 in total.

Looking forward to seeing you again soon.

Best wishes

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9<sup>th</sup> June 2014

Dear Sally Sykes,

We were informed in March that the proposed seminar of 10<sup>th</sup> April needed to be postponed due to the unavailability of your Managing Director, Mick Martin. We agreed to arrange a more suitable date and on 11<sup>th</sup> April it was confirmed that the 26<sup>th</sup> June would suit all parties. Yet in the intervening two months it would appear that neither Mick Martin nor Dame Julie Mellor are now able to attend the seminar. Can you confirm that this is the case?

We also note that no-one is attending from customer services, which should be a key department at a seminar where the **customers** give direct feedback about the **services** received. If we have up to date knowledge of your corporate structure it would appear that Mr. Russell Barr is to attend as Director of Operations and Investigations along with Mr. Chris Morgan, Director of Quality and Service Integrity and \_\_\_\_\_ who is Research Insight Manager. Can you confirm that this is the case and provide us with job descriptions for these particular roles?

The other Director to attend is presumably a Director from IFF, the research company. Is that correct? As IFF will be collating the evidence and writing up the report we would like to be party to the first draft so that we can contribute to the accuracy of the final report. Would this be possible?

Although the sand seems to be shifting beneath our feet, giving the impression of being 'sidelined' let us continue in the hope that our message will ultimately be heard by all relevant parties; i.e. those with the authority to make the changes required.

In our view the seminar is a 'listening event' where the staff will be able to listen to our first hand experiences of using their service and learn about the impact their decisions have on the lives of individuals and their families. Many people in the group will have travelled a long way to attend this meeting and we need to give all participants the time to tell their stories and be heard with compassion. This should not be rushed. Within the group there is continued suffering as we have not achieved justice and remedy. Being heard is the first step towards closure. Knowing that our concerns have been acknowledged and acted upon is the next.

We suggest that once everyone has had the opportunity to speak we have a plenary session where we are able to draw out the key themes from our experiences. These should be written up at the meeting and agreed upon by all parties. These themes should then provide the main core of the report and ways for improvement should be based on these recurring difficulties.

As we consider that this process will take up the bulk of the two hour session we do not imagine that there will be a great deal of time to discuss 'the way forward' on this

particular occasion. However, the Pressure Group have written a full report regarding the present Ombudsman service, with a number of suggestions for improvement and we attach a copy to this correspondence for your attention. We have also sent full replies to PASC in regard to their recent reports 'More complaints please!' and 'Time for a People's Ombudsman'. We also attach these responses as they give a clear view of our position on the PASC inquiry outcome and it is unlikely we will have time to discuss these reports at the meeting.

Our personal questions are relevant to our stories and should be received in context, so we have not included these prior to the meeting.

We would like to suggest that the agenda for the two hour meeting should be as follows:

- 2.00 Meeting introductions where IFF explain briefly their remit and how they intend to use the information supplied.
- 2.15 Each member of the group is given the opportunity to speak about their case and how it has affected them, before asking their questions. (approx 5 mins each)
- 3.45 A plenary session drawing together the key themes from the discussion.
- 4.00 IFF set out their timetable for reporting back. PHSO estimate their response time for submitted questions. All paperwork is handed over and the meeting is drawn to a close.

We hope that this arrangement meets with your agenda and look forward to hearing from you in the near future. A full list of attendees is to follow.

Kind regards,

PHSO Pressure Group  
phsothefacts.com

# **THE PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN: CORRUPT BY DESIGN?**



**phsothefacts**

**A Report by the PHSO Pressure Group**



## **ACKNOWLEDGEMENTS**

The most important acknowledgement, by far, is to all members of the Pressure Group. Group members have shared their often painful experiences, supported each other, submitted material and written and commented on the report. Without their support and contributions this Report would never have been written.

We would also like to express our deepest gratitude to our families and friends for showing us love, compassion and seeing us through many rough times.

Finally, we are indebted to those very special people in the public services who do not want their names to be known, but who have cared for us and encouraged us to put this Report together.

## **DEDICATION**

This Report is dedicated to all those who have lost their lives and suffered through maladministration at the hands of Government Departments and the NHS. It is also dedicated to all members of the public who seek justice.

## **EXECUTIVE SUMMARY**

There is a failure of public confidence in the Parliamentary and Health Service Ombudsman. This report has been written and compiled by people who have suffered a bereavement or loss of one kind or another at the hands of a public body. These losses are major and have had a significant impact on their lives; many have lost loved ones, some have lost jobs, whilst others have lost their health, status, money etc. All have a strong sense of injustice for these losses were unfair and avoidable; and consequently completely unacceptable. Each person coming to PHSO has already attempted and failed to gain resolution at a 'local' level; it is therefore as a last resort, that they have turned to the Ombudsman in the hope of achieving justice and remedy. Sadly, the vast majority of citizens who go through PHSO will never get the justice they seek; for the painful reality is that the complaints system, as it currently operates, serves only to work against them and in favour of the public body, thereby inflicting further suffering and strengthening their sense of injustice.

### **Section 1: Weak Governance:**

This section illustrates how the design, structure and operation of the PHSO are fundamentally flawed. It discusses how the independence, lack of accountability and 'discretion' of the Ombudsman has led to the situation whereby citizens are marginalised and treated unfairly. Governance must be strengthened.

### **Section 2: The Processes within the Ombudsman's office:**

This section describes the operations within the PHSO providing background information to each stage of the complaints process. It comments on the way in which many of these processes have been reduced to a paper-based exercise. PHSO's new initiative of conducting 8 to 10 times more 'investigations' gives particular cause for concern: a seemingly unachievable target within existing resources, which only goes to highlight that many valid cases were previously denied investigation. Attention is also drawn to the way in which both politicians and the public are misled by grossly distorted PHSO customer satisfaction ratings which do nothing to 'manage expectations' for new complainants.

### **Section 3 & 4: Conclusions and Recommendations**

Weak governance is seen as the major stumbling block to achieving a fair and satisfactory complaints service. Associated with this weakness is the Ombudsman's significant failure to challenge the 'deny, delay and defend' culture within those organisations against which complaints are made. Their apparent unwillingness to properly challenge these organisations (despite having powers to do so) has led the Pressure Group to conclude that the Ombudsman is corrupt. A lack of impartiality has led to the situation whereby most legitimate complaints are not properly investigated. In failing to satisfactorily challenge the lies and omissions of organisations, the Ombudsman allows them to act with impunity. This report therefore concludes that the Government, if it wishes to regain public confidence needs to respond swiftly and effectively to provide fundamental reform. Ignorance is no longer an excuse!

## PREFACE

***‘For a scheme to be credible, all stakeholders must have confidence in it and in the independence and effectiveness of the office holder in the role of investigating and resolving consumer or public service complaints’***

*(Guide to Principles of Good Governance – British and Irish Ombudsman Association, 2009)*

This Report is written and informed by those who have had direct experience of the PHSO. Members of the Pressure Group consider themselves to be merely ‘the tip of the iceberg’ in terms of the number of people who have received poor service from this body. We have direct experience of all aspects of PHSO processes; enquiry, assessment, investigation and review and have no confidence in the ability of PHSO to deliver fair and unbiased investigations.

With our experiences shared it is clear to Group members that the PHSO is failing to abide by its own Principles of Good Complaint Handling. It has itself become guilty of ‘maladministration’ on a grand scale.

Our report aims to be an honest and accurate attempt to draw attention to the ways in which the PHSO system *is failing* to deliver satisfactorily for members of the public. It is written so that politicians, senior managers and those within PHSO itself will take the necessary action to give a major overhaul to this organisation which is presently ‘not fit for purpose’.

The aim of the report is not only to draw attention to deficiencies, but also to be constructive and provide recommendations for moving forwards in a realistic and positive manner. As key stakeholders i.e. tax payers and end users, members of the Pressure Group are very willing to work in partnership with PHSO and the Government in order to be of assistance in getting the complaints system working for the complainant. The starting point must be to ‘strip away’ the rhetoric, remove all hype, misleading statistics and positive ‘spin’ and confront and deal with the harsh and often sober realities of failure: for it is only once these are recognised and accepted that true progress can begin!

The PHSO Pressure Group

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## 1. WEAK GOVERNANCE

### Accountability, Discretion, Independence and the Role of PASC

#### 1.1 ACCOUNTABILITY

No-one is above the law and one would expect any government organisation, funded by the taxpayer, to be accountable both to the law and the public. As the final arbitrator for complaints about public bodies, who is the Ombudsman accountable to?

The Parliamentary Ombudsman was established following the Parliamentary Commissioner Act 1967 and amended by the Health Service Commissioner Act 1993. This is the statutory legislation which guides the work of the Ombudsman's office. Ann Abrahams, Parliamentary Ombudsman from 2002 – 2011, gives a good account of the original purpose of the Ombudsman.

'In particular, I have drawn attention to the original impetus behind the Parliamentary Commissioner Act 1967 and the desire of the Wilson Government to humanise state administration. It was against that background that the Parliamentary Ombudsman was established as an instrument of Parliament in helping to hold the executive to account, in complementing the investigative role of MPs when citizens' grievances are drawn to their attention and in **guaranteeing to citizens an independent source of redress when things go wrong.**<sup>1</sup>

A recent report from the Public Administration Committee elaborates:

The Ombudsman assists Parliament to **hold the executive to account** by considering complaints that government departments, a range of other public bodies in the UK, and the NHS in England, have not acted properly or fairly or have provided a poor service.

The Ombudsman currently has two strategic objectives:

- i. To provide an independent, high quality and accessible complaint handling service that rights individual wrongs; and
- ii. To drive improvements in public services and inform public policy.<sup>2</sup>

In simple terms, the Ombudsman protects the citizen from the abuse of power, but what happens when the Ombudsman is the abuser of power?

## 1.2 DISCRETION

Into the 1967 act came the statutory ruling that the Ombudsman has 'discretion' to act in whatever way she determines as 'reasonable' and this includes discretion to define maladministration. With such absolute discretion the Ombudsman's judgement is difficult to question.<sup>3</sup>

## 1.3 INDEPENDENCE

The Ombudsman is 'independent' of government, MPs and Civil Servants in order to 'hold the executive to account' without fear of bias. This independence effectively makes the Ombudsman *unaccountable to Parliament and unaccountable to the electorate*. This is confirmed in the following extract from the Ombudsman's job description.

The Ombudsman is solely responsible and accountable for the conduct and administration of all work carried out by the Office and for the decisions made in each case. Decisions of the Ombudsman may be judicially reviewed by application to the courts.<sup>4</sup>

As a nod towards accountability the proviso has been made that a citizen who objects to the decision of the Ombudsman can hold them to account via judicial review. In practice it is impossible to prove that a decision has been 'unreasonable' due to the total discretion awarded in the statutory legislation. Although on average 12 cases are submitted each year only a single case has ever been found in favour of the citizen.<sup>5</sup> (Further information on this subject can be found in Section 2.3 Reviews).

## 1.4 THE ROLE OF PASC AND PARLIAMENTARY LIAISON:

Although the Ombudsman is independent of government she is required to report directly to Parliament and the Public Administration Select Committee (PASC) was set up for that purpose.

The Ombudsman reports to Parliament annually on the general discharge of their functions, on the standards of service provided to complainants, and on the use of public money. The Ombudsman reports specifically from time to time on individual and/or systemic examples of maladministration. The House of Commons Public Administration Select Committee is Parliament's principal liaison mechanism with the Ombudsman. The Ombudsman appears at least annually before the Committee to give evidence on the work of the Office.<sup>4</sup>

The 'independence' of the Ombudsman does not prevent a great deal of parliamentary liaison in addition to the annual review with PASC. According to a Cabinet Office statement 2011 the Ombudsman meets once every two months with members of the Cabinet Office. This meeting is also attended by members from the Ministry of Justice. The Ombudsman meets at least quarterly with the Department of Health and, as required, with the Treasury. The Cabinet Office also ensures that a senior civil servant is appointed as the 'Ombudsman's Champion'.<sup>6</sup>

However, when it comes to accountability all these offices step back.

### Complaints about the Ombudsman

The Ombudsman maintains a complaints procedure which gives guidance on how to complain to her if complainants are dissatisfied with the service provided by her office. The Cabinet Office, Treasury and the Department of Health have no locus in such complaints which are matters for the Ombudsman herself, and ultimately for the courts and/or Parliament as appropriate.<sup>6</sup>

The 'as appropriate' has yet to be defined.<sup>7</sup>

PASC may interview complainants as part of an inquiry, can ask searching questions of the Ombudsman at the annual meeting and write up reports. Unfortunately, that is all that they can do for they have no power to apply sanctions, make binding recommendations or call for individual cases to be reassessed where service failure has been proven. They are toothless dogs and even if there was 'the will' under the present legislation, there is not 'the way' for PASC to hold the Ombudsman to account. This was highlighted by Bernard Jenkin, Chair of PASC, when he confirmed to Dame Julie Mellor, *'You are statutorily forbidden from discussing individual cases and I thought it would be helpful if we reminded ourselves of that. It is also the policy of this Committee not to prosecute or investigate individual cases...'* (December 2012).<sup>8</sup>



## 1.5 The Way Forward:

- 1.5.1 The original legislation must change to remove the total discretion now enjoyed by the Ombudsman. This is the most significant block to proper accountability. In its

place a specific job description which determines the role of the Ombudsman to carry out evidence based and impartial reviews should be outlined with a clear definition of maladministration. If aspects of this role are breached then the complainant can take the Ombudsman to court and sue for damages.

- 1.5.2 The Ombudsman should be accountable under the law relating to breach of contract with the same six year time bar, rather than judicial review. It has been shown that judicial review does not hold the Ombudsman to account and it does not give time for complainants to formalise their complaint. (See Section 2.3 for further information on judicial reviews).
- 1.5.3 Legislation should be brought in to give the Public Administration Select Committee or an alternative parliamentary body, real powers to monitor and hold the Ombudsman to account for service delivery. This body should use evidence from individual cases to identify systemic service failure and be able to instruct the Ombudsman to take appropriate steps to rectify the matter. This would involve a monitored action plan and where necessary individual apologies and compensation payments made to complainants who did not receive a fair decision.
- 1.5.4 There should be a regular monitoring of post-review correspondence which is handled by the Ombudsman. This correspondence often reveals unresolved difficulties with service delivery and recurring issues should be investigated in order to hold the Ombudsman to account. Public confidence in the Ombudsman service relies upon accountability and PASC have been charged with that responsibility, but so far without the necessary powers to carry it out. They must be given those powers as a matter of urgency.

**Lack of accountability has allowed the Parliamentary and Health Service Ombudsman to become corrupted from its original intention. Our current Parliamentary Ombudsman works for Parliament with the assistance of Parliament to the detriment of the people. We are calling for a complete overhaul and a new Citizens' Ombudsman to emerge. We live in a democracy and we deserve protection from the abuse of power.**

## **1.6 References:**

1. **Ann Abrahams:** Parliamentary Affairs Vol. 61 No. 4, 2008, 681–693. The Future in International Perspective: The Ombudsman as Agent of Rights, Justice and Democracy.
2. Pre-appointment hearing for the post of Parliamentary and Health Service Ombudsman - **Public Administration Committee.** 2011
3. **Parliamentary Commissioner Act 1967**  
[http://en.wikipedia.org/wiki/Parliamentary\\_Commissioner\\_Act\\_1967](http://en.wikipedia.org/wiki/Parliamentary_Commissioner_Act_1967)



4. Pre-appointment hearing for the post of Parliamentary and Health Service Ombudsman - **Public Administration Committee** Appendix 4.
5. R v Parliamentary Commissioner for Administration, ex p **Balchin** [1997] JPL 917:  
<http://global.oup.com/uk/orc/law/public/endicott2e/01student/ch13/03cases/#ch13c05>
6. Statement of responsibilities between the Parliamentary Health Service Ombudsman and the Cabinet Office, H.M. Treasury, Department of Health and Ministry of Justice. 2011  
[http://www.ombudsman.org.uk/data/assets/pdf\\_file/0010/1513/2011-Cabinet-Office-Statement-of-responsibilities.pdf](http://www.ombudsman.org.uk/data/assets/pdf_file/0010/1513/2011-Cabinet-Office-Statement-of-responsibilities.pdf)
7. **FOI request:** Minutes of meetings between Cabinet Office and PHSO.  
[https://www.whatdotheyknow.com/request/minutes\\_of\\_meetings\\_with\\_phso#outgoing-335387](https://www.whatdotheyknow.com/request/minutes_of_meetings_with_phso#outgoing-335387)
8. **PASC Minutes of evidence:** December 2012  
<http://www.publications.parliament.uk/pa/cm201213.cmselect/cmpubadm/757/121218.ht>

## 2. THE PROCESSES WITHIN THE PHSO

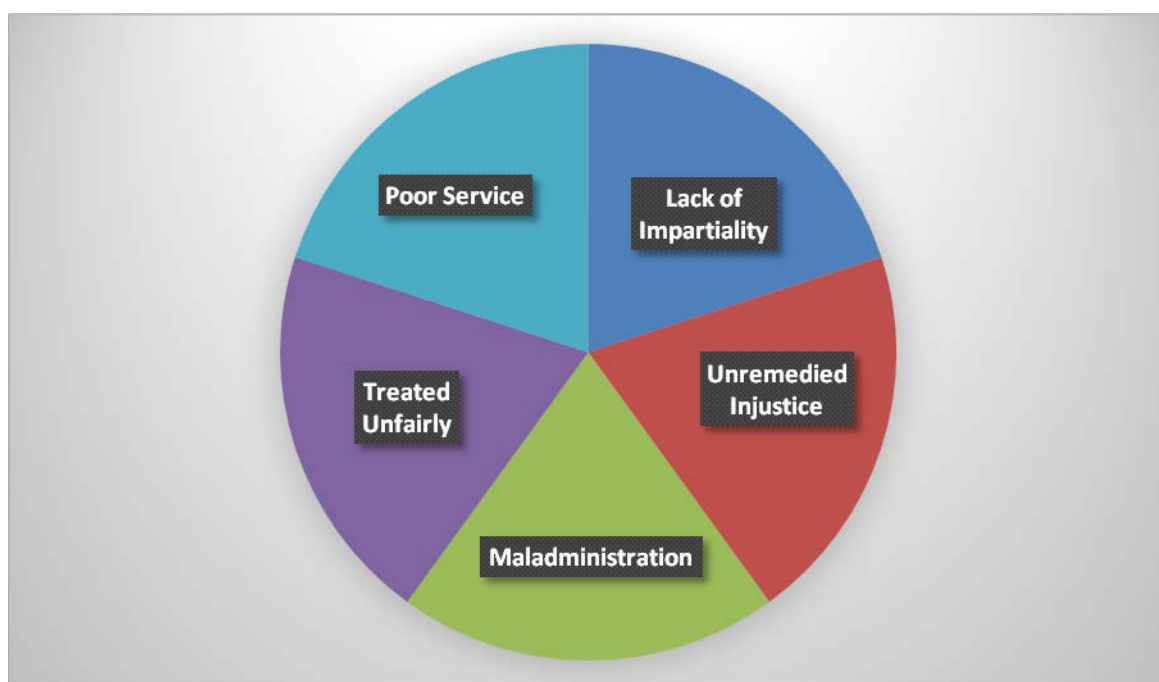
### 2.1 ASSESSMENTS

#### 2.1.1 Background:

Once a complaint is received in the Ombudsman's Office it goes through an assessment process in order to determine whether or not it should be investigated further or whether it can be dealt with in some other manner.

In order to trigger an investigation the evidence must show an **unremedied injustice caused by public body maladministration**. 'Maladministration' covers a range of failings and poor service.

*Diagram to illustrate aspects of failings and poor service considered during an assessment*



In her 2013 review, Baroness Fritchie stated the following;

*PHSO has historically used language (to describe its work and in its communications with complainants) which appears to have been based largely both on the legislation which governs its remit, and the processes it has adopted to carry out that remit. Consequently, in some cases PHSO described the reason for deciding not to investigate cases as 'no unremedied injustice' (which is derived from the legislation and meant that PHSO considered the remedy already provided to the complainant to be appropriate to the injustice*

*suffered); and in others ‘no worthwhile outcome’ (meaning that it was considered that an investigation would be unlikely to add any value/ resolve issues further for the complainant). The review noted that such language could be experienced as unsympathetic, particularly in sensitive cases involving complaints where there has been an avoidable death.*

### 2.1.2 What should happen:

PHSO received over 26,000 enquiries in 2012/13 but only 4,889 of those resulted in a formal complaint which was reviewed by the Ombudsman. At the assessment stage the customer service officer will first evaluate whether the complaint is within ‘**remit**’.

- The case needs to be presented **within 12 months** from the time the complainant first became aware of the matters to be complained about.
- **Properly made.** For Parliamentary cases this means presented through the MP filter while NHS cases can be submitted in writing directly by the complainant.
- **First stage satisfactorily completed.** All public bodies are given the opportunity to resolve the complaint initially and only once that process has been exhausted can a complainant approach the Ombudsman.
- There must be no other **Alternative Legal Remedy** (ALR) available to the complainant.
- The complaint must concern a **public body within the jurisdiction** of the Ombudsman’s office.

If the case is ‘within remit’ it will then be passed to an assessor for a ‘closer look’. The assessor looks for evidence of qualifying criteria to trigger an investigation. Simply put, this is **evidence of unremedied injustice caused by the maladministration of a public body**. Officially the definition ‘no worthwhile outcome’ is no longer used to dismiss cases at this stage without an investigation.

Of the 4,889 cases which were reviewed in 2012/13 only 384 passed through the assessment stage to receive a formal investigation. (7.9% of all complaints submitted).



### 2.1.3 What really happens:

All aspects of the assessment process are determined by **Ombudsman discretion** which can be used in favour of the complainant or against.

The assessor can decide that the case has been brought 'prematurely' because some aspect of the first tier complaint process has not been fully completed, or possibly there is a second tier available to the complainant. When the complainant is sent back to achieve 'local resolution' the clock is still ticking as the time limit for PHSO investigation is 12 months from the time the complainant '**first became aware that they had a reason to complain**' and does not automatically restart when a complaint is designated 'premature'.<sup>1</sup> This 'time loop' is exploited by public bodies who know they can simply drag their feet.

It may be that the assessor feels that a 'remedy' has already been offered to the complainant. This remedy may have been rejected by the complainant as insufficient, but the Ombudsman can determine otherwise.

If the assessor feels that it is possible for the complainant to take up an ALR (alternative legal remedy) such as an appeal to a statutory tribunal or court action, then PHSO will not investigate. If the complainant takes this action but is unsuccessful they are unlikely to be able to return to the Ombudsman due to the time bar. If they are unable to take up the ALR due to cost then that is just tough luck. The NHS has recently been informed by the DoH that they are unable to delay an investigation due to court action and both can proceed simultaneously. It is often the case that legal action will only look at certain aspects of the matter and it would therefore make sense to allow a full investigation to run alongside. The same should

be true of the Ombudsman and ALR should no longer be a bar to a full and timely investigation.

The complaint may meet all the requirements to be 'in remit' but often the assessor will determine there is no evidence of injustice caused by unremedied maladministration. It is up to the discretion of the Ombudsman to determine 'maladministration' and many unprofessional breaches in procedure and policy are classified as 'reasonable' by PHSO, so do not trigger an investigation. Although the assessor is not legally or medically trained, they can often dismiss expert legal or medical opinion at this stage as irrelevant. Hard evidence has been dismissed as 'subjective opinion' whereas statements made by the organisations are accepted at face value without any supporting evidence to back their claims. Even when a case is straightforward the PHSO assessor often fails to identify the main facts and focuses instead on minor issues which can be explained away.

Although officially 'no worthwhile outcome' has ceased to be used as a qualifying criteria, it would appear from the evidence given by the Public and Commercial Services Union to PASC in December 2013, that this factor is still used internally. Worthwhile outcome is of course a value judgement.

"Assessor staff were told they could not make 'findings' as such and were instead told their job was to determine, not whether there had been maladministration and an injustice flowing from it, but whether there were indications that there might be. They were also told that even if there were such signs, there had to be a 'worthwhile outcome' before the case could be investigated. As, in most cases, Assessors identified that the Health or Parliamentary body had done nothing wrong, or if they had, an appropriate apology and/or appropriate compensation had been offered, or the case was resolved by other means, the number of cases which remained to be formally investigated (by another team) was very small." <sup>2</sup>

In 2012/13 over 80% of cases were 'resolved' by the Ombudsman without an investigation. For many complainants 'resolved' simply equated to 'closed' with no justice and no remedy.

#### **2.1.4 The way forward:**

Date for submission to PHSO should be 12 months from the **time of final response** to prevent public bodies using the time bar against complainants.

Ombudsman discretion to define maladministration must be replaced with a clear definition of maladministration along the lines of Crossman. <sup>3</sup>

All complaints require a full investigation in keeping with the spirit of the original intention of **'guaranteeing to citizens an independent source of redress when things go wrong'**. You cannot 'guarantee' and then dismiss 80% of complaints without investigation. The Ombudsman did not detect the scandal at - because complaints about this trust were turned down for investigation, including that submitted by . Similarly, had his complaint about the poor practice at turned down at assessment and review stage. There can be no doubt that both these trusts required urgent investigation and yet delay was caused by PHSO failure to investigate. More scandals could go undetected unless all complaints are given a full investigation.

The quality of the evidence should be evaluated within the investigation with both parties given access to all statements put forward.

A report must be written which addresses all points raised by the complainant and is evidence based in its conclusions.

### 2.1.5 References:

1. **PHSO Casework Policy Guidance:** Section 3 - Case Assessment p5 2013  
<https://www.whatdotheyknow.com/request/197812/response/491655/attach/3/Interim%20Casework%20Policy%20Guidance.pdf>
2. Written evidence from the Public and Commercial Services Union: 2013  
<file:///C:/Users/HP/Desktop/9%20Grove%20Park%20Road.htm>
3. Examples from the Crossman Catalogue of maladministration:  
[http://ombudsmanwatchers.org.uk/ow\\_maladministration.html](http://ombudsmanwatchers.org.uk/ow_maladministration.html)

## 2.2 INVESTIGATIONS

### 2.2.1 Background:

A select few cases pass through the assessment process and an investigator is assigned to evaluate the evidence from all parties to determine whether there has been unremedied injustice caused by maladministration.

PHSO uses the Ombudsman's Principles <sup>1</sup> as a general standard of what should have happened in the events leading to the alleged complaint. The Principles of Good Administration, Principles of Good Complaint Handling and Principles for Remedy are broad statements of what organisations should do to deliver good administration and customer service, and how they should respond when things go wrong.

### 2.2.2 What should happen:

The main purpose of an investigation is to obtain all the relevant facts about alleged maladministration and then for conclusions to be drawn from these facts as to whether a complaint is to be upheld (either partially or fully). There are 2 possible approaches to investigations: the inquisitorial and the adversarial. The British Judicial System is the archetypal adversarial approach and has stood the test of time. The PHSO, however, uses the 'inquisitorial' approach which *it has specifically adapted to suit its own needs*. Although not legally qualified, the Ombudsman has the powers of a high court judge to demand and obtain evidence. The Ombudsman therefore calls on all parties to submit relevant evidence and thus the investigation commences.

The Characteristics of a Sound Investigation:

- The investigator should be fair, impartial and open-minded and have a thorough understanding of the concepts they are investigating
- The investigation should be conducted *promptly* in order to ensure that the evidence is not contaminated (destroyed, lost, amended etc.) or lost over a period of time e.g. memories fade, staff turnover etc.
- An investigation should be well planned and organised in advance in order to avoid losing the key focus and going off at unnecessary tangents.
- Thoroughness (all relevant facts must be collected) and accuracy are essential
- Confidentiality must be maintained and findings must be well documented

Whilst observing the characteristics outlined above a sound investigation would usually proceed in the following manner:

1. An initial interview with the complainant in order to check the precise nature of the complaint and ensure all relevant facts and evidence are identified. This also informs/ assists the investigator in understanding the context within which the particular complaint is made.

2. The investigation is 'scoped'. An investigation plan is drawn up to ensure that the investigation is conducted promptly and proportionately.
3. The complainant's expectations are managed throughout – support, information and regular feedback should be given.
4. Where necessary, and particularly if substantial discrepancies appear during the course of the investigation, the complainant should be re-interviewed for purposes of clarification.
5. A report is produced which covers all relevant aspects of the investigation and is accurate, clear, complete, logically organized, timely and objective.

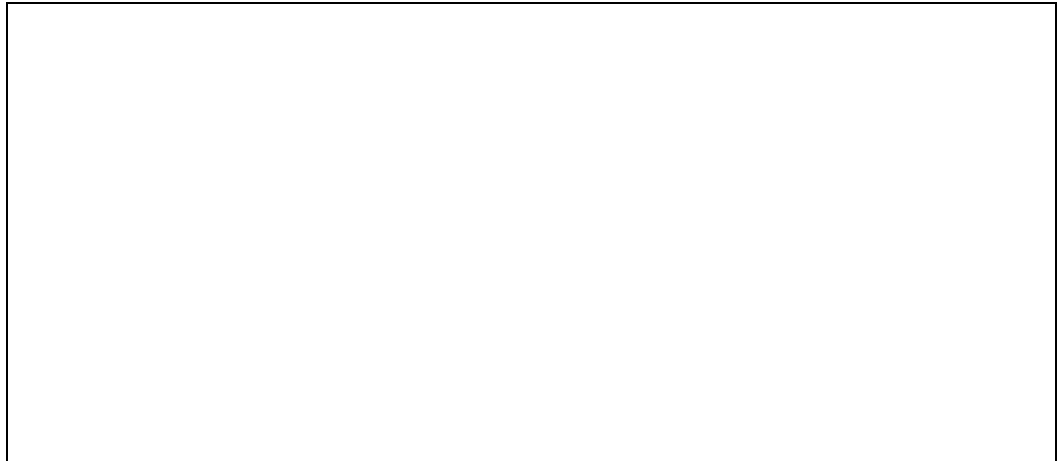
### 2.2.3 What really happens

- Both parties are formally notified that the complaint is to be investigated and are given the name of the caseworker to whom it has been assigned. Both parties are asked to submit all relevant paperwork appertaining to the complaint and a strict timescale in which to do this is imposed. PHSO service users have generally been given timescales of between 2 and 3 weeks. It is the experience of Group members that this requirement is frequently exceeded by government organisations and tolerated by PHSO.
- No advice is given to the complainant as to how to gather evidence or state which evidence would be relevant and it is suggested that important material can sometimes be overlooked due to this failure. It is the experience of some Group members that in situations *whereby a Trust fails to present all relevant evidence the Ombudsman may continue their investigation without it rather than use their powers to obtain it*. Missing medical records is a common theme. The Ombudsman has not used her high court powers to insist that evidence is supplied for the last three years and possibly some time before that<sup>2</sup>. They simply accept what they are given.
- Often complainants will have submitted expert medical opinion in support of their case. This may include reports from a psychiatrist, psychologist or a medical specialist who has knowledge of their case. The Ombudsman will often call upon its own clinical advisor(s) to confirm this evidence. The name, qualification or area of expertise of this advisor is not divulged to the complainant. Neither can the complainant know what information has been passed on to the clinical advisor in order for them to make their decision. The opinion of this one clinical advisor can then overrule all other medical



opinion submitted. This is not open or transparent and there is every reason to believe that PHSO use clinical advisors inappropriately to minimize or dismiss cases.

- It is not standard practice to conduct a face-to-face interview with the complainant.
- The investigation commences and .....



The blank box above depicts the amount of information the complainant is given during their investigation – NIL! So called ‘Updates’ will be given but these only inform the complainant that the investigation is ‘continuing’ and typically that ‘more evidence is being sought’ - the precise nature of that ‘evidence’ is always withheld. Thus there is no **OPENNESS**, no **TRANSPARENCY** and very little **CUSTOMER FOCUS**. The complainant is left feeling completely mystified, dissatisfied and confused for they are not given any real feedback on the progression of their case.

‘Delays’ may occur but these are usually unexpected for the complainant knows their complaint is genuine, they have submitted all the relevant paperwork and evidence and assume therefore that their complaint should be relatively easy to uphold. Due to the absence of any information however (no **TRANSPARENCY**) they next begin to suspect the caseworker may be going off at tangents or, worse still, that a ‘cover up’ or ‘whitewash’ may be taking place. The complainant at this point speculates as to the extent to which the PHSO is using its powers, if at all. They expect the Ombudsman, to actively challenge the organisation on delays, on any ‘lack of evidence’, missing records etc (**ACTING FAIRLY AND PROPORTIONATELY**). Around this time the anxious and by now quite confused complainant wants to be made aware of any obstacles being placed in the path of the investigation

(**GETTING IT RIGHT**). They want to ensure the caseworker is in possession of the full facts (**ACTS FAIRLY**) *before* the PHSO makes a judgement on their complaint. If lies have been told or facts manipulated then they want to know so that they can 'set the record straight'. **Sadly the citizen is denied this opportunity** (there is no **CUSTOMER FOCUS**). The 'inquisitorial' approach to investigations, in the way it has been defined and used by the Ombudsman, is used to justify the withholding of any information about the responses of the organisation until *after* the Ombudsman has made a provisional finding on their complaint and published it in the draft report (**GETTING IT RIGHT** for the complainant at this stage does not apply).

When the draft report is produced (which contains the provisional decision on the complaint) the report *is first sent to the organisation* against which the complaint is made and is **NOT** sent to the complainant at the same time (where is the **FAIRNESS** and **CUSTOMER FOCUS**????). The citizen's confidence in the PHSO by this time has completely dissipated; they are left in suspense not having been given any indication whatsoever of the possible outcome of their complaint which the organisation in the meantime has presumably been allowed to amend, improve and agree. *It is only after it has gained the approval of the organisation that PHSO will finally release the draft report to the complainant.* No plausible explanation is given to explain the reasons why the draft report and decision cannot be sent to both parties at the same time, as is the case with the Local Government Ombudsman. Once again the complainant is left anxious, unsupported and feeling completely marginalised (no **CUSTOMER FOCUS** and certainly not **ACTING FAIRLY AND PROPORTIONATELY**).

When the complainant eventually receives the draft report their reaction may be one of mixed emotions –relief if the recommendation is for their complaint to be upheld and possibly some surprise at the quality and professionalism of the report. It is difficult to understand the reasons why a 'decision' can still be only 'provisional' at this stage (almost a contradiction of terms). For those whose complaints are not upheld or only partially upheld however there is shock, horror, distress and annoyance at the number of inaccuracies the report contains (**MAKING THINGS RIGHT** does not apply). There is also anger at receiving the draft report *after* the organisation for there is no way of knowing the extent to which the organisation may have changed the report before it is finally seen by the complainant; thus strong suspicions arise of PHSO bias and collusion with the organisation.

The next step for those whose complaints are not upheld is to spend numerous hours providing detailed responses to and correcting the inaccuracies in the draft report. For those whose complaints are still not upheld when the final report eventually turns up (in some cases this can be many months later) despair, disillusionment and anger may be the final stage for them in this process amidst claims that very few inaccuracies have actually been corrected and that most of the examples of bad practice they have supplied have been excluded! Worse still for many is that their opportunity to seek legal redress elsewhere has diminished or is now impossible because of lengthy delays during the investigation which have taken many complaints outside the legal time limits for pursuing damages elsewhere; *some speculate whether there is a deliberate strategy on the part of these organisations to delay in order to avoid litigation.* Furthermore the Ombudsman's decision at this stage is now final. They can ask for a Review (See Sect 2.3.) but know the 'odds are stacked against them' as only one case has ever been successful in a judicial review.

PHSO have no legal powers to enforce sanctions upon a public body. For this reason they do not monitor whether any changes have actually been put in place after an action plan has been submitted. The lack of power at this point effectively disarms the Ombudsman from bringing public bodies into line and also deters them from making significant recommendations for either improvement or compensation. If the public body refuse to comply, which is their right, then PHSO are left with egg on their face. This needs to be rectified and the Ombudsman should have the powers of the High Court judge to ensure that sanctions are complied with. The possibility of a legal challenge is confirmed in the PHSO's Interim Casework Policy and Guidance – Section 5: Conducting the investigation which states: <sup>3</sup>

8. In circumstances where the organisation challenges the Ombudsman's jurisdiction then the risk rating should be reviewed and advice sought from the Legal Team where necessary before a decision is taken on whether or not to proceed with the investigation. P.3

#### **2.2.4 The way forward**

The current approach to investigations is grossly unfair with the complainant disadvantaged and marginalised from the outset. Far from being treated with the compassion, dignity and respect they deserve, the citizen is subjected to a demeaning and humiliating process whereby the PHSO allows their evidence to be torn apart by the public body against which they have lodged their complaint whilst denying the complainant the opportunity to

counter-act lies, correct distortions, highlight withheld evidence etc. Thus a huge injustice is built into this process. This injustice is highlighted in the Interim Casework Policy and Guidance – Section 5: Conducting the Investigation<sup>3</sup> where following the reply from the organisation the decision to investigate can be reversed.

- Organisation makes comments which appear to cast doubt on the proposed investigation or suggest that it would be inappropriate or unnecessary to proceed (this includes circumstances where the organisation's response appears to offer a resolution to the complaint). Case declined for investigation if after consideration comments are justified. P.3

No investigation can be triggered without evidence of unremedied injustice caused by maladministration, yet now the organisation can challenge this and stop an investigation in its tracks. Not only that, if the investigation is halted at this point or due to a legal challenge then the policy confirms that;

9. If a case does not proceed to investigation then it must be dealt with as if the case was being declined at case assessment. P3

The complainant is simply told that there is no case to answer and will have no knowledge of or right to refute the response given by the organisation. This is a clear example of bias towards the organisation.

The 'investigation' process itself has fundamental flaws. It is NOT a fair process and does not meet the requirements of a sound investigation outlined in 2.2.2. It must be recognised that serious complaints cannot be reduced to computer generated letters and paper exercises. *A proper interview should always be conducted at the outset of an investigation.* Not only does this give the investigator the opportunity to check out all the facts and perceptions relating to the complaint but also promotes a much greater understanding of the context of the complaint.

There needs to be a recognition that the PHSO is funded from taxpayers' money and that citizens are stakeholders and are entitled to expect value for money. There should be an assumption that most citizens are good people who can be trusted to tell the truth. There also needs to be much greater recognition of the seriousness of complaints and the effects that poor service delivery has on people. Most people who come to the PHSO have been very

badly let down by public services: some peoples' lives have been so badly shattered by their experiences that they will never again fully recover.

Complainants **MUST** always be informed of the counter-arguments proffered by the government agency and given the opportunity to defend themselves against any lies or distorted facts and indicate where they believe the agency is withholding key information before judgements are made on their complaints. The PHSO should cease using their adaptation of the 'Inquisitorial' approach as a justification for withholding information from the complainant. There is no legal requirement to take this approach.

Although the PHSO may attempt to justify the judgment they make in the draft report as being 'provisional' and a complainant can theoretically refute it, it has to be recognised that it is nevertheless highly improbable that the PHSO will want to admit they have changed their decision to a large public organisation. Mid- Staffs and Morecambe bay are notable examples of the PHSO's poor decision-making and reluctance to change a judgement (except under pressure of a potential judicial review and adverse media publicity).

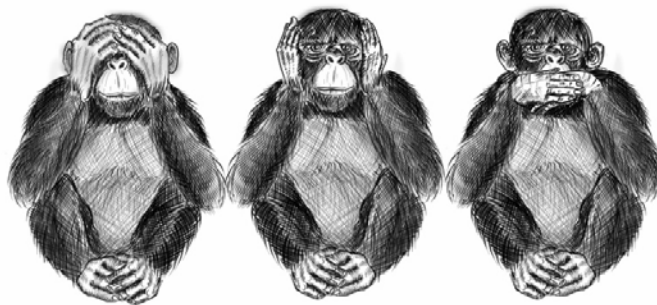
The PHSO website needs a complete overhaul. All misleading statistics must be removed and replaced with *truthful* facts about criteria for successful investigations, actual numbers of upheld complaints etc. The PHSO should see their role as empowering the public to make **informed** choices as to whether to pursue a complaint, seek legal redress or explore other alternatives. The rhetoric on this website leads to false expectations.

The PHSO's relationship with organisations needs to be carefully scrutinised. The approach taken by the PHSO must be fair, impartial and independent; their current relationship with public services appears to be too one-sided and 'cosy'; the PHSO should be much more robust in its criticism of the failings of those organisations which seek to 'delay, deny and defend' bad practices. It would appear from the PHSO's own policy documents that the Ombudsman is open to 'intimidation' from organisations where they present a legal challenge or simply refute the facts. The PHSO should make much greater use of their powers to insist on compliance to strict deadlines, supply of records etc. from organisations. Lack of evidence through poor record keeping is a criminal offence and should be actively pursued not excused. Even in investigations where there are robust findings, the power inequalities in the way the process has been managed, still leaves many complainants dissatisfied.

The PHSO must be independently inspected and audited. There should be an independent audit of a random sample of PHSO decisions and investigations with reports released to the PHSO and the public. Additionally there should be an annual independent report on the performance of the Ombudsman and all stakeholders should be consulted. Public confidence will only be restored if the Ombudsman is transparent and accountable.

**Crucially, the Pressure Group have no confidence in the new initiative of 'More impact for more people' under which the Ombudsman plans to 'investigate' up to 10x more cases with no additional resources. Staff who carry out investigations currently make up only 30% of the total workforce. This staffing level does not show a real commitment to quality investigations and improving outcomes for more people. Only 42% of these cases are now being upheld as opposed to 85% previously although all cases must have evidence of unremedied injustice caused by maladministration to trigger an investigation. It would appear that PHSO have simply pushed the high burden of proof further down the line. It has also come to the Pressure Group's attention that PHSO now use the code QI to indicate that only a Quick Investigation is required. More low quality investigations which are not evidence based and which fail to identify significant maladministration and uphold complaints will not satisfy the public.**

NO MALADMINISTRATION HERE



**A SUMMARY OF THE DIFFERENT PERSPECTIVES OF THE KEY STAKEHOLDERS WITHIN THE INVESTIGATION OF A COMPLAINT**

	<b>Citizen/ Complainant (C)</b>	<b>Public Services (PS)</b>	<b>Ombudsman (PHSO)</b>	<b>Comments</b>
<b>Aspirations</b>	Seeks recognition that mistakes have been made. Wants to know service will be improved to ensure other citizens are not harmed in the future.	Fear adverse media publicity, litigation and large compensation payouts. Aim is therefore to deny/ minimise seriousness of complaint.	Needs to gain an outcome to complaint whilst at the same time strive to maintain good relationships with MPs and PSs. Does not want to publicly expose government departments	There is an imbalance of power from the outset which is not redressed by the Ombudsman. Worse still, failure by the PHSO to respond effectively perpetuates the failings.
<b>Approaches taken during investigation</b>	Full cooperation. Provides all evidence at the outset and any requests for further information are quickly responded to.	Engage in delays, denials and obfuscation. Can draw on expertise of legal team to get them 'off the hook'.	Reluctant to 'escalate' the complaint, i.e. use powers to push for evidence etc. PSs statements can be left unchallenged.	PHSO allows prevarication and defensive strategies utilised by PSs.
<b>Concerns during assessment/investigation</b>	Initially confident of positive outcome. Gradually becomes aware that some evidence is being ignored. Feels 'kept in the dark' with little feedback and no opportunity to ensure the accuracy of input from PSs.	Continue to engage in 'bully boy' tactics. Secretive and defensive. Play 'dirty tricks' e.g. manipulate material, lie, produce 'red herrings' and known to lose/ delete/amend evidence from records.	Takes 'on board' the comments of PSs. Fearful of power and influence of PSs. Serious concerns PSs may take PHSO to court unless their report is 'word perfect'. Very fearful of negative portrayal in media.	The complainant becomes increasingly disadvantaged with no information and no opportunity to counter lies told by the PSs. Both the PSs and the PHSO access legal teams to protect themselves.
<b>Reactions when complaint is not upheld</b> (only 4.7% of complaints which had a 'closer look' by the PHSO were fully upheld with a further 2% being partly upheld in 2013).	Complete disbelief as complaint is genuine and evidence strong. Anger towards PHSO for allowing this to happen. Can only conclude there must be bias and collusion.	Relief! Complaint has been quashed. Knowledge that tactics have been successful in protecting the organisation.	Differing views within PHSO (see <i>raw data</i> of Staff Survey). PHSO states case is 'Resolved' but it remains 'Unresolved' for the complainant	The rejected complainant knows the cost of a court case is prohibitive and that a Judge is unlikely to overrule the 'discretion' of the PHSO.
<b>Consequences of decision</b> (in 2013 only 0.4% of complaints about PHSO decisions were partly or fully upheld).	Total dissatisfaction. Can request a review but aware unlikely to succeed. May be outside time limit for legal action	Arrogant complacency! Likely to repeat tactics as they prove effective. Necessary reforms unlikely to be instigated.	PHSO ignores complainants and continues promoting good leadership, effective complaint handling, reform of organisations etc. etc.	<b>Genuine complaints frequently not upheld. No improvements to Public Services. Enormous waste of public money!</b>

**NO REFORM – NO CHANGE!**

## References:

1. Available at [www.ombudsman.org.uk](http://www.ombudsman.org.uk)
2. [https://www.whatdotheyknow.com/request/use\\_of\\_powers\\_of\\_ombudsman](https://www.whatdotheyknow.com/request/use_of_powers_of_ombudsman)
3. **Interim Casework Policy and Guidance** – Section 5: Conducting the investigation. **PHSO** 30.4.13

## Bibliography:

### The Inquisitorial Approach:

Inquisitorial procedure (law) -- Encyclopaedia Britannica  
[www.britannica.com/EBchecked/topic/288956/inquisitorial-procedure](http://www.britannica.com/EBchecked/topic/288956/inquisitorial-procedure)

Pros and Cons of Adversarial vs. Inquisitorial ... - Ccat-ctac.org  
[www.ccat-ctac.org/downloads/12.Joachim.pdf](http://www.ccat-ctac.org/downloads/12.Joachim.pdf)

Inquisitorial System - The Free Dictionary  
[legal-dictionary.thefreedictionary.com/Inquisitorial System](http://legal-dictionary.thefreedictionary.com/Inquisitorial+System)

ADVERSARIAL AND INQUISITORIAL SYSTEMS.  
[lawcom.govt.nz/sites/.../adversarial\\_and\\_inquisitorial\\_systems\\_2.p...](http://lawcom.govt.nz/sites/.../adversarial_and_inquisitorial_systems_2.p...)

ADVERSARIAL AND INQUISITORIAL SYSTEMS: A BRIEF OVERVIEW OF KEY FEATURES.  
Blurring of the distinction between adversarial and inquisitorial  
[www.justice.govt.nz/...system/appendix-b](http://www.justice.govt.nz/...system/appendix-b)

[en.wikipedia.org/wiki/Inquisitorial system](http://en.wikipedia.org/wiki/Inquisitorial_system)

Introduction. An inquisitorial system, common in civil law countries, is an alternative model to the adversarial system used in common law countries

Inquisitorial system may be better for family and civil cases, says top ...  
[www.theguardian.com](http://www.theguardian.com) › News › Law › Judiciary

ADVERSARIAL AND INQUISITORIAL LEGAL SYSTEMS  
[chatt.hdsb.ca/.../Unit%203-Handout-Adversarial%20and%20Inquisitorial](http://chatt.hdsb.ca/.../Unit%203-Handout-Adversarial%20and%20Inquisitorial)

Inquisitorial | Define Inquisitorial at Dictionary.com  
[dictionary.reference.com/browse/inquisitorial](http://dictionary.reference.com/browse/inquisitorial)

### Investigations:

Managing Workplace Investigations- Vista  
[Vista-online.co.uk/events/managing-workplace-investigations](http://Vista-online.co.uk/events/managing-workplace-investigations)

Quality standards for investigations  
[Oig.state.gov/documents/organization/197797.pdf](http://Oig.state.gov/documents/organization/197797.pdf)

National investigations-Quality Standards  
[www.thetemgroup.com/services/independent-investigations](http://www.thetemgroup.com/services/independent-investigations)



## 2.3 REVIEWS

If a complainant is dissatisfied with the service delivery or decision of the PHSO they have the right to request a review. This review will not look again at the case evidence, but at the way that PHSO staff handled the assessment or investigation to ensure compliance to the six principles of good complaint handling.<sup>1</sup> 80% of reviews are handled internally by PHSO review staff and the other 20% by external reviewers who are monitored by the head of the review team.<sup>2</sup> According to the annual reports of the PHSO approximately 11% of cases are then sent back into the system for re-assessment.<sup>3</sup> Review is normally the end of the process and the case will be closed and listed as 'resolved', however, Dame Julie Mellor has recently stated that where new evidence becomes available the PHSO will consider post-review correspondence and may submit the case for re-assessment.

A formal complaint can be made about the staff and the way the complaint was handled. However complaints about staff are mostly handled internally by the Review Team with a few sent out to external reviewers who are monitored by the head of the review team.<sup>4</sup> Their decision is final.

Service delivery is monitored by the Public Administration Select Committee at the annual review meeting with the PHSO and via the annual reports. PASC can also carry out specific reviews into service delivery and effectiveness, such as the recent inquiry 'Complaints – do they make a difference'.

It is possible to take the PHSO to judicial review if there is disagreement with the decision (not the service), but as previously stated this route has proven to be consistently unsuccessful.<sup>5</sup>

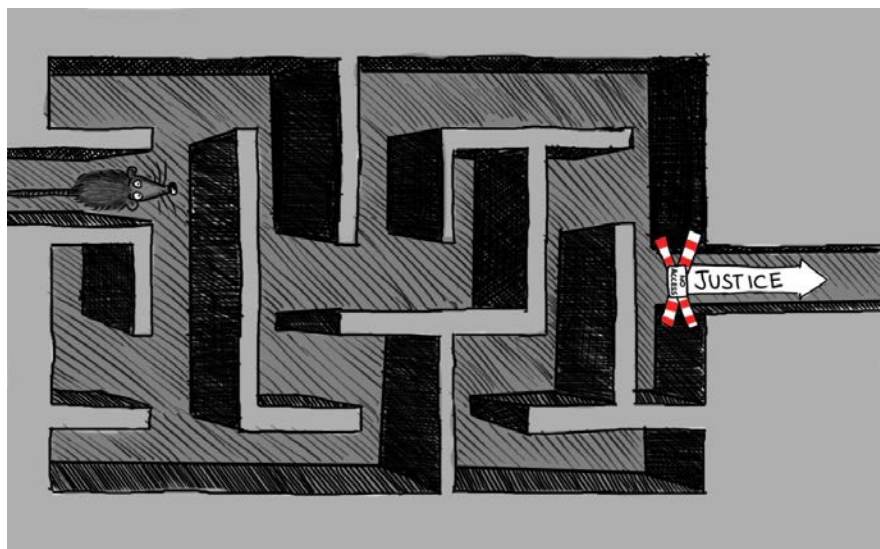
Judicial review is stressful, expensive and has a very limited chance of success. The complainant is given only three months from the date of the final decision to submit court papers. Many people do not have the money to finance the legal work required and it has proved itself to be a flawed method of holding the PHSO to account due to the 'discretionary' clause in the original 1967 act. This means the judge is very unlikely to overturn the decision of the Ombudsman.

This was confirmed in the case of *Monica Dyer V Parliamentary Commission for Administration* (previous name for PHSO) which went to judicial review in 1993.<sup>6</sup>

The judge stated that; "... it does not follow that this Court will readily be persuaded to interfere with the exercise of the PCA's discretion. Quite the contrary. The intended width of these discretions is made strikingly clear by the legislature: under section 5(5), when determining whether to initiate, continue or discontinue an investigation, the Commissioner shall "act in accordance with his own discretion"; under section 7(2), "the procedure for conducting an investigation shall be such as the Commissioner considers appropriate in the circumstances of the case". Bearing in mind too that the exercise of these particular discretions inevitably involves a high degree of subjective judgment, it follows that it will always be difficult to mount an effective challenge on what may be called the conventional ground of *Wednesbury* unreasonableness."

And he concluded, "...inevitably it will be almost as difficult to demonstrate that the PCA has exercised one or other of his discretions unreasonably in the public law sense."

Given that judges rely heavily on case law and precedent then this particular judgement is likely to inform subsequent cases.



### 2.3.1 What really happens.

As reviews are carried out internally or monitored internally by the head of the review team, it is easy for PHSO to find no fault with the initial assessment and confirm the original decision. Reviewers, who are not clinically or legally trained, are allowed to make their own judgements on complex medical cases which prevent a complaint from being upheld. Consistently, members of the PHSO Pressure Group report that the reviewer did not evaluate the evidence, did not address the main concern and manipulated the facts to find no case to answer. As the review is the final stage in the process it is impossible to overturn this decision.

Although many people (approximately 1,500 per annum) submit post-review correspondence to complain about the review process and/or include new evidence, there is no data to suggest that **any post review correspondence** has ever overturned a decision <sup>7</sup>.

Formal complaints are handled internally and often directly by the individual named in the complaint. The head of the review team is able to organise complaints about herself and her staff <sup>4</sup>. They effectively hold themselves to account and find no case to answer. Service complaints are not recognised as such if they also disagree with the decision. Post-review correspondence is then marked as 'no action required' because it is a complaint about the decision (which must be heard in court) and the complainant is given no further explanation. The ability to hold themselves to account allows PHSO to regularly boast in their annual resource account that they only have to revise 0.4% of their decisions; a whopping 99.6% superhuman success rate.



## 2.3.2 References:

1. **Principles of good complaint handling:** PHSO  
[http://www.ombudsman.org.uk/\\_data/assets/pdf\\_file/0005/1040/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf](http://www.ombudsman.org.uk/_data/assets/pdf_file/0005/1040/0188-Principles-of-Good-Complaint-Handling-bookletweb.pdf)
2. **FOI request: External reviewers.**  
[https://www.whatdotheyknow.com/request/external\\_reviewers#comment-46775](https://www.whatdotheyknow.com/request/external_reviewers#comment-46775)
3. **PHSO Annual Reports.** <http://www.ombudsman.org.uk/about-us/publications/annual-reports>
4. **FOI request:** Handling of complaints about staff.  
[https://www.whatdotheyknow.com/request/request\\_as\\_to\\_why\\_a\\_member\\_if\\_th](https://www.whatdotheyknow.com/request/request_as_to_why_a_member_if_th)
5. **R v Parliamentary Commissioner for Administration**, ex p Balchin [1997] JPL 917:  
<http://global.oup.com/uk/orc/law/public/endicott2e/01student/ch13/03cases/#ch13c05>
6. **R V Monica Dyer** <http://www.bailii.org/cgi-bin/markup.cgi?doc=%2Few%2Fcases%2FEWHC%2FAdmin%2F1993%2F3.html>
7. **FOI request:** New evidence.  
[https://www.whatdotheyknow.com/request/new\\_evidence#incoming-484439](https://www.whatdotheyknow.com/request/new_evidence#incoming-484439)

## 2.4 MEASURING CUSTOMER SATISFACTION

### 2.4.1 Background:

Customer satisfaction can be defined as a measure of how well a provider's product or service performs in meeting customer expectation.

In order to measure Customer Satisfaction the PHSO employs IFF Research, an independent market research company, to conduct customer satisfaction surveys by telephone. The PHSO currently asks for service measures under the following three groupings<sup>1</sup>:

1. **Survey of Enquirers** (those who sought advice and information on making complaints)
2. **Survey of Complainants** (those whose complaints have been formally investigated)
3. **Survey of Reviews** (those who have asked the PHSO to review their decision about their enquiry or complaint or have made a complaint about their service)

It is the aim that in group 1 a randomly selected sample is contacted: limited to a target maximum per period; and in group 2 and 3 all listed names are contacted. It is accepted that not all persons so approached can be contacted, or agree to respond.

Under the heading 'Customer Satisfaction' in their latest report (<sup>2</sup> Sect.2 pg3), the PHSO provides the results of their rolling customer satisfaction survey which shows:

- 73% of customers whose complaints didn't go forward for a full investigation were satisfied with [our] service.....
- 92% of customers whose complaints were investigated were satisfied with [our] service....
- 30% of customers who complained about us said they were satisfied with [our] service overall.....

Customer satisfaction levels obtained by these methods are used in reports, publicity and promotional materials. They are published in the PHSO Annual Report 2012/2013 <sup>2</sup>, the PHSO website <sup>3</sup> and the Ombudsman's written submission to PASC (The Public Administration Select Committee <sup>4</sup>). Impressions of customer satisfaction are additionally enhanced by imagery of smiling people and positive quotations relating to the work of the Ombudsman. The images are NOT those of genuine PHSO customers but are drawn from online libraries.

#### 2.4.2 What should happen?

To be meaningful and effective all statistics in the public domain should be accurate and verifiable, put into context, illustrate the point and be able to withstand analysis.

To measure 'Customer Satisfaction' in public services therefore, questions should naturally cover the following areas: - customer response and interaction, clarity and appropriateness of information, timeliness, staff attitudes and professionalism (knowledge and ability of all staff) and specifically, in this case the quality of PHSO's capability in performing the stated key aim:

**"To investigate complaints that individuals have been treated unfairly or have received poor service from government departments".**

In other words, the progress and outcome: whether the service delivered this effectively. This has to be in relation to customers' expectations of service <sup>5</sup>.

Extreme caution must always be used in interpreting statistics. Put bluntly, statistics can be misused either accidentally or purposefully in order to gain an advantage for a company. Statistics can easily be manipulated to produce the desired outcome:

achieved, for instance, by careful selection of questions; asking questions in such a manner as to produce a positive response (leading questions); biased sampling; weighting of responses – giving a high rating to questions in those areas in which positive responses can be achieved; discarding unfavourable data etc.

### 2.4.3 What really happens?

**Is the Ombudsman really hearing the voice of its customers? Are existing surveys designed to capture the information that is required to make a well-informed judgement regarding the full extent of a customer's satisfaction or dissatisfaction?**

The questions asked on all three surveys rely very heavily on questions related specifically to service standards i.e. questions relating to the time in acknowledging emails, how the customer heard about the service, if staff were polite and considerate etc. In all three surveys there are **only 3 questions** which relate specifically to satisfaction/dissatisfaction with the PHSO's decision and these are followed by **15 specific questions on Customer Service** in which the customer is specifically guided to reflect solely on those aspects with the instruction 'I know that it's sometimes difficult to separate outcome from customer service, but if you can think only about customer service from now on that would be helpful'. Thus the way in which the survey is designed, graded and conducted has a major effect on the outcome.

There are many additional components of the PHSO's work which are not adequately covered and should be explored in order to develop and claim an 'all round' picture of 'customer satisfaction'. In-depth questions must be asked in all areas to gain insight into the customer's perception of the way each stage in their complaint was handled. They need to be asked if they were satisfied in the way the assessment/ investigation process was managed throughout; did they feel they were given *adequate* explanations for delays; would they have liked to have been informed of the arguments or evidence put forward by the opposing party; did they consider that the outcome was fair; where applicable were they satisfied with the recommendations of any report and, very importantly of all, did they feel they had been listened to?

In the end it's all very well to restrict and control customer responses in a 'survey', but this will not give a true picture of service except in the context of the questions placed, and it may well not be a representative Customer Service Survey at all.

### 2.4.4 Are the samples used by PHSO truly representative?

Customers who contact the PHSO fall into two broad groups (or three - if reviews are counted separately although these can be drawn from both the other

categories). Enquirers, who need advice on how to complain and who to complain to, and Complainants, who have exhausted the initial provider's first line complaints system and now seek acknowledgement and remedy via the PHSO. In general there are 4 or 5 Enquirers to every Complainant.

The PHSO work involved in dealing with an enquiry is relatively simple and straightforward compared to that required to conduct a full investigation of a complaint. In terms of the Satisfaction Survey the Enquiry customer may well be impressed therefore by a clear, timely response whereas the Complainant will, quite rightly, put far more emphasis on the assessment/ investigation process and the PHSO decision on their case.

The statistics are confusing in their current presentation but the survey of Complainants appears to only cover those cases that the PHSO decide 'need further investigation'. This group represents only 10% of the Complainants and a high proportion of those cases are upheld by the PHSO. Thus the Customer Satisfaction level for Complainants as currently represented is artificially high and those Complainants for whom the PHSO 'took no further action' are effectively disenfranchised as their views are at best only sampled randomly and the results included with those of the Enquirers where their opinions are effectively swamped.

The statistic that '73% of customers whose complaints we examined in detail were 'satisfied with our service' is much heralded'. However this level of satisfaction is hardly surprising as the proportion of complaints partially or fully upheld in this group is over 70%. Note the use of the descriptive phrase 'examined in detail' which excludes the 80% of complaints for which the PHSO 'took no further action' and the 10% which were 'resolved' by intervention without formal investigation.

#### 2.4.5 Does the omission of vital statistics significantly influence the overall perception of customer satisfaction?

- The paper entitled 'Our Customer Experience' <sup>5</sup> presented to PASC by the PHSO **omits extremely important data** which should have been included from their Customer Survey. This is an extremely serious omission as those stats supplied to PASC focus exclusively on the 2 most satisfied groups of customers and exclude the most dissatisfied. *As described in 'Background' above, 3 groups are regularly surveyed and yet the graph submitted to PASC shows only the following:*
  - 1) The Survey of Enquirers - a satisfaction rating of 73%.
  - 2) The Survey of Complainants - a satisfaction rating of 92%. (A high satisfaction can be predicted given that 330 out of 467 have had their complaints investigated and either fully or partially upheld)
  - 3) The Survey of Reviews - **There were no Customer Satisfaction statistics submitted for this group, nor any explanation given for absence.**

Thus, without the inclusion of this figure, which would be considerably lower, the reader can easily be misled into believing that the PHSO is performing well and that satisfaction rates are good overall.

- Very little reference is made to customers' *dissatisfaction* especially with regards to the outcome of their complaint. Statistics for 2012/13 could not be found. However a PHSO document <sup>6</sup> for the period June to October 2012 reveals the following:
  - 1) **51%** of Enquirers were either '**Very or fairly dissatisfied**' with their outcome
  - 2) **18%** of Complainants were either '**Very or fairly dissatisfied**' with their outcome
  - 3) **95%** of Review customers were either '**Very or fairly dissatisfied**' with their outcome (of this 95% - 88% were 'very dissatisfied' and 7% were 'fairly dissatisfied').

Why were similar figures not included for 2012/2013?

#### 2.4.6 Is there any evidence of pre-selective sampling?

IFF claims to 'attempt to interview' all customers in the Review group but there is some evidence to suggest that this may not be happening in practice. PHSO's Interim Casework Policy and Guidance: Section 3 – Case Assessment <sup>8</sup> shows that the Ombudsman can block referral to IFF. The statement concerning the use of an external research company is omitted from the decision letter when:

"...the complainant expresses a desire not to be contacted for research. It should only be used in other exceptional circumstances following agreement with line management for example... where relevant restrictions have been put in place under the unreasonable behaviour policy." P9

It is therefore possible for PHSO to deny access to the customer survey without notifying the customer that this has occurred. This appears to have happened consistently within the experiences of the Pressure Group, bearing in mind that we were all separate individuals at that time and not subject to the 'unreasonable behaviour policy' to our knowledge.

The following sample is small however it does raise important issues which warrant further investigation:

*A straw poll of 12 people in the Review category in the Pressure Group revealed that only 2 out of 12 had actually been contacted by IFF. More revealingly, a concerned correspondent contacted IFF to see if they needed to register their interest in giving feedback with regard to a review (they had not been contacted). They were*



*informed their name was not amongst those in the PHSO list. Even after making complaints about the PHSO on the lack of any response and on staff behaviour, it was evident that their name had still not been submitted as a complainant.*

#### **2.4.7 Is the correct interpretation always placed on the results?**

The very high dissatisfaction rate associated with ‘outcomes’ quoted in Point 3 should never be dismissed on account of the person feeling ‘aggrieved’ simply because their complaint was not taken forward or upheld. The responses of people in this grouping **MUST** be examined more closely and taken very seriously. There are allegations of unsound, withheld and lost evidence; amended records, distorted facts, bias; even lies.

*Implicit within these claims is the suggestion that the PHSO, in closing a case and not undertaking a full investigation, is colluding with the organisation complained about preferring to support the organisation’s (defendant’s) account rather than that of the complainant. Yet it is likely that a service, that has badly failed a customer, is also likely to be meagre with the truth.*

Thus if the PHSO wants to demonstrate it is truly ‘independent’ and ‘neutral’ it is **ESSENTIAL** that feedback from all these groups is collated, very carefully analysed and, when necessary, appropriate action taken. Consideration must always be given to the fact that **it can be the perceived failure of the PHSO to make a fair, just and impartial decision that may be the cause of dissatisfaction, rather than the decision itself.**

#### **2.4.8 Are there any other measures of customer dissatisfaction?**

The fact that the PHSO Pressure Group has been established, has a website which scores thousands of hits, and continues to attract new PHSO customers, is a clear indication of strong customer dissatisfaction. Some members of this group have presented their cases to PASC who hold a great deal of evidence, going back over many years, regarding customer dissatisfaction with PHSO. Letters expressing dissatisfaction with the current structures have been sent to all MPs. Numerous FOI requests are indicators (the PHSO and UK Border Force are the only 2 organisations which actually have their own sections as there are so many requests). Likewise the report, which the PHSO Pressure Group has compiled, is an expression of dissatisfaction with the PHSO in its existing format and an attempt to put forward constructive proposals for its reform.

### 2.4.9 The Way Forward:

The Ombudsman herself accepts that the customer survey requires complete overhaul. Urgent attention must be given to accuracy. In its current format the Customer Satisfaction Surveys could be interpreted as a Public Relations exercise aimed at producing a positive image of the work of the PHSO. The statistics used by the PHSO do not stand up to scrutiny and should NOT be used to support notions of high levels of customer satisfaction overall. All cohorts of customers MUST be measured, pertinent questions asked and consideration given to the relative weightings of each question. No groups should be omitted, even those classified under the 'unreasonable behaviour' policy. The proposed online survey may meet these requirements provided sufficient attention is given to these aspects.

It is not at clear how customers who are assessed but whose complaints are not taken forward i.e. the 'Resolved' cases (in PHSO terms); are classified in these surveys. If these 'Resolved cases' are grouped with Enquirers and interviewed in the random sample i.e. in the Enquirers survey then there is an extremely strong risk of over-generalisation i.e. the feedback from enquirers, who are in the majority, may significantly outweigh the rejected complainants and this will skew the results. All complainants must be given the opportunity to provide customer feedback to avoid skewing the results.

The emphasis currently placed on *Customer Service* within the surveys leads to a noticeably unbalanced survey especially when inferences are drawn from this data regarding *general* levels of satisfaction of customers. This approach is not adequate for purpose and not recommended. To be effective ALL AREAS of the PHSO's Work must be covered. Greater emphasis needs to be placed on the acquisition and analysis of more qualitative data. Serious consideration should be given to involving PHSO users/ customers in the design and piloting of any new – perhaps online - survey.

Presently the customer survey results give false expectations which when not fulfilled result in lack of public confidence. If the Ombudsman only has the resources to investigate a fraction of cases then that should be made clear at the outset.

### 2.4.10 Staff Satisfaction

The PHSO Pressure Group had hoped to include statistics on PHSO Staff Satisfaction as this is often closely tied in with Customer Satisfaction, particularly for front-line staff and caseworkers who have direct contact with the customer.

The Staff Survey was conducted in 2013 but it has not yet been possible to access this data (as a Freedom of Information request). The explanation given, that staff have not yet received feedback on this survey and the findings are 'still being analysed.' It is also understood that pulse surveys are to be conducted before any such data will be released. Other organisations such as CQC release data from their staff survey almost immediately after collection. The reluctance of PHSO to do the same is suspicious of a cover up.

#### **2.4.11 References:**

1. Surveys of Enquirers, Complainants, Reviews –forms used by IFF Research
2. PHSO Annual Report: Aiming for Impact 2012/2013
3. PHSO website: [www.ombudsman.org.uk/](http://www.ombudsman.org.uk/)
4. PHSO Customer Experience: Written Evidence from PHSO to PASC Dec 2013
5. Public Service Reform: Measuring and Understanding Customer Satisfaction Ipsos –MORI
6. PHSO Customer Satisfaction Research: Summary of Results June – Oct 2012
7. The Telegraph 'NHS watchdog accused of 'throwing away 'complaints' 5 Feb 2014
8. Interim Casework Policy and Guidance: Section 3 – Case Assessment.

### 3. CONCLUSIONS

#### The impact of poor complaint handling by PHSO

##### 3.1 Weak governance: The Ombudsman is ineffective

The PHSO, whether wittingly or unwittingly, has both by design and procedure become part of a process of silencing and 'burying complaints'. The PHSO's 'independence', 'lack of accountability' and unfettered 'discretion' has resulted in a situation whereby there are no satisfactory checks and balances within the current systems. In effect, the Ombudsman has been allowed to become a 'loose cannon'; a potentially very dangerous position for any institution and one in which the potential for abuse of power is considerable and, in the case of the PHSO, is sometimes clearly in evidence. The Ombudsman, despite no legal training, has been ascribed the powers of a judge and claims to be accountable to the Judicial System; judges themselves however undergo lengthy legal training and judgements can be challenged and overturned when they are reconsidered under appeal which is always by a completely *independent* panel of judges. The Ombudsman however is *omnipotent* and has *absolute power*; she only 'reports' to PASC and appears to be 'above the law' and unable to discuss individual cases. **Thus there is no satisfactory system in place to hold the Ombudsman to account.** To be strong and effective an Ombudsman should be serving the best interests of *all* stakeholders; yet the interests of citizens are frequently ignored (ironically taxpayers effectively pay to have their own quite legitimate complaints quashed by the Ombudsman!) (See Section 1 on Weak Governance for further information)

##### 3.2 Organisations cover up their mistakes

Another extremely disturbing and very serious concern which has emerged from the surveys and experiences of Pressure Group member is that the NHS, government departments and other public organisations, against whom complaints have been made, are *neither admitting to nor taking responsibility for their mistakes*. They are in fact doing quite the reverse and engaging in a range of protective mechanisms and dishonest tactics – amending records, withholding information, distorting facts, telling lies, etc. in order to protect themselves. Some larger organisations even go to considerable lengths and great expense employing legal teams to 'get them off the hook'. Many government organisations with very sophisticated and expensive management systems have concentrated on the development of numerous policies, standards, protocols and procedures behind which they effectively 'hide'. Unless properly challenged, this mass of paperwork provides effective cover when mistakes are made; for it is our experience that *staff within organisations do not always adhere to or implement these*. Thus organisations are able to treat complainants with impunity knowing that there is very little chance of sanction from the Ombudsman. Appalling and dishonest behaviours do operate in a number of government organisations with very little incentive to tell the truth and far more to

be gained from dishonest behaviours. Poor performance at work can after all result in disciplinary action or loss of job, litigation is extremely costly and maintaining public confidence is all important. In such a climate, 'cover up' systems have been devised which lead to the notorious 'delay, deny, defend' mentality of complaint handling. Due to this shameful behaviour many citizens, including Pressure Group members and their families, have been failed at every level of the complaint handling service and the Ombudsman dishes out more of the same.

### **3.3 The gap between the rhetoric and reality: to what extent do complaints really drive reform?**

Cruelly and significantly, members of the public who raise quite legitimate complaints find themselves severely disadvantaged from the outset by this 'cheating' which goes on largely unchallenged within dishonest organisations. The buzz words may be that complaints are 'gold dust', 'complaints drive reform', 'we aim to put things right', 'duty of candour' and 'we learn from the mistakes of the past' but sadly, the reality in many instances, is that behind the scenes a whole raft of measures take place to effectively marginalise and silence the complainant. It is the experience of Group members that vital evidence has been removed from files, facts have been denied or distorted and a whole range of other obstructive techniques have come into play. The Ombudsman, despite having the powers of a high court judge seldom uses them *and fails to adequately challenge these organisational malpractices*; consequently these deceptions are allowed to continue. All too often the word of the public body is accepted at face value by PHSO, even when there is no evidence to support their statements. Equally, statements made and supported by evidence from complainants are dismissed as 'subjective opinion'. This mainly paper-based assessment process used by the PHSO in dealing with complaints is biased towards the organisations and against the complainant.

### **3.4 The public are not treated fairly; their expectations of satisfactory outcomes are raised unrealistically**

Citizens are lured into the Ombudsman system by the messages which are put out of 'being treated fairly,' 'righting wrongs', 'openness' etc. Thus citizens' hopes and expectations of fairness and justice are raised for they genuinely believe at that stage that strenuous efforts will now be made by the so-called 'independent' PHSO to ensure 'mistakes will be put right'. Sadly, the experience for the vast majority of citizens is very different from that portrayed on the PHSO website and in publications. It is only after the citizen has spent many hours gathering evidence and submitting their complaint that they begin to realise that another, previously undisclosed 'agenda' to quash their complaint comes into play. The fact that only 330 complaints were fully or partially upheld out of 4889 complaints (which were looked at more closely in 2012/2013) and that 22% of those who were rejected asked for a review in 2013 ***should ring alarm bells for politicians***. Very few people would ever go to all the necessary time and trouble involved in gathering evidence,

submitting complaints and asking for reviews if they did not consider their complaints were valid. Over 1500 people continue to send post-review correspondence annually although their case has been closed by the Ombudsman. MPs would surely not choose to support complaints in the first instance unless they too considered their complaints were genuine (Please refer to sections on 'The Investigative Process' and 'Resolved Cases and Reviews' for further information on these areas).

### **3.5 The Ombudsman has become a 'dustbin'**

Once their complaint has been rejected (or 'resolved' in PHSO speak) and their request for a review has been likewise rejected, the aggrieved person knows this is 'the end of the road' for, even if they have the funds to opt for a judicial review, they are aware that it is extremely unlikely that any judge will ever overrule the Ombudsman's 'discretionary power'. Even convicted criminals have a right of appeal which is heard by a separate panel of judges whereas the Ombudsman remains omnipotent, holding herself to account: appeals or 'reviews' as they are known are generally considered internally and the vast majority dismissed as the Ombudsman staff are allowed to mark their own homework. (Please refer to Section 1 on 'Discretion and Accountability' for more information on this area).

### **3.6 A two tier system for NHS complainants relying on PHSO has proved to be ineffective**

Since the demise of the Healthcare Commission all health complainants are now dealt with by the Ombudsman if there is a failure to resolve locally. PHSO staff are now asked to be expert in various complex health matters in order to decide if maladministration is present and trigger an investigation. **Members of the Pressure Group do not have the confidence that the staff at this office are adequately equipped to deal with these cases alongside those for a large number of other Parliamentary bodies and are calling for these roles to be divided.**

### **3.7 Politicians are misled and public confidence is dented by inaccurate and misleading PHSO customer satisfaction statistics**

The PHSO publishes extremely misleading and inaccurate customer satisfaction statistics. Pre-selective sampling and bias in the questions ensures that the customer group are perceived as generally very satisfied with the Ombudsman's Service. Nothing could be further from the truth! Whilst not illegal, the positive smiling faces aimed at portraying satisfied customers are not genuine complainants either but are carefully selected from online libraries. (Please refer to section on Customer Satisfaction for more facts and evidence on this subject).

### **3.8 The Pressure Group are not convinced that the 'more impact for more people' initiative promoted by Dame Julie Mellor will make any significant difference to outcomes**

Resource issues are clearly an important factor for all organisations and the PHSO's stated aim is to complete 8 times more 'investigations' for the future. The question must therefore be asked as to how the Ombudsman can possibly achieve this within current resourcing levels. It is noted that operating costs have not risen much £33.4 m in 2012/13 compared to £33.2m in 2011/2012. A particularly noteworthy factor is the growth of the large PHSO corporate hierarchy with 54% of staff in management roles and only 30% of staff carrying out investigations. It is therefore extremely difficult to understand how an increased number of so called 'investigations' (8 times more) can ever be achieved without a further deterioration of standards in this area and considerable backlogs.

### **3.9    Dysfunction within the Ombudsman service has led thousands of citizens to lose confidence in democracy and the ability of those in authority to protect the citizen from abuse of power**

Attempts to cover up the failings of the PHSO and public organisations can no longer be hidden. Social media has become a powerful influence in today's society. A bigger picture emerges when people get together to share their experiences. The Pressure Group's membership is growing and its website alone has received over 10,000 hits since its inception in mid- 2013. A strong view is emerging that the PHSO was not only designed but has been deliberately allowed to continue to operate in such a dysfunctional manner *in order to protect MPs, politicians, government departments and public bodies from the very legitimate complaints of citizens against organisations which have failed them.* ***The PHSO is now seen by ever increasing numbers to be the protective barrier between politicians and the people.***

## 4. RECOMMENDATIONS

**'It is the general view of the Pressure Group that the PHSO has become the 'dustbin' for complaints. As such, it hinders rather than assists the much needed reform of public services.'**

The Pressure Group do not have confidence that PHSO have the expertise and resources to appropriately deal with both Health and Parliamentary complaints. We would like to suggest a new body is established along the lines recommended by Sir Liam Donaldson in 2003 (Making Amends) where an NHS Redress Scheme is staffed by a National Expert Panel consisting of Health Care Professionals and representatives from reputable support groups. This panel would ensure speedy redress for clinical negligence cases preventing many of them from escalating to the Ombudsman at all and would significantly reduce legal action from complainants.

**Good Governance is essential.** Urgent attention must be given to design and administration of the PHSO which, in its current format, is wide open to abuse and therefore totally unacceptable. *There must be a complete separation of powers.* The 'Independence' and 'discretion' accorded to the PHSO has led to a situation whereby the agency has become omnipotent to the point that the Ombudsman cannot be effectively challenged, even by judges; this is an extremely dangerous situation and one which regularly adversely affects those members of the public who make quite legitimate complaints. The PHSO, in its current format is accountable to no-one; there are no 'checks and balances' within the system and this must not be allowed to continue.

**4.1 Collusion and bias must be removed.** Despite the rhetoric there is clear evidence that the PHSO is not impartial in assessments and investigations: lies from public organisations are accepted and taken at face value, missing records are not adequately challenged, unacceptable delays are tolerated, and the Ombudsman appears reluctant to use her powers to challenge these bad practices. Thus the public are marginalised from the outset - unable to hear or counteract the many lies told against them before a judgement is made. The *permitted* lack of robust assessments/investigations gives the impression that there exists a 'hidden agenda' which is to get the accused organisation 'off the hook'. Work in both the areas of assessment and investigation must be closely scrutinised by external and *completely independent* inspectors.

**4.2 PHSO maladministration must be urgently addressed.** The Pressure Group cite numerous examples of 'maladministration' on the part of the PHSO with many of the Ombudsman's own Principles being regularly flouted. This is a ludicrous situation;



the Government cannot have an agency making judgements on the 'maladministration' of other government organisations whilst it is itself guilty of maladministration. PHSO receive more complaints about their own service than virtually any other single organisation they monitor. They uphold fewer than 20% of these complaints and regularly fail to recognise large numbers of service complaints at all.

- 4.3 PHSO should not use well publicised reports on a few individual people's investigations and experiences to encourage the public to make complaints to the PHSO** whilst, at the same time, regularly denying the recognition and justice that thousands of people actively seek from them (i.e. their complaints are not upheld).
- 4.4 The Ombudsman must spend much more time listening to the public.** The Ombudsman gives scant attention to the concerns of the public both by ignoring letters and refusing to meet with them (the ombudsman met with only 12 members of the public in 2013 and one of these was met twice; to date she has met with 2 complainants in 2014 according to a recent FOI request).
- 4.5 It should be standard practice for face-to-face interviews to be conducted with complainants close to the outset of an investigation.** This is a basic requirement for any sound investigation. Investigations on serious complaints should never be reduced to paper –based activities.
- 4.6 Independent inspections are needed.** This should be obvious. The assessment, investigative and review processes are flawed at all levels. The PHSO has become far too inward- looking with staff appointing their own reviewers to examine complaints against their decisions etc. There appears to be a disproportionate number of people from Senior NHS and Complaints backgrounds, well versed in quashing complaints, on the PHSO staff.
- 4.7 The allocation of existing resources to the creation and development of such a large corporate structure must lead to a questioning as to whether this has been achieved at the detriment of the quality of the work carried out on individual complaints.**  
An expensive corporate structure has recently been established (see Figure 1). *Comparisons should be made with Ombudsmen both in the UK and other parts of the world* whereby it will be seen that the UK PHSO is considerably more expensive and has a substantially smaller proportion of staff actually engaged in dealing directly with investigations and complaints. The cost per investigation by the PHSO is considerably higher than elsewhere (see Figure 2). Tax payers want better value for their money. See Point 9 also regarding efficiency savings.
- 4.8 There needs to be a refocusing on the quality and core business of the work of the PHSO; the quality and adequacy of the new approach to 'investigations' must be scrutinised as a matter of urgency.** PHSO have prioritised only 30% of the workforce for the core task of investigating complaints. This does not show a real commitment to improving outcomes for individuals or providing more feedback to

organisations. With only 42% currently upheld the high burden of proof placed on the complainant has simply moved down the line. Simply number crunching for the purposes of P.R. will not restore public confidence in the Ombudsman to deliver quality investigations. The high cost of the top heavy management structure also makes the UK Ombudsman poor value for money. At £33.4m per annum the cost per investigation for 2012-13 is a staggering £86,979.

**4.9 The huge gaps between the rhetoric and the reality must be reduced.**

The emphasis on good PR and networking has been over-played. Statements to PASC and to the public give false impressions and raise false hopes. This topic has been covered in the section on 'Customer Satisfaction' which demonstrates that unsatisfactory surveys and pre-selective sampling are rife. The 'whizzy' website and brochures appear impressive but are superficial; raw data is sadly lacking, statistics are hugely misleading and the messages given to the public are gross distortions of the truth. The public are currently lured into a system which, in the vast majority of cases fails to deliver justice.

**Public confidence must be restored: Government must address these issues as a matter of urgency and ensure strong governance of the Ombudsman's Office.**

Figure 1 - Corporate Structure of the PHSO

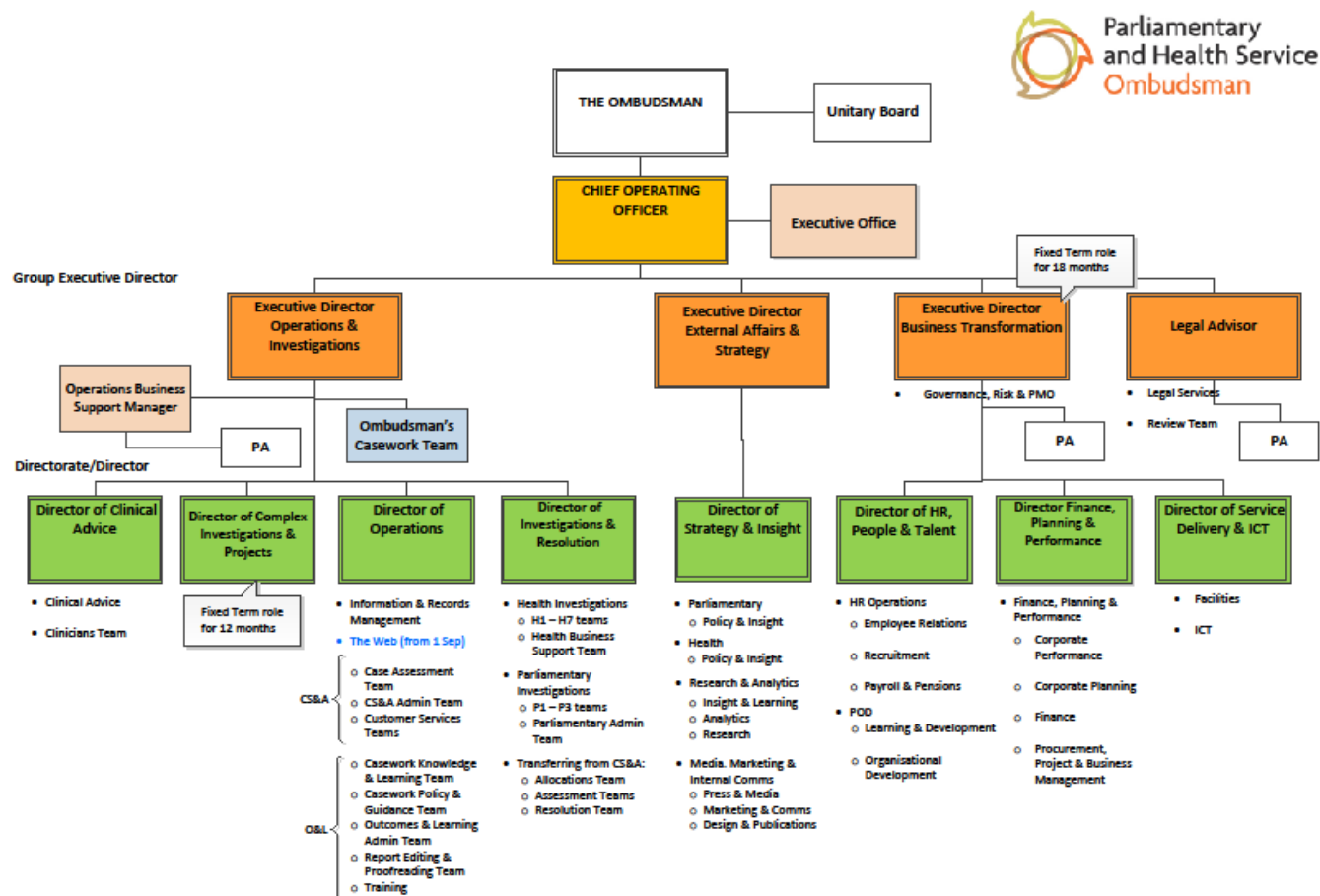
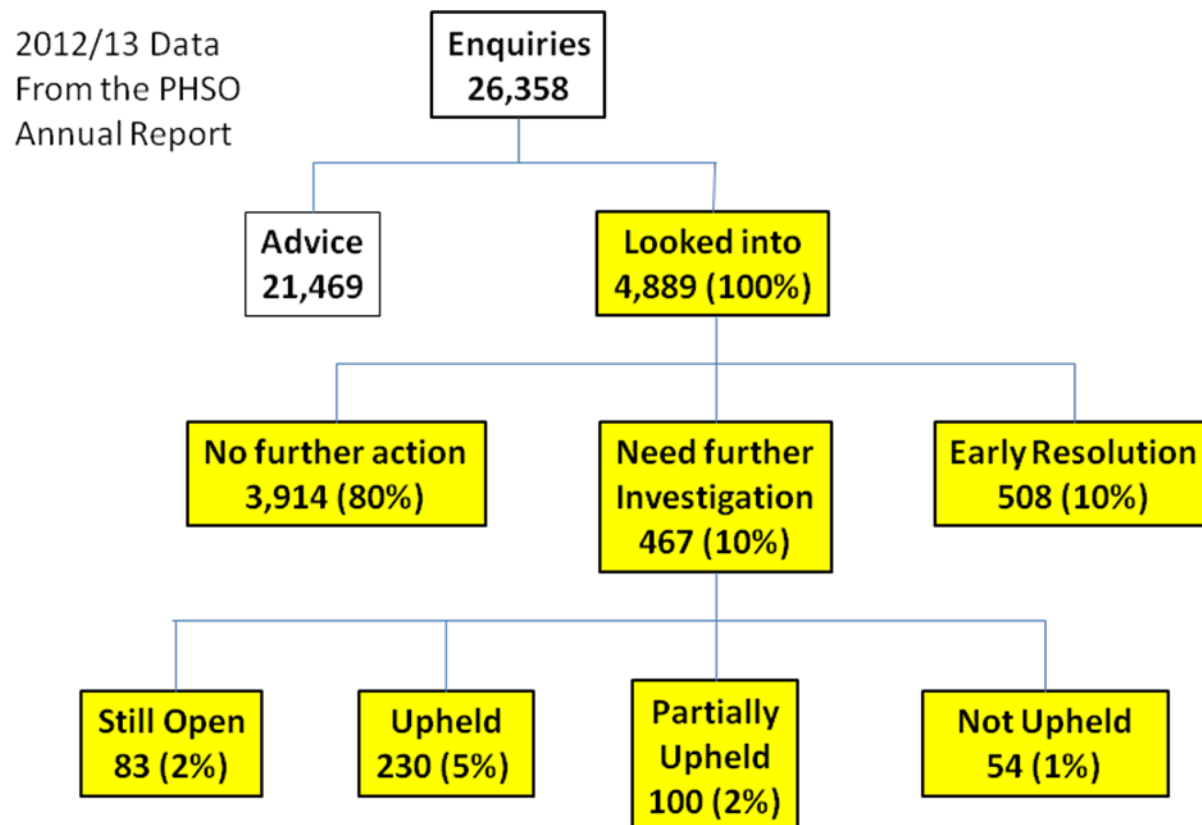


Figure 2 PHSO Statistics



## Notes:

The PHSO dealt with 26,358 enquiries but only 4,889 were complaints which were looked into.  
 The PHSO concluded that 3,914 (80%) of the complaints needed no further action!  
 They were able to 'put things right' in 508 cases without formal investigation (Early Resolution).  
 Percentages have been rounded to the nearest whole number

**Table 1 - Comparison of costs for other international ombudsmen (2012/13)**

	<b>UK PHSO</b>	<b>HOLLAND</b>	<b>SWEDEN</b>	<b>HONG KONG</b>	<b>NEW ZEALAND</b>	<b>AUSTRALIA</b>	<b>AUSTRALIA (NSW)</b>	<b>SCOTTISH SPSO</b>	<b>CANADA (Ontario)</b>	<b>CANADA (DC)</b>
<b>Enquiries Received</b>	26,961	38,033	6,836	12,255	11,008	26,474	36,765	4,608	19,726	7,431
<b>Complaints Received</b>	4,889	4,135	2,670	5,501	2,745	8,591	8,724	1,983	4550	5,527
<b>Investigations</b>	384	391	764	2,285	379	3,185	7,624	908	1,219	1,674
<b>% of complaints investigated</b>	7.9%	9.5%	28.6%	41.5%	13.8%	37.1%	87.4%	45.8%	26.8%	30.3%
<b>Employees (fte)</b>	435	172	72	115	63	135	180	47	86	46
<b>Annual Cost (£M)</b>	£33.4	£13.50	£7.4	£12.1	£4.8	£14.3	£14.3	£3.2	£6.0	£3.3
<b>Population (M)</b>	63.7	16.8	9.6	7.2	4.5	23.1	7.2	5.2	4.6	4.1

N.B. It is to be noted that Ombudsmen in different countries do not necessarily take on the same areas of responsibility nor do they always have the same terms of reference.

## Appendix

### PHSO Enquiry Statistics (data extracted from the PHSO Annual Reports & Resource Accounts).

#### List of Tables

##### **A1 Summary Statistics**

Shows the number of Enquiries received and resolved, the number of actual complaints handled, the number of complaints accepted, those resolved by intervention and those subject to investigation and the number of such complaints concluded. Data is presented for the last five years.

##### **A2 Breakdown of resolved Enquiries**

Enquiries are broken down into various categories. Data is presented for the last five years.

##### **A3 Breakdown of Enquiries Received by Agency (Parliamentary Bodies)**

Showing a break-down of enquiries received for various Government Departments. Data is presented for the last five years.

##### **A4 Breakdown of Enquiries Received by Agency (NHS)**

Showing a break-down of enquiries received for various NHS Departments. This data has not been provided in the last two PHSO Annual Reports.

##### **A5 Complaints Accepted for Investigation (NHS)**

Showing a break-down of complaints investigated for various NHS Departments. This data has not been provided in the latest PHSO Annual Report.

##### **A6 Complaints Accepted for Investigation (Parliamentary Bodies)**

Showing a break-down of complaints investigated for various Government Departments.

##### **A7 Formally investigated complaints – success rate for complainants**

Showing the success rate for complainants whose case was investigated.

The success rate for complaints submitted is not published but is obviously very much lower.

**A8 Time taken to complete a formal investigation**

Showing the average time taken by the PHSO to complete an investigation and the number of cases that have remained under investigation for more than a year. Data is presented for the last five years.

**A9 Judicial Reviews**

Showing the number of cases that Complainants have submitted for Judicial Review over the last five years and their success rate.

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Showing the number of Freedom of Information requests submitted to the PHSO in each of the last five years and the number of complaints received about the response together with the number of those complaints that were upheld.

**A11 Complaints about PHSO Service**

Showing the number of complaints received by the PHSO regarding their Service or Decisions in each of the last five years and the success rate of those complainants.

**A12 Operating Costs and Staff levels**

Showing the PHSO annual expenditure and staffing levels over the last five years. Also shown are the staff turnover and sickness rates which are often an indication of staff satisfaction. Finally the cost of a paper copy of the PHSO Annual Report is tracked over the last five years.

*In this appendix the text in italics are the author's comments. Everything else is extracted directly from the relevant PHSO reports.*

*The PHSO uses the term 'Enquiries' for all contacts with the public. The majority of these do not result in a formal complaint but are 'resolved' by the PHSO providing the customer with advice on how to make a complaint or who to complain to. The customer is generally asked to complain in the first place to the NHS or Government agency concerned and if this fails only then can a complaint can be forwarded to the PHSO via the complainants MP. Only about 20% of enquiries turn into a formal complaint to the PHSO.*

*The first question is why do 80% of the people who contact the PHSO, presumably having experienced some poor practice in the NHS or in dealings with a Government Department, subsequently decide not to pursue a formal complaint? This could be that they successfully resolve the issue with the agency concerned and so have no need to call for the services of the PHSO, or they decide that the complaint does not warrant the time and effort needed to follow it through.*

#### **A.1 Summary Statistics**

<b>From the PHSO Annual Reports</b>	<b>2008/9</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>
Enquiries received	16,317	23,667	23,422	23,846	26,961
Enquiries resolved	15,639	24,240	23,667	23,889	26,358
Advice given (*)	13,117	19,591	18,931	19,157	21,469
Looked more closely at (Complaints)	2,522	4,649	4,736	4,732	4,889
Investigations accepted	401	356	403	421	467
Investigations concluded	713	322	419	410	384
Resolved through intervention (†)	?	321	605	759	508

(\*) In 2012/13 out of 21,469 customer enquiries 3,283 were about where to complain (which organisation), 5,562 were about how to complain to the relevant NHS or Government Department and 12,622 enquiries were about how to complain to the PHSO, including advice on getting MP referral for complaints about government organisations .

(†) In these cases the PHSO acknowledged that something had gone wrong, and helped put things right without the need for formal investigation – (if successful) a quicker and simpler way forward for all.

*The major concern of the PHSO Pressure Group is that the above statistics indicate that 80% of complaints lodged by the public were 'resolved' because the PHSO decided that "there was no action for us (the PHSO) to take as there was no case to answer." The Pressure Group are also puzzled by the statistic from the PHSO's*



customer satisfaction survey that states that '73% of customers whose complaint didn't go forward for full investigation were satisfied with the (PHSO's) service'.

The latest data published by the PHSO on handling NHS enquiries and complaints is encouraging.

See : "Helping more people by investigating more complaints about the NHS" dated September 2013.

It states that in 2012-13 the PHSO resolved 15,944 enquiries about the NHS. Of these they gave advice to 12,175 enquirers and of the other 3,770 enquiries, which were in fact complaints, they resolved 372 cases without the need for formal investigation and started formal investigation of 377 cases. The PHSO Pressure Group is concerned about the 3,021 out of 3,770 (80%) of complaints for which the PHSO concluded that 'there was no action for us to take as there was no case to answer.'

The PHSO paper states that, in comparison, during the first quarter of 2013-14 (April, May and June of 2013) the PHSO resolved 4,400 enquiries by giving advice to 2,800 enquirers and took a closer look at 1,600 enquiries (complaints). Of this latter category 1,050 cases were resolved by negotiation or they decided there was no case to answer. There is unfortunately no information on the division of case numbers between these latter two categories. The PHSO started formal investigations on 450 complaints (28% of complaints rather than the usual 10%). There is no news of the fate of the 100 missing cases (1,600-1,050-450 = 100).

As this happened in one quarter the PHSO seem to have greatly increased their throughput and taken on far more cases for formal investigation than before (the figure of 450 for the first quarter of 2013/14 is more than the 'Investigations accepted' for the NHS in the whole of 2012/13).

## A2 Breakdown of Resolved Enquiries

	2008/9	2009/10	2010/11	2011/12	2012/13
Outside Scope of Remit	2,830	3,318	3,340	3,298	2,809
Not Properly Made	6,902	9,856	9,242	9,018	
Premature	2,681	4,756	4,853	5,440	19,168
Withdrawn	704	1,661	1,496	1,401	
Discretionary (*)	2,121	4,293	4,333	4,311	3,914
Accepted	401	356	403	421	467
<b>Total</b>	<b>15,639</b>	<b>24,240</b>	<b>23,667</b>	<b>23,889</b>	<b>26,358</b>

(\*) Discretionary – complaints (from the Enquiries that the PHSO 'looked at more closely') that the PHSO decided not to accept for investigation for a variety of reasons, for example they felt that the accused body had acted correctly, reasonably or, where there have been errors, but the complainant had already been offered appropriate redress. Generally there was, in the PHSO's opinion, 'no case to answer'.

**A3 Breakdown of Enquiries Received by Agency (Parliamentary Bodies)**

	2008/9	2009/10	2010/11	2011/12	2012
Dept. Work & Pensions	2,692	3,000	2,462	2,442	2,695
HM Revenue & Customs	2,159	1,947	1,671	1,114	1,222
Home Office	818	952	800	789	1,417
Ministry of Justice	743	931	924	1,041	1,109
Department of Transport	337	353	336	289	297
DEFRA	0	0	0	130	128
Others	1,241	1,360	1,167	1,013	975
<b>Total</b>	<b>7,990</b>	<b>8,543</b>	<b>7,360</b>	<b>6,818</b>	<b>9,855</b>

**A4 Breakdown of Enquiries Received by Agency (NHS)**

	2008/9	2009/10	2010/11	2011/12(*)	2012/13(*)
NHS Hospitals	2,142	6,304	6,924		
Healthcare Commission	1,696	531	36		
General Practitioners	891	2,419	2,581		
Primary Care Trusts	810	2,411	2,714		
Mental Health, Social Care	510	1,393	1,356		
Strategic Health Authorities	321	300	240		
General Dental Practice	276	659	707		
Ambulance Trust	64	216	226		
Special Health Authority	37	85	79		
Optician	15	18	18		
Care Trust	12	31	88		
Pharmacy	6	62	97		
<b>Total</b>	<b>6,780</b>	<b>14,429</b>	<b>15,066</b>	<b>14,615</b>	<b>15,944</b>

(\*) The more recent PHSO Annual Reports do not give the breakdown of Enquiries that previous reports provided. Data is available in great detail about each of the 400+ bodies that the PHSO deals with but the layman cannot categorise this data into the agencies above (Primary Care Trusts, Hospitals, etc.)

**A5 Complaints Accepted for Investigation (NHS)**

	2008/9	2009/10	2010/11	2011/12	2012/13(*)
NHS Hospitals	80	195	177	222	
Healthcare Commission	153	0	0	0	
General Practitioners	15	57	66	82	
Primary Care Trusts	16	30	54	28	
Mental Health, Social Care	15	26	20	26	
Strategic Health Authorities	5	16	0	0	
General Dental Practice	3	9	22	16	
Ambulance Trust	0	12	0	0	
Special Health Authority	1	0	0	0	
Optician	0	0	0	0	
Care Trust	1	0	0	0	
Pharmacy	0	1	0	0	

<b>Total</b>	<b>289</b>	<b>346</b>	<b>339</b>	<b>374</b>	<b>377</b>
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**A6 Complaints Accepted for Investigation (Parliamentary Bodies)**

	<b>2008/9</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012</b>
Dept. Work & Pensions	76	31	18	20	19
HM Revenue & Customs	24	8	12	14	13
Home Office (*)	66	18	20	24	29
Ministry of Justice	18	7	35	29	35
Department of Transport	0	2	0	4	4
DEFRA	14	2	13	3	4
Others	12	4	0	24	21
<b>Total</b>	<b>210</b>	<b>72</b>	<b>98</b>	<b>118</b>	<b>125</b>

(\*) Note that in FY 2010/11, 19 out of 20, 2011/12 22 of the 24 and in calendar year 2012 28 out of 29 Complaints Investigated against the Home Office concerned the UKBA.

**A7 Formally investigated complaints – success rate for complainants**

	<b>2008/9</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>
Complaints fully upheld	296 (37%)	160 (43%)	158 (51%)	246 (60%)	230 (60%)
Complaints partially upheld	120 (15%)	93 (25%)	89 (29%)	82 (20%)	100 (26%)
Complaints not upheld	390 (48%)	118 (32%)	64 (20%)	82 (20%)	54 (14%)
Investigations completed	806	371	311	410	384

**A8 Time taken to complete a formal investigation**

	<b>2008/9</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>
Average length	?	392days	323days	357days	317days
Number open more than 1 year	50	36	30	20	30

It is difficult to understand how, out of the 400 odd cases investigated in a year, with an average case taking ten and a half months to complete, that there are only 30 cases taking more than a year.

**A9 Judicial Reviews**

	<b>2008/9</b>	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>	<b>2012/13</b>
Applications in year	7	9	9	7	4
Applications refused	6	5	6	6	4
Awaiting decision	1	4	3	1	
Applications successfully defended by the PHSO					1

A Judicial review is the procedure through which a person can challenge the lawfulness of a decision or action (or failure to act) taken by a public body by making an application to the High Court. PHSO decisions can be subject to judicial review.

*A cautionary note for unsuccessful complainants contemplating this sort of appeal is that only one judicial review has ever been successful and this case took 20 years to resolve. Furthermore there is something of a 'Catch 22' situation in which the Judge rarely overturns the decision of the Ombudsman who has 'discretion' in these cases.*

#### **A10 FOI Requests to the PHSO**

	2008/9	2009/10	2010/11	2011/12	2012/13
FOI requests	217	359	311	284	434
FOI requests resolved	214	332	339	261	?
Complaints about FOI requests	18	35	52	31	42
Complaints re FOI upheld	3	0	9	4	9

#### **A11 Complaints about PHSO Service (\*)**

	2008/9	2009/10	2010/11	2011/12	2012/13
Complaints received	910	1,208	1,276	1,184	1,004
Complaints resolved	768	1,280	1,297	1,159	1,144
Complaints re Service	732	1,065	139	130	165
Complaints re Enquiry Decisions			1,198	1,066	979
Complaints re Investigation Decisions	170	108	45	54	
Complaints re Service upheld	74	54	70	51	61
Complaints re Enquiries - upheld	18	93	80	93	103
Complaints re Decisions -upheld	8	7	5	3	

(\*) Anyone who is unhappy with a decision made by the PHSO, or with the service they have received from the PHSO, can ask for a review under the PHSO's 'Complaints about us' policy. Such reviews are undertaken by a separate Review Team (*within the PHSO*) and are signed off by a senior member of the PHSO staff.

#### **A12 Operating Costs and Staff levels**

	2008/9	2009/10	2010/11	2011/12	2012/13
Net Operating Costs	£26.1M	£33.2M	£33.0M	£33.2M	£33.4M
Net Overhead Costs	£11.4M	£12.4M	£11.7M	£11.6M	£11.7M
Staff Costs	£14.7M	£20.8M	£21.3M	£21.6M	£21.7M
Staff Numbers (average fte*)	435	422	430	426	395
Staff Turnover	16%	12%	9%	9%	?
Average sick absence per fte (*)	5.6	5.0	6.1	5.3	?
Cost of paper copy of PHSO Annual Report (are we paying more for less?)	£14.35	£14.50	£15.50	£16.00	£21.25

(\*) fte = Full time equivalent. This takes account of part-time staff by adding the fraction of a working week that they are present into the total.

### Pitfalls

*Percentages here and in PHSO Reports are usually rounded to the nearest whole number. This can lead to small errors in converting percentages to actual cases and so percentages calculated for parts of a whole do not always add up to precisely 100%.*

*Enquiries from members of the public can concern complaints regarding more than one organisation.*

*Workload in the PHSO is fairly constant so there are always ongoing enquiries and investigations. So figures for enquiries received and enquiries resolved in any FY or calendar year will be similar but not identical.*

*The same applies to complaints accepted for investigation and complaints reported on when the case is resolved. As the average duration for an investigation is nearly a year a large proportion of investigations will be started in one FY and completed in the next.*

*The PHSO uses the term 'Complaints' to describe the cases that they investigate formally/in depth. There have been (until very recently) less than 500 of these per year. The customers could be forgiven for thinking that the cases that the PHSO 'looks at in more detail' (amounting to nearly 5,000 in the FY 1012/13) constitute the complaints. This difference in definition can lead to some misleading statistics for customer satisfaction.*



## PHSO Pressure Group response to PASC report 'Time for a People's Ombudsman'

### Fourteenth Report of Session 2013-14

The PHSO Pressure Group welcome the publication of the second PASC report and were pleased to see that so many of our contributions had been listened to and acknowledged. It is clear from this report that further consultation is necessary to bring about the proposed reform and we wish to continue to work with members of PASC in order to establish a People's Ombudsman which is fit for purpose.

It was with some disappointment that we noted the number of previous inquiries which had been left to sit on shelves, such as the Colcutt Review of 2000, the Law Commission report of 2011 and of course, the findings of the Health Select Committee in 2011, who concluded that the Health Service Ombudsman needs a complete overhaul if it is to be an effective appeal process, none of which were implemented. We are determined to do all we can to bring positive change to the Ombudsman service. It has failed too many people for too long and we need to work together to build on the extensive work of the PASC committee and actually deliver the improvements which are so long overdue.

In this spirit of cooperation we have offered our contribution to the conclusions and recommendations of the PASC report. This inquiry report provides only a framework for change and it is important that we work together to get the detail right. We have vast experience of the difficulties encountered by users of the Ombudsman service and we can contribute to delivering a People's Ombudsman which has been designed by the people for the benefit of the people.

## Conclusions and recommendations

### "More investigations for more people"

- 1 PASC received a significant amount of correspondence from individuals who were dissatisfied that the Parliamentary and Health Service Ombudsman had declined to investigate their complaint. We welcome the decision taken by the Parliamentary and Health Service Ombudsman to investigate more complaints as a way to remedy such concerns. (Paragraph 22)



The decision to investigate more complaints will not remedy the concerns of any of individuals who have shared correspondence with you. Dame Julie Mellor has drawn a line in the sand and refuses to review historical cases which have been declined investigations under what has been shown to be a flawed assessment process. Many of these cases were submitted after Dame Julie Mellor took office in January 2012 and are therefore entirely within her jurisdiction as Ombudsman. This injustice requires urgent attention.

*2 The Parliamentary and Health Service Ombudsman must be explicit in how the decision to investigate more cases is being achieved, to demonstrate that it represents a significant change in the quality of investigations and upheld complaints and that it is a much more substantial shift than a re-classification of current workloads. (Paragraph 23)*



We wholeheartedly agree with this point and feel that despite a number of attempts to elicit this information such as the Health Select Committee Meeting 13.5.14, the Ombudsman is particularly coy on the detail of how PHSO can achieve so much more (6x more investigations) without impacting on resources and staff workload. We are suspicious that a re-classification has occurred and cases which were previously 'put right without an investigation' are now put forward for 'Quick Investigation' (QI) in order to meet targets. See recent FOI request on this subject.

It [https://www.whatdotheyknow.com/request/quality\\_of\\_investigations\\_at\\_phs#comment-50140](https://www.whatdotheyknow.com/request/quality_of_investigations_at_phs#comment-50140)

We believe that many 'assessments' are now being termed 'investigations' and this is reflected in the uphold rate which has fallen to 45% from a previous level of 86%. The high threshold for evidence has simply been moved from assessment to investigation and this will not satisfy the public. Our concerns have been mirrored by the statement submitted to PASC from the Public and Commercial Services Union who represent 180 employees at PHSO

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*"The strategic shift towards investigating more cases was, therefore, welcomed by our members. But from the outset they questioned how, with a reduced budget, decreasing staff numbers, and the hugely increased work load resulting from the proposed tenfold increase in investigations (4,000 instead of 400)- the Office could possibly cope. It was feared that a massive backlog of cases would build up, and so it has proved."*

We suggest that PASC investigate this point further and release the data withheld such as the number of cases resolved through Quick Investigation for 2013 – 14. It is important for public confidence that the Ombudsman is transparent and open on this matter.

### The investigation process

*3 We were told that complainants receive a detailed account of the reasons underpinning decisions taken by the Parliamentary and Health Service Ombudsman (PHSO) in respect of their complaint. Nevertheless some complainants told us they do not feel all the evidence available in their complaint was taken into account, and evidence was not treated equally. We recognise that not all complainants may feel this way, but PHSO should review the transparency of its own arrangements for reviewing its decisions. (Paragraph 31)*



It may well be a detailed account but by and large it is illogical and not evidence based. The main issues are invariably overlooked as the caseworker focuses on minor matters which can be easily explained away. There is blatant bias in favour of the public bodies whose word is taken on face value despite evidence to the contrary. Expert legal and medical opinion is dismissed as subjective or irrelevant by a case worker who has no professional qualification with which to judge. There is little point in asking PHSO to 'review the transparency of its own arrangements for reviewing its decisions'. Any organisation which repeatedly quotes a 99.6% success rate is not to be trusted. It is surely for PASC to review this matter impartially and to offer recommendations for change.

Because a 'complaint' is synonymous with asking for a 'review' it is impossible to make a complaint about the review team. They will not review it as you have used up your allocation of one review per complaint and come to the end of the process. Any formal complaints made about the review team in post-review correspondence are handled by the review team and go directly to the staff member named in the complaint. They hold themselves to account and find that they have acted appropriately. The results of this process are not communicated to the complainant due to the 'Do not acknowledge' policy which is the category given to all cases following an unsuccessful review. PHSO not only mark their own homework they keep all the results to themselves and proudly quote in each annual review that they only need to correct error in 0.4% of cases. This practice is neither open, transparent or customer focused and needs a major overhaul.

*4 When explaining to complainants the findings of an investigation and how decisions have been reached, the Parliamentary and Health Ombudsman (PHSO) sets out the evidence that has been relied on or which has influenced investigators in reaching their conclusions. In addition, PHSO should make clear what evidence it received and considered as part of that investigation, and if necessary, what evidence was not used to form the conclusion, and why. (Paragraph 32)*



This is rather too little too late. Once the decision has been made it is virtually impossible to change it no matter what evidence is produced to the contrary. If PHSO make a flawed decision because they have been misled by a public body or had important evidence withheld, then the complainant has the uphill struggle to present the full facts and alter the finding. It is important that all information is shared with all parties during the investigation stage so that misinformation and absent data can be challenged before the decision is made. The public body is provided with statements made by the complainant when considering their response, but statements made by the public body are not shared with the complainant for comment until after the decision is made.

It is also the case that PHSO rely upon their own clinical advice and the word of a single advisor can dismiss evidence from specialist doctors, psychiatrists and psychologists who have had first hand contact with the complainant. This third party



clinical advisor has seen only some of the evidence, and it is not clear exactly what evidence has been divulged, in order to make their decision. The name and qualification of the Ombudsman's clinical advisor is then kept from the complainant so they are unable to check that the advisor is suitably qualified to make the decision. The investigation process is seriously flawed and it has damaged public confidence in the impartiality of the Ombudsman.

#### PHSO: "stuck in time"?

<sup>5</sup> The restrictive legislation governing the Parliamentary and Health Service Ombudsman (PHSO) means it is unable to meet the standard set by Scotland, Wales, Northern Ireland and elsewhere. An ineffective instrument of democratic accountability cannot remedy failures in public service delivery. PHSO is impeded by out-of-date legislation so it fails to meet the expectations of today's citizens. It is, as Scotland's Public Service Ombudsman put it, in danger of being "stuck in time". The UK needs new legislation. The Ombudsman should be seen as a People's Ombudsman service as well as Parliament's Ombudsman. We address how this is to be achieved later in the report. (Paragraph 45)



You are right that an ineffective instrument of democratic accountability cannot remedy failures in public service delivery, neither can it provide justice and remedy to members of the public. Thousands of citizens have been badly let down by this ineffective body. Restrictive legislation is however only part of the problem. The hidden agenda of the Ombudsman appears to be to dismiss or minimise as many cases as possible and the use of 'no worthwhile outcome' has served them well in this regard. The requirement for a 'worthwhile outcome' is not one which is forced upon the Ombudsman through restrictive legislation. The Inquiry Counsel Written Closing Submission into the Mid. Staffordshire NHS scandal in 2011 confirmed that:

14. When a complaint is received by the PHSO's office, her staff will check whether it is properly made, within the Ombudsman's jurisdiction and for evidence of either hardship or injustice. They will then consider whether or not it is likely that an investigation by the Ombudsman will secure a 'worthwhile outcome'. Only complaints meeting this criterion will be the subject of full investigation under the Health Commissioners Act.

15. However, the test referred to above and in particular the phrase 'no worthwhile outcome' is not taken from the Health Service Commissioners Act or from any other legislation (contrary to what is suggested in the Health Committee's report on complaints and litigation, quoted below). It is simply an aspect of the way in which the PHSO has chosen to exercise her discretion to investigate.

The total discretion of the Ombudsman, which is enshrined in the original Parliamentary Commissioner Act of 1967 and reinforced by those which followed, gives PHSO the ability to 'pick and choose' which cases to investigate. It is impossible to say that the Ombudsman has acted unreasonably in denying an investigation when she has the legal right to do so. This makes a mockery of holding the Ombudsman to account by judicial review. If the Ombudsman is to be accountable under the law then the legislation must change to remove total

discretion and replace it with clear guidelines of expected behaviour and a definition of 'maladministration.' These guidelines, if breached, can be used in court to show maladministration on the part of the Ombudsman. It should also be the case that citizens are able to take their dispute with the Ombudsman to an Alternative Legal Remedy (ALR) such as a Tribunal or Alternative Dispute Resolution (ADR) option such as a mediator. Judicial review is complex and costly putting it beyond the reach of the average person. Making the Ombudsman truly accountable under the law would restore 'natural justice' and be in line with European law on Human Rights.

*6 In our report, More Complaints Please!, we recommend that there should be a minister for government policy on complaints handling. In addition, we recommend that the minister also take responsibility for policy in relation to the Parliamentary and Health Service Ombudsman and that he or she should bring forward the new legislation required to enable citizens to have a simpler and more straightforward Ombudsman service that is responsive to citizens and their expectations. (Paragraph 46)*



Having a Minister responsible for policy in relation to the Parliamentary and Health Service Ombudsman rather shifts the locus of attention from the PASC committee. It is difficult to envisage any Minister willingly taking on the role of Minister for Complaint Handling and the extra staff needed to cope with the mountain of irate correspondence which would follow. We can only guess that the name in the frame is Oliver Letwin MP, who has been less than responsive to the citizens in our pressure group, who have had great difficulty gaining his attention. We are rather concerned that this move will simply create an escape route for members of PASC who can pass on persistent complaints to the Minister concerned, who then ignores them, or passes them back to PASC. We need a clear job description for the Minister's role. PHSO is frequently cited as being 'independent' of Ministers, MPs and civil servants. How will this independence be affected by the appointment of a Minister for policy? Will the Minister be able to instruct the Ombudsman to draw up an action plan to implement change or will they be just a figurehead? Our experience of Ministers does not give us confidence that this will bring any real improvement. They are notoriously unresponsive to appeals from members of the public.

#### The restriction of direct access

*7 Along with all other informed opinion, we can find no justification for restricting citizens' direct access to the Parliamentary and Health Service Ombudsman for nonNHS complaints. It was intended that the "MP filter" should be abolished after the first five years of the Parliamentary Ombudsman. Citizens were given direct access for NHS related complaints for good reason. 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)*

<sup>8</sup> *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)*



This would do away with the discriminatory practice of allowing all cases submitted to the Ombudsman by certain MPs, such as members of the PASC Committee, the Speaker of the House and party leaders, to qualify for automatic attention from the Ombudsman herself. It would however also distance MPs from their constituents concerns. We have found that the active support of an MP has made a significant difference to outcomes when using the regulatory system. Unfortunately, far too many MPs wash their hands of the matter at the earliest opportunity. It is our belief that MPs should be more involved rather than less. It should be possible for every citizen to submit their initial complaint, request for a review, complaint about service delivery and any post review correspondence via their MP and expect their MP to field the answer. If the MP is obliged to be continually involved at all stages they would have an immediate understanding of the intractable nature of the Ombudsman service and may seek to improve the quality of this provision for their own benefit as well as that of the public. The primary role of the MP is to represent and resolve the concerns of their constituents. This responsibility should not be weakened. If a constituent makes the decision to involve their MP then the MP must have a duty to provide continual support throughout the process.

#### The case for allowing telephone, oral and online complaints

<sup>9</sup> The manner in which a complaint is handled is a key part of the provision of redress, even if the complaint itself is not actually upheld. Allowing complaints to be submitted in person, by telephone, or online would empower more people to make complaints to the Parliamentary and Health Service Ombudsman (PHSO). The requirement that all complaints to PHSO must be in writing presents a barrier to access and is out of step with other ombudsman services. For many people, form filling is an anathema to an understanding and supportive approach. It constitutes an unjustified barrier to those who lack literacy skills, and is out of date in a world where so much customer service is now delivered online, in person, or via the telephone. (Paragraph 59)

<sup>10</sup> *We recommend that the Government's new legislation to create a simpler and more straightforward Ombudsman service should allow complaints to the Parliamentary and Health Service Ombudsman to be made other than in writing, such as in person, by telephone or online, just as is expected of other complaints systems. (Paragraph 60)*



We agree wholeheartedly with this proposal and feel that this should extend to access to the customer satisfaction survey, currently provided by IFF. At the present time PHSO pass on the telephone numbers of customers to IFF and a selection are contacted by telephone to take part in a customer survey. The results of this survey

are used by PHSO to demonstrate customer satisfaction and provide a level of accountability which is recorded on the Ombudsman website and in annual reports submitted to PASC. Using this approach it is possible for PHSO to pre-select respondents to the survey by failing to pass on some telephone details and they accept that they do this when they apply their 'unreasonable behaviour' policy. In order to maintain public confidence it should not be possible for PHSO to control the outcome of the customer survey in any way. All customers, even unreasonable ones, should be given direct access to IFF where they can choose the time and method used to contribute to the customer survey. No screening allowed.

### The case for 'own-initiative' powers

<sup>11</sup> We support the principle that the Parliamentary and Health Service Ombudsman should have "own-initiative" powers, similar to other ombudsmen, which allow it to investigate areas of concern without having first received a complaint. The benefit of this would be, for example, the ability to respond better to early warning signals and to gain greater insight into service problems. (Paragraph 71)

<sup>12</sup> *We recommend that the Government's new legislation to create a simpler and more straightforward Ombudsman service should grant the Parliamentary and Health Service Ombudsman the power of own-initiative investigations.* (Paragraph 72)



The primary role of the Ombudsman is to investigate individual complaints to provide remedy and justice and improve service delivery. It is barely coping to achieve this; in fact it is failing to do so. A great deal of time and money went towards the Ombudsman's inquiry into Equitable Life (2004 – 2008) We have been told by Dame Julie Mellor that historic cases which have been denied investigation under the flawed assessment process which was still in use for over a year after Ms. Mellor took office, cannot be reviewed due to lack of resources. We are concerned that the powers to initiate investigations will simply draw resources away from individual complaints. We have no problems with the proposal per se, but would like to know how it would be funded and monitored.

### Oversight of complaints handling

<sup>13</sup> As we concluded in our Report on complaints handling in Government departments and agencies, *More Complaints Please!*, we remain concerned that the "toxic cocktail" in respect of complaints handling—a reluctance on the part of citizens "to express their concerns or complaints" and a defensiveness on the part of services "to hear and address concerns"—poisons efforts to deliver excellent public services. There is a clear benefit to the public and to good administration that the Parliamentary and Health Service Ombudsman should use its experience to inform and lead better complaints handling across its area of jurisdiction. (Paragraph 76)

<sup>14</sup> *We recommend that the Government's new legislation to create a simpler and more straightforward Ombudsman service should grant the Parliamentary and Health Service Ombudsman the power to oversee complaints processes across*



*its area of jurisdiction, and a formal role in setting standards and training in complaints handling. (Paragraph 77)*

PHSO must put their own house in order first. PHSO accepted 440 ‘handling lessons’ arising from complaints about their service in 2012. The vast majority of these ‘lessons’ were the same as the 316 accepted in 2011, which would indicate that they had not been learnt. Their own complaint handling is opaque, entirely in-house and totally unaccountable to members of the public. They even refuse to accept service delivery complaints if these complaints also disagree with the decision, saying that decision complaints can only be dealt with by judicial review. This pot is in no position to call the kettle black.

We agree that PHSO should have the power to enforce change across those bodies which come under its jurisdiction. They should insist on action plans for improvement and then be able to monitor their implementation, which is presently outside their remit. Allowing public bodies to pay lip service to PHSO recommendations will not improve service delivery or restore public confidence. The ‘toxic cocktail’ of complaint handling is evident in the PHSO’s own review team, who treat complainants with arrogance and indifference. There is urgent need for a complete culture change in this department before they start setting standards for others.

#### PHSO’s public profile

<sup>15</sup> The Parliamentary and Health Service Ombudsman would benefit from a higher public profile and should be free to engage the public about how it exercises its remit and powers. It should publicise more information on the outcome of cases, and so contribute more effectively to public debate. (Paragraph 81)

<sup>16</sup> *The Parliamentary and Health Service Ombudsman (PHSO) has already begun to put measures in place to publicise the outcomes of more cases. In support of this the Government’s new legislation to create a simpler and more straightforward Ombudsman service should abolish the provision that restricts PHSO to laying reports only when Parliament is sitting. This would grant PHSO the freedom to publish not only more information about its work, but also as and when it sees fit. (Paragraph 82)*



The Parliamentary and Health Service Ombudsman’s website already raises false expectations about what is likely to be achieved by making a complaint to the Ombudsman. Phrases such as **‘we work to put things right’** and **‘PHSO’s aim is to provide an independent, high quality complaint handling service that rights individual wrongs...’** give the idea that all valid complaints will be investigated and a remedy offered. In fact, even under the new businesses initiative of ‘more impact for more people’, the vast majority of complainants will go away without a favourable resolution.

In the table below you can see the number of complaints made to PHSO concerning the Information Commissioner’s Office (ICO). 739 complaints were made from 2005 to 2014 and of those only 2 have been fully upheld and 7 partly upheld. This gives

complainants a 0.2% chance of having their case fully supported and even with partial acceptance this increases to only 1.2%. Over 98% of these complainants received no positive outcome or remedy and this low uphold rate brings into question the impartiality of the investigation process. It is clear that feedback to ICO is also ineffective as the number of complaints has steadily risen through the years.

### Number of complaints about ICO made to the Ombudsman

Year	Received	Resolved by intervention	Accepted for investigation	Investigated complaints reported on	Fully upheld	Partly upheld	Not upheld
2005/6	27	0	15	16	1	2	13
2006/7	55	0	3	6	0	1	5
2007/8	39	1	0	1	0	1	0
2008/9	80	0	2	0	0	0	0
2009/10	80	0	0	1	0	1	0
2010/11	94	1	0	1	0	1	0
2011/12	122	1	0	0	0	0	0
2012/13	126	2	2	0	0	0	0
2013/14*	116	1	42	25	1	1	23

\*Please note that these are provisional figures which are not yet published.

If members of the public knew from the outset that they had less than a 2% chance of a successful outcome then they may take a different course of action. Publishing more 'feel good' stories which are fronted by agency pictures of satisfied customers will simply create more disappointment when the reality does not match up to the promise.

### Accountability of PHSO

<sup>17</sup> The Parliamentary Ombudsman was established in 1967, long before the creation of departmental Select Committees. PASC was, in 1997, given the remit in standing orders of scrutinising the reports of the Parliamentary and Health Service Ombudsman (PHSO), in addition to examining the quality and standards of administration within the Civil Service. The time has come to review this arrangement and to put measures in place to re-define the roles of scrutinising the PHSO's service and of engaging with its reports and findings. To do so will increase transparency and will ensure there are clear lines of accountability. (Paragraph 87)

<sup>18</sup> *We recommend that Parliament should strengthen the accountability of the Parliamentary and Health Service Ombudsman (PHSO). The Public Accounts Commission, or a similar body should take primary responsibility for scrutiny of PHSO, including examining corporate plans, budget and resources. PASC should have its Standing Orders amended to require it to use the intelligence gathered by the PHSO to hold to account the administration of Government. PASC should also ensure that PHSO's reports are referred to the Departmental Select Committee to which they are most relevant. From now on, we will do so. Departmental Select Committees should use PHSO's reports to hold their respective departments to account.* (Paragraph 88)





Lack of accountability for PHSO is a major concern of the Pressure Group. The Ombudsman is a public body, paid for by the public to serve the public, yet they are totally unaccountable to the public except by judicial review which is beyond the reach of most citizens. Presently the Ombudsman is accountable for its decisions to the courts and for its service delivery to the Public Administration Select Committee (PASC). PASC however is not charged with any powers to investigate individual cases where poor service delivery has been reported, nor to make any binding recommendations upon the Ombudsman to improve service delivery. This accountability is therefore in name only as it cannot be applied. This has to change.

It is difficult to see how shifting responsibility to the Public Accounts Commission will make any difference to service delivery; making sure that the books are balanced is a very different thing to providing a quality service which satisfies the public. Under this arrangement there is still no single body empowered with the ability to hold the Ombudsman to account for poor service delivery. PASC appear to be comfortable to act as the 'go-between' simply passing on the reports delivered to them by the Ombudsman without any question over the validity of those reports. This simply isn't good enough. PASC are quoted as the body that holds the Ombudsman to account for service delivery, rather than pass this responsibility on we suggest that PASC request the powers to actually carry out the role effectively. We will back you all the way.

#### An English Ombudsman service?

<sup>19</sup> We believe that the creation of a single public services ombudsman for England would be beneficial. For complainants it would create a much simpler and more accessible ombudsman service, and for public services would allow learning and good practice to be disseminated more easily. The size of England does present a challenge for an Ombudsman, but we believe the creation of branch offices could go some way to addressing the issue and should be explored. (Paragraph 98)

<sup>20</sup> *We recommend that the Government bring forward, and consult on, proposals to create a single public services ombudsman for England, bringing together, for example, the relevant parts of Parliamentary and Health Service Ombudsman, Local Government Ombudsman, and Housing Ombudsman. The jurisdiction of any single public services ombudsman for England should include areas of public services that could benefit from an ombudsman service, including for example, some educational institutions. Branch offices for the public services ombudsman for England should also be explored, to facilitate access for all parts of England and so the office can gather perspective on the performance of public services and administration from across the country.* (Paragraph 99)



The present Parliamentary Ombudsman system is seriously flawed and from our understanding the Local Government Ombudsman is no better. To use either of these as templates for a single public services Ombudsman for England would be a

disaster for the public. We suggest that the initiation of a new Ombudsman service for England should take the opportunity to create a new model based on the most effective approach currently in use worldwide. If PASC were impressed with the Ombudsman service in the Netherlands, then perhaps this could be a good starting point. We understand that 70% of staff in the Netherlands are employed to investigate complaints compared to only 30% in the UK and that most investigators are also lawyers. The Pressure Group were certainly in agreement with the concept of ‘fairness’ as expressed by the Dutch Ombudsman Service and the work of Brenninkmeijer, which can be seen in the article linked below.

[change programme national ombudsman of the netherlands dublin version.pdf](#)

- The concept of “fairness” was very important for citizens in the Netherlands. The daily work of National Ombudsman of the Netherlands involved working out what was fair in individual cases—not just what was in the law. He stressed four element of fairness: personal contact; fair treatment; equal footing; and trust in citizens (most citizens were honest and should be treated as such).

#### The implications of devolution: a UK Ombudsman?

<sup>21</sup> The present division of power between the devolved governments of Scotland, Wales and Northern Ireland presents a difficulty for those seeking to provide England with a national ombudsman service. Non-devolved matters require a UK-wide Ombudsman Service. As long as the UK Parliament and the UK Government are responsible for the law and administration of England as well as for UK nondevolved matters, there will be a need for a distinctive ombudsman service for these functions. (Paragraph 104)

<sup>22</sup> *We recommend that the Government bring forward, and consult on, proposals to deliver an effective ombudsman service for UK non-devolved matters—in addition to that of a single public services ombudsman for England—in order to optimise an ombudsman service for the UK citizen in respect of those functions. This could be provided, for example, either as a single ombudsman with a dual role as UK and England Ombudsman, or the UK and England ombudsman services could each have separate legal personality.* (Paragraph 105)



A single Ombudsman with a dual role would not be so very different from what we have now. In fact only the name on the label would change as the process would stay the same. We do not recommend this. Our experience has led us to believe that a single body does not have the expertise or resources to successfully manage both Health complaints and Parliamentary complaints. We could like to see these two roles divided with a designated Health Service Ombudsman for England which deals effectively with health related complaints for both the NHS and private sectors as appropriate. This would leave a far smaller number of Parliamentary complaints which could be handled by a single body, named the People’s Ombudsman, who is responsible for devolved matters for England and for non-devolved matters for the UK as a whole. The People’s Ombudsman should be headed by a lawyer, as is the case in most countries, to reflect the need to act within the law. A steering group which consists of PHSO senior managers, lay people and representatives from



appropriate charities should be appointed on a rolling basis to ensure impartiality. The Health Service Ombudsman for England and the new People's Ombudsman should be structured upon the most favourable model available and this would require new legislation which removes total discretion and makes the Ombudsman service truly accountable. In this manner the present Ombudsman system would be given the complete overhaul so often recommended and so long awaited.

**Members of the PHSO Pressure Group and the coalition of health care campaigns, Heal the Regulators would like to request a meeting with members of PASC to discuss the findings of this report and establish a way forward which puts citizens at the heart of the complaint handling system.**

**PHSO Pressure Group  
phsothefacts.com  
June 2014**



## PHSO Pressure Group response to PASC report 'More complaints please!'

### Twelfth Report of Session 2013-14

#### Principles of good complaint handling

If it is true that **'complaints drive reform'** then surely the call should be for **'fewer complaints please!'** as improved service delivery and first tier complaint handling limit the numbers of complaints escalating to the Parliamentary and Health Service Ombudsman. This must be the overall objective of Government and of the regulatory system. To get it right in the first place.

Unfortunately, there is no evidence that the work of PHSO is contributing to this reform. Taking the data from complaints made about ICO to the Ombudsman it can be seen that there has been an increasing trend over the years.

Complaints made to PHSO concerning ICO

Year	Received	Resolved by intervention	Accepted for investigation	Investigated complaints reported on	Fully upheld	Partly upheld	Not upheld
2005/6	27	0	15	16	1	2	13
2006/7	55	0	3	6	0	1	5
2007/8	39	1	0	1	0	1	0
2008/9	80	0	2	0	0	0	0
2009/10	80	0	0	1	0	1	0
2010/11	94	1	0	1	0	1	0
2011/12	122	1	0	0	0	0	0
2012/13	126	2	2	0	0	0	0
2013/14*	116	1	42	25	1	1	23

\*Please note that these are provisional figures which are not yet published.

Complaints can only drive reform if they are fully investigated with appropriate sanctions applied which are monitored to ensure delivery. That is how reform works. Turning a blind eye has never been known to achieve effective change.

If you are ICO you will know that historically there is an 8.6% chance of an investigation and only a 1.2% chance that any complaint will be upheld. With a 98.8% probability that there will be no sanctions or recommended reform are you encouraged to alter your well serving toxic cocktail of delay, deny defend?

Simply asking more people to buy into this flawed complaint handling process will just increase dissatisfaction and further damage public confidence in the regulatory process. Persistent and entrenched inefficiency also wastes taxpayer money with PHSO costs currently running at £34m per annum.

## Valuing complaints

If the Government want to see real change then they must tackle the problem at all levels and use both carrot and stick to ensure that best practice is followed.

Many complaints arise because front-line staff are overwhelmed and they are not well supported by an often bloated management structure. Complaints escalate because they are not handled correctly in the first instance and there is no incentive to improve this practice.

The Parliamentary and Health Service Ombudsman have only 30% of their staff carrying out investigations even though this is the primary purpose of the Ombudsman service. Over 54% of staff are in management roles, on higher salaries, but not public facing. Staffing levels of this kind are all too common in the public sector and indicate that the leadership is more intent on 'empire building' than serving the public. (See PHSO Pressure Group Summary Report)

The Ombudsman must have the powers and the intent to come down hard on those organisations who fail to reform, applying financial sanctions which act as an incentive to change. PHSO have the powers of a High Court Judge to compel organisations to comply with investigations in a timely manner and yet have not used them in the last three years and possibly have never used them. PHSO do not follow through with action plans produced to resolve upheld cases as they have no remit to do so. This can easily become just a paper exercise with no impact whatsoever.

All public bodies should be fined for every case which is escalated to the Ombudsman. This would help to pay for the service and as complaint handling improved it would save taxpayer money by drastically reducing the number of protracted complaints.

None of this is rocket science. The tinkering with titles and single portals will do nothing to change the fundamental failure of the Ombudsman service. One has to question whether anyone in Government has the serious intent of actually improving this service?

## Single Minister with responsibility for complaint handling.

This suggestion looks very like PASC trying to make the failure of the Ombudsman service into '**someone else's problem**'. Ministers are notoriously unresponsive to appeals from members of the public. Is this just another dumping ground?

## Importance of leadership.

On the subject of leadership we note that Dame Julie Mellor is not legally trained, yet the role of Ombudsman is guided by the law. Most Ombudsman services are not only headed by legally trained personnel; they also employ lawyers to carry out investigations. Our Ombudsman service is lacking in expertise resulting in assessors and investigators passing judgement on legal and clinical matters for which they have no professional qualification.

Leadership is undoubtedly a key factor when bringing successful reform. Before PHSO can guide others it must have a coherent structure which is supported by its own staff. PHSO Pressure Group are still waiting for the release of the staff survey carried out by PHSO in August 2013. The reluctance to release this information suggests some internal issues which are as yet unresolved.

[https://www.whatdotheyknow.com/request/survey\\_2](https://www.whatdotheyknow.com/request/survey_2)

If a cultural change is to occur 'at all levels' then this would include the final arbitrator, the Parliamentary and Health Service Ombudsman. The Ombudsman handles all complaints about its own service delivery internally. It fails to learn lessons as it is of the opinion that it gets things right 99.6% of the time. We all know the dangers of being allowed to 'mark your own homework'.

## Ministerial correspondence

In our experience it is impossible to have a government Minister investigate a complaint put to them by a member of the public. The Minister's staff will always send it straight to the named culprits and it is unlikely that the Minister themselves will ever see it.

Alternatively, if a member of the public writes to an MP who is not their constituent MP, because they sit on a particular select committee or have an interest in the subject matter which concerns them, they will invariably be told that they cannot receive a reply due to strict Parliamentary Protocol. In each instance the citizen is met with a brick wall. Parliamentary Protocol is an unwritten convention which simply serves to block honest inquiry and should be reviewed.

## Complaints processes: keep it simple

In order to keep it simple the public need to have from the start a clear definition from PHSO as to what constitutes 'maladministration'. In order to evaluate the service, PHSO must define the difference between an 'enquiry' and a 'complaint' and not use the two terms interchangeably. There must be an end to the use of 'resolved cases' as a euphemism for 'closed cases' and a PHSO customer should be able to make a complaint about service delivery which is not re-classified as a 'review'.

## Supporting a complainant

In order to navigate the system all complainants should be offered independent advocacy. This is independent of the Ombudsman themselves. All complainants are vulnerable. Many have suffered the loss of a loved one and are still grieving; others have suffered trauma and injustice which has had a life changing effect on them. All are total novices with no idea as to what information to include and how to present it. An independent advocacy service would supply all the support required and give honest and open advice which is in the best interest of the complainant. PALS have been discredited due to their close links with NHS trusts and are seen by many as just another hurdle to overcome. It is therefore extremely important that any advocacy service provided is independent of the regulatory system. A charity funded body such as AvMA should be considered.

## Social media

Mentioned in the report is the impact of **social media** regarding public expectations. By sharing our experiences we are able to determine that PHSO suffers from systemic corruption from its original purpose, to protect the citizen from the abuse of power. We are able to see that much of the

correspondence is 'cut and paste' with the same phrases used repeatedly to dismiss or minimise complaints. We are not individuals quietly licking our wounds wondering if it is was our fault that our complaint was overturned. We are organised groups who share information and our eyes have been opened to the reality of this service which purports to protect the citizen whilst all the time working to protect the public bodies. The truth is out and we demand a better Ombudsman service, an honest and accountable 'People's Ombudsman' fit for a 21<sup>st</sup> century democracy.

PHSO Pressure Group  
phsothefacts.com  
June 2014

**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Subject:** Pressure Group names for seminar.  
**Date:** 17 June 2014 04:40:03

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Dear Sally Sykes,

We have prepared a full list of names for the seminar and we are ready to present them to you. There will be 20 people in total, but two will attend in a supporting role only. Their names are in brackets.

Before we release the names we would like two assurances. Firstly, some members of the Pressure Group have sensitive cases which are still on-going. For this reason we request you **do not put any of our names in the public domain.**

Secondly, we understand from                      experience that membership of the Pressure Group can be used to determine that a person is 'vexatious'.  
[https://www.whatdotheyknow.com/request/profiling\\_of\\_wdtk\\_complainants#incoming-520059](https://www.whatdotheyknow.com/request/profiling_of_wdtk_complainants#incoming-520059) was quite right to state that she was not a member of the Pressure Group, but her association with the group appears to have been used against her. Some members of the Pressure Group have cases still within the PHSO system, so we would like your assurances that **no-one will suffer any type of discrimination** because they have joined the Group or attended the seminar.

We would also like some information concerning the cover of travel costs. It was stated that 20 people could claim up to £100 each for travel costs. Some will have travelled from Scotland and abroad to attend the meeting, so this is a very welcome gesture. Can you inform us as to what information PHSO require in order to recover these costs?

We would also like the job descriptions and full names for the PHSO attendees at your earliest convenience. We will wait to hear from you.

Many thanks

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From: [phso the facts](#)  
To: [Sykes Sally](#)  
Cc: .  
Subject: FW: Pressure Group names for seminar.  
Date: 18 June 2014 15:46:29

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Hi,

Can someone answer this email please?

[phsothefacts.com](http://phsothefacts.com)

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From: phso-thefacts@outlook.com  
To: sally.sykes@ombudsman.org.uk  
Subject: Pressure Group names for seminar.  
Date: Sun, 15 Jun 2014 21:32:17 +0100

Dear Sally Sykes,

We have prepared a full list of names for the seminar and we are ready to present them to you. There will be 20 people in total, but two will attend in a supporting role only. Their names are in brackets.

Before we release the names we would like two assurances. Firstly, some members of the Pressure Group have sensitive cases which are still on-going. For this reason we request you **do not put any of our names in the public domain.**

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[https://www.whatdotheyknow.com/request/profiling\\_of\\_wdtk\\_complainants#incoming-520059](https://www.whatdotheyknow.com/request/profiling_of_wdtk_complainants#incoming-520059) was quite right to state that she was not a member of the Pressure Group, but her association with the group appears to have been used against her. Some members of the Pressure Group have cases still within the PHSO system, so we would like your assurances that **no-one will suffer any type of discrimination** because they have joined the Group or attended the seminar.

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**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Cc:** .  
**Subject:** RE: Email in relation to the Seminar on the 26th of June  
**Date:** 20 June 2014 16:54:17

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Dear Sally and

with all due respect this is not the meeting we agreed to. It has been scheduled for over two months and now last minute changes to venue and agenda, which we are supposed to accommodate.

We are a cohesive group and we make group decisions, so we will need to discuss this latest development. On that basis we will not be able to reply until Monday 23rd, but will get our response to you first thing in the morning, as we realise that time is short to finalise the arrangements for the seminar.

Have a good weekend.

[phsothefacts.com](http://phsothefacts.com)

---

**From:** Sally.Sykes@ombudsman.org.uk  
**To:** phso-thefacts@outlook.com  
**CC:** ombudsman.org.uk  
**Date:** Fri, 20 Jun 2014 12:46:14 +0100  
**Subject:** Email in relation to the Seminar on the 26th of June

Dear

Thank you for your email.

We have been preparing for the meeting. After discussion with IFF and due to some disruptive building works in the meetings room area of our Millbank Offices it was recommended that we change the location of the seminar to a different venue. IFF have just informed us the venue will be **St Luke's Community Centre** (<http://www.slpt.org.uk/room-hire>) which is located at 90 Central Street, London, EC1V 8AJ. Further details about how to get to this venue can be found on their website. Also, this venue is closer to the large London terminals such as Euston and Kings Cross for those travelling some distance. If attendees would like to arrive around 1.30-1.45 pm we will provide refreshments and a light lunch.

I can also confirm that Mick Martin, Managing Director is now able to attend the seminar. I have attached all the job descriptions of those who will be attending. Please note that the job description I have provided for Mick Martin relates to his role as Executive Director of Operations and Investigations, but he has recently taken on the role as

Managing Director.

Thank you for your proposed agenda. We have been working with IFF to incorporate your suggestions and recommend the following agenda and ground rules which are attached. The first session will be a listening session as you requested but the group will be split into smaller groups, both with senior members of staff from PHSO. This is to provide you all with the opportunity to speak about your experiences in a timely way so we can also dedicate more time to pulling together themes for learning.

In relation to your email of 15 June, we would be grateful if you could share the names with us and I can assure you that names will not be placed in the public domain. Any information we hold about members will be processed in line with the Data Protection Act 1998. Furthermore, IFF work on our behalf and will not share names with third parties.

In your email you raise concerns that individuals from the group may be discriminated against or disadvantaged because of their membership. It would not be appropriate for me to comment on the example you provide below as it relates specifically to another person and information rights legislation, but I can assure you that membership of any pressure group would not impact the way we handle any past or future complaints.

In relation to travel arrangements we will provide you with forms on the day to complete. Of course, we will need proof of purchase and a receipt of any travel and will only pay for reasonable travel expenses as we have previously outlined to you.

Lastly, sorry for the delay in responding. I wanted to be able to confirm the location of the venue before emailing.

Yours sincerely

Sally Sykes

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23<sup>rd</sup> June 2014,

Dear Sally Sykes,

We very much agree that the purpose of the seminar is to listen to our experiences so that common themes can be identified which will help you to improve your services for the future. In order to move forward and improve you must first look backwards to find out what needs improvement. Our individual cases contain this 'gold dust' and they will be central to the listening event.

You have stated that PHSO will not respond to questions about individual cases. We did not expect you to respond on the day, which is the reason we have included our contact details and case reference numbers. We would however appreciate open and honest responses when you have had time to reflect on the questions put to you. These questions will assist you in finding your way forward, if you are able to answer them with candour. If you feel you are unable to respond personally to members of the Pressure Group, we will draw our own conclusions.

The change in venue can be accommodated and we are able to alter our travel arrangements though it is rather late notice. The change in agenda concerns us more. We agreed with you sometime ago to stay as one group, but this has now become group workshop sessions. You give no indication as to how many groups you intend to utilize so in the spirit of cooperation we would be willing to split into two groups of 10 for the workshop session. We do not want to be divided into Health and Parliamentary as this would unbalance the groups so we have provided you with a suggested list at the bottom of this correspondence.

We do not feel that we will be in need of a light lunch, but would appreciate tea, coffee and water to be available from 1.45 pm. We would then be able to make a prompt start at 2.00 pm. Equally, we do not wish to break the momentum of the meeting with a coffee break at 3.00 pm. Water will be sufficient. You may wish to provide refreshments at 4.00 pm when the meeting has concluded. We have no issue with the session being recorded by **audio only** and wish to do the same for our own records. We are however, making a request that the IFF audio recording is kept confidential and used only by IFF to prepare a written report showing key themes identified and the ways forward. This report can then be sent to us via email for our consideration and comment, rather than the audio recording. Some members of the Pressure Group will be discussing sensitive and on-going cases and **we do not wish for the audio recording to be made publicly available**. We have all read the ground rules and agree with them. We are very reasonable people as you will discover. We do not feel that these need to be re-stated twice in the meeting.

We have made some suggestions to the agenda marked in red below for your attention and hope that all parties can swiftly agree a suitable arrangement.

**Agenda:**

Session	Lead	Topic
<b>Introduction</b> 2.00-2.10	IFF PHSO <b>PG rep</b>	<ul style="list-style-type: none"> <li>• Introductions</li> <li>• Purpose of the session</li> <li>• <b>Introduce Pressure Group</b></li> </ul>
<b>Workshop Sessions : Feedback on the customer experience</b> 2.10pm - 3.00 pm	IFF to lead each group discussion  PHSO to join groups in a listening capacity	<ul style="list-style-type: none"> <li>• Feedback on the customer experience</li> <li>• Key areas of concern, and impact of these on customers</li> <li>• <b>PHSO to make a note of key themes to report back in plenary</b></li> </ul>
3.00-3.20	<b>IFF &amp; PHSO</b>	<ul style="list-style-type: none"> <li>• <b>Plenary where both groups agree on key themes</b></li> </ul>
<b>Feedback and discussion Q&amp;A</b> 3.20-3.50	IFF	<ul style="list-style-type: none"> <li>• <b>Overview of customer feedback</b></li> <li>• Drawing key themes together</li> <li>• Discussion on suggested improvements</li> </ul>
<b>Closing comments</b> 3.50 – 4.00	PHSO <b>PG rep</b>	<ul style="list-style-type: none"> <li>• Next steps</li> <li>• <b>Closing statement</b></li> </ul>

We are pleased to see that Mick Martin your Managing Director is now able to attend the meeting. Can you also provide us with the names of the other staff members due to attend as soon as possible? Our list of attendees is below. The names in brackets are in supporting roles.

**PHSO Pressure Group members to attend meeting on 26<sup>th</sup> June.**

Group 1

Group 2

(

(

**From:** [phso the facts](#)  
**To:** [Sykes Sally;](#)  
**Cc:** .  
**Subject:** Seminar arrangements.  
**Date:** 23 June 2014 12:29:05  
**Attachments:** [Sally Sykes reply 23.6.14.doc](#)

---

Dear Sally,

Please find our response to the changes made in the seminar arrangements. We hope that this will provide a suitable arrangement for all parties.

Many thanks

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**From:** .  
**To:** [Sykes Sally](#); [Martin Mick](#); [Barr Russell](#); [Morgan Chris](#); .  
**Cc:** .  
**Subject:** PHSO the Facts Seminar briefings  
**Date:** 24 June 2014 17:21:33  
**Attachments:** [PHSO The Facts agenda.docx](#)  
[Impact Study Seminar Briefing.docx](#)  
[Briefing for PHSOthefacts seminar Individuals FINAL.docx](#)  
**Importance:** High

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Dear All

Attached is the information you may need ahead of the seminar on Thursday.

This includes:

1. Ground rules and agenda (agreed with PHSO the Facts)
2. A lines to take/Q&A briefing - this has been collated from media lines and the PASC prep for Julie- it is not exhaustive and I have pulled out the key areas they are interested in.
3. A briefing on the individuals who are attending. We have included information that we know about their cases and information requests.

We have tried to keep the briefings short as we can whilst also providing you with all the information you may want ahead of the seminar.

If there is anything else you want ahead of Thursday or if you have any questions, please let me know.

Many thanks

**Senior Analyst**

Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](mailto:ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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## 26 June 2014 2pm-4pm Customer Feedback - PHSO the Facts

### Ground-rules:

- Only individuals agreed in advance will be allowed to participate in the session.
- We advocate open and honest communication and challenge between individuals, in a respectful manner.
- All views are valid and will be listened to.
- IFF intend to audio record the session, and this will be made available to all participants. If anyone objects to the session being recorded they can state at the beginning of the session.
- Similarly if any other individuals wish to record the session we would ask that they declare this prior to doing so, and respect any wishes for the session not to be recorded.
- This meeting is not a forum for individual complaints or single issues. Rather individual's experiences should be used to contribute to discussions on key areas of concern and suggested areas for improvement
- PHSO will not respond to questions about individual cases
- We will start and finish on time and stick to the agenda
- No phones or other disruptions

### Agenda:

Session	Lead	Topic
<b>Introduction</b> 2.00-2.10	IFF PHSO PG rep	<ul style="list-style-type: none"> <li>• Introductions</li> <li>• Purpose of the session</li> <li>• Introduce Pressure Group</li> </ul>
<b>Workshop Sessions : Feedback on the customer experience</b> 2.10pm - 3.00 pm	IFF to lead each group discussion  PHSO to join groups in a listening capacity	<ul style="list-style-type: none"> <li>• Feedback on the customer experience</li> <li>• Key areas of concern, and impact of these on customers</li> <li>• PHSO to make a note of key themes to report back in plenary</li> </ul>
3.00-3.20	IFF & PHSO	<ul style="list-style-type: none"> <li>• Plenary where both groups agree on key themes</li> </ul>
<b>Feedback and discussion Q&amp;A</b> 3.20-3.50	IFF	<ul style="list-style-type: none"> <li>• Overview of customer feedback</li> <li>• Drawing key themes together</li> <li>• Discussion on suggested improvements</li> </ul>
<b>Closing comments</b> 3.50 – 4.00	PHSO PG rep	<ul style="list-style-type: none"> <li>• Next steps</li> <li>• Closing statement</li> </ul>

## Seminar Briefing

### 1. Recent key messages

When things go wrong in public services they can have a devastating impact on individuals and their families. There needs to be fundamental changes in the law to create a simpler more straightforward Ombudsman Service	We have listened to our customers, staff, the organisations we work with and Parliament. They are all said they wanted us to help more people by carrying out more investigations. We have changed our approach to make this happen	We agree with PASC, that we need to move towards a unified Public Ombudsman service for England and look forward to working with the Cabinet Office review team on how best to organise future Ombudsman Services for England and UK non-devolved services
We need significant change in the way complaints are handled across public services to make it easier for people to know where to turn to when things go wrong.	In 2013/14 we completed 2,199 investigations compared to 384 in 2012/13.	We also want people to be able to bring their complaints about government services to us without an MP referral and want to be able to investigate areas of concern without receiving a complaint. PASC's recommendations, if implemented, will help ensure we have an Ombudsman Service fit for the future
Our Annual Report will be published in July which will contain all casework performance figures and resource accounts explaining how we spend our money	We have been calling for changes in our legislation to allow us to modernise our services and meet the expectations of today's consumer	We are looking to expand our customer feedback mechanisms through adding different channels other than our telephone survey such as an online survey

# s36

## 4. Figures from Annual Report

How we are doing

	Enquiries received	Assessments	Complaints resolved through intervention	Complaints accepted for investigation	Completed investigations
Health	17,964	6,093	130	3,075	1,778
Parliamentary	6,844	1,658	79	825	421
Out of jurisdiction	2,758	9	0	0	N/A
Total	27,566	7,760	209	3,900	2,199

## Enquiries

We received around 40,000 contacts from customers which include queries about where and how to complain about public services and non-public services such as utility companies.

Of those 40,000 we provided advice on how to complain to 27,566 in the following ways:

- 15, 273 we provided guidance and support on making a complaint to the NHS and government organisations people by plugging them into local resolution
- 2,758 we helped people whose complaint was not for us by pointing them to the right organisation for their complaint.
- 7,760 were considered in more detail and ready for us to make a decision on.

## Assessment

Of the 7,760 complaints assessed 6,093 were about the NHS and 1,658 were about a government organisation.

Of these:

- 2,142 we concluded there was no further action for us to take.
- 209 we put things right quickly without the need for a formal investigation (130 NHS; 79 Government organisations).
- 1,039 we supported the complainant in getting a resolution from the organisation involved.
- 3,900 we launched a formal investigation (3,075 NHS; 825 Government organisations).

## Investigation

We completed 2,199 investigations, compared with 384 the previous year.

Of the 2,199 investigations:

- 22% of the investigations were about government departments and agencies and 78% about the NHS
- 854 were upheld in part or full
- 1,179 were not upheld
- 100 were resolved to complainant's satisfaction before investigation was concluded.
- 49 were joint investigations with the LGO, compared with five in the previous year.

When we launch a statutory investigation, we inform the organisation the complaint is about to give them an opportunity to comment on any allegations in the complaint and sometimes this in itself resolves the complaint. We also provide

the complainant with the report to give them the opportunity to comment and provide feedback.

## Review

### 2012/2013

	Assessment	Investigation	Service
Decisions	26358	384	26742
Resolved Reviews	949	33	166
Upheld Reviews	99	5	61
% of upheld reviews against decisions made	0.4%	1.3%	0.2%

### 2013/2014

	Assessment	Investigation	Service
Decisions	28348	2199	30547
Resolved Reviews	536	60	108
Upheld Reviews	70	4	48
% of upheld reviews against decisions made	0.2%	0.2%	0.2%

**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Cc:** .  
**Subject:** RE: Seminar arrangements.  
**Date:** 25 June 2014 10:21:07

---

Thank you Sally, that's great.

Looking forward to seeing you tomorrow.

Best wishes,

[phsothefacts.com](http://phsothefacts.com)

---

**From:** Sally.Sykes@ombudsman.org.uk  
**To:** phso-thefacts@outlook.com  
**CC:** ombudsman.org.uk  
**Date:** Wed, 25 Jun 2014 09:51:41 +0100  
**Subject:** FW: Seminar arrangements.

Dear

Thank you for your email and for providing us with the names of the attendees.

I am pleased you are able to accommodate the change of venue, and again I apologise for the late notice and any inconvenience this may have caused. We have also cancelled lunch as requested.

We are happy to incorporate your amendments to the agenda and I have passed these on to IFF. I would also like to reassure you that the recording would be an audio recording only, and that the recording would not be disclosed to the public and only shared with those who are participating in the event.

I can confirm that I will be attending the seminar with my colleagues:

Mick Martin, Managing Director

Russell Barr, Director of Operations and Investigations

Chris Morgan, Director of Quality and Service Integrity

Stakeholder Relationship Manager

Research and Insight Manager

We look forward to meeting you and the group on Thursday.

Yours sincerely

Sally Sykes

---

**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]  
**Sent:** Monday, June 23, 2014 12:29 PM GMT Standard Time  
**To:** Sykes Sally; <[org.uk](#)>

**Cc:**

**Subject:** Seminar arrangements.

Dear Sally,

Please find our response to the changes made in the seminar arrangements. We hope that this will provide a suitable arrangement for all parties.

Many thanks

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**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Cc:** [Martin Mick](#); [Barr Russell](#); [Morgan Chris](#); . .  
**Subject:** Seminar follow up  
**Date:** 30 June 2014 11:08:19

---

Dear Sally and PHSO staff,

We would like to offer our thanks for providing the opportunity to meet with you all last Thursday and **we all agreed that we were listened to and heard**. Please thank the team from IFF who were immensely flexible with the arrangement of the meeting and inform them that we would be interested to see a power point of their presentation if they would like to send it to us via this email address.

We apologise for a group member who arrived late

We are sorry if this disrupted the meeting in any way and steps have been taken to ensure that this does not happen again.

Although many in our group used their own recorders to tape the meeting, none of us have a complete overview. We are therefore requesting that a copy of the tape and/or transcript is sent to the group when it becomes available. We would also like to take part in a follow up meeting once IFF have compiled their report. There was very little time to put suggestions of ways forward and as primary stakeholders we would like to be involved in this continuing process.

If you are able to follow up on any of our cases and give answers to the questions raised directly to the individuals concerned, this would be greatly appreciated.

You may be interested to read our summary of the event which has been posted on our website. We feel that it gives a fair reflection of the day and would be happy to post any comments you may wish to make. <http://phsothefacts.com/phso-seminar-we-talked-they-listened-what-next/>

Best wishes,

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**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Cc:** [Martin Mick](#); [Barr Russell](#); [Morgan Chris](#); . .  
**Subject:** RE: Seminar follow up  
**Date:** 08 July 2014 13:23:48

---

Dear Sally,

All members of the Pressure Group felt very positive after our meeting with PHSO staff and we want to put our trust in you to put things right. However, individually, we are still receiving the 'brush off' letters and new members are joining the group with current complaints in the system and reporting back to us all the same failings as before. In this respect, nothing seems to have changed.

We do realise that it will take time, but we are concerned that there has been no real commitment to finding remedy for our individual cases. We are aware that [redacted] has achieved a review of the way his complaint was originally handled and the flawed review process which led to a delay in investigating his serious concerns about [redacted] which proved to be correct. We are delighted for [redacted] and agree with him that unless you look back to find the point of previous failure you will not be able to move forward with any accuracy as to where improvements need to be made.

We are being told that there is a 'lack of resources' issue with investigating historic cases. This principle does not seem to apply to historic sex abuse cases which are so prevalent in the media, many of which are decades old. The police did not say that to investigate these old cases would take resources away from current victims of crime. We are also aware through FOI that in 2013, PHSO handed £434k back to the Treasury as 'underspend' and £260k was used to fund specialist expertise to support the Business Transformation Programme, so lack of resources sounds pretty hollow.

We would like answers to the questions submitted at the seminar and more than that we would like an impartial investigation into our cases where there is evidence that maladministration has been left unremedied. Over 75% of our cases were initially submitted after Dame Julie Mellor took office in 2012, so although termed 'historic' the vast majority fall under her remit. There are also important patient safety issues which still require attention among the cases presented by the Pressure Group. There are cases of avoidable deaths which have remained without an investigation and these should take priority.

In your next steps response are you able to give us any commitment regarding our personal cases?

Kind regards,

[phsothefacts.com](http://phsothefacts.com)

---

From: Sally.Sykes@ombudsman.org.uk  
To: phso-thefacts@outlook.com  
CC: Mick.Martin@ombudsman.gsi.gov.uk; Russell.Barr@ombudsman.gsi.gov.uk;  
Chris.Morgan@ombudsman.org.uk; ombudsman.org.uk;  
ombudsman.org.uk; ombudsman.org.uk  
Date: Thu, 3 Jul 2014 18:13:21 +0100  
Subject: RE: Seminar follow up

Dear

Thank you for your follow up and I am pleased that you all felt listened to and heard. That was certainly our intention. I was personally affected by the experiences people recounted and the feedback we received. I assure you we are committed to building upon the feedback.

We are working on a fuller next steps response to you and the group, as well as absorbing the seminar learning in terms of what we need to improve. Naturally this will involve getting further input on the IFF report and our response.

We are grateful for the time you have put in personally to co-ordinate the group and to the attendees for also giving up their time to allow us the benefit of their experiences, which was clearly a painful and difficult process for them.

Thank you for the positive engagement with the process and once again to the group for making the journey to London,

Kind regards,

Sally

**Sally Sykes**

**Executive Director of External Affairs and Strategy**

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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---

**From:** phso the facts [mailto:phso-thefacts@outlook.com]

**Sent:** 30 June 2014 11:08

**To:** Sykes Sally

**Cc:** Martin Mick; Barr Russell; Morgan Chris;

**Subject:** Seminar follow up

Dear Sally and PHSO staff,

We would like to offer our thanks for providing the opportunity to meet with you all last Thursday and **we all agreed that we were listened to and heard**. Please thank the team from IFF who were immensely flexible with the arrangement of the meeting and inform them that we would be interested to see a power point of their presentation if they would like to send it to us via this email address.

We apologise for a group member who arrived late

We are sorry if this disrupted the meeting in any way and steps have been taken to ensure that this does not happen again.

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You may be interested to read our summary of the event which has been posted on our website. We feel that it gives a fair reflection of the day and would be happy to post any comments you may wish to make. <http://phsothefacts.com/phso-seminar-we-talked-they-listened-what-next/>

Best wishes,

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**From:** .  
**To:** [phso the facts](#)  
**Cc:** [Sykes Sally](#); [Martin Mick](#); [Barr Russell](#); [Morgan Chris](#);  
**Subject:** Re: Seminar follow up  
**Date:** 08 July 2014 14:19:54  
**Attachments:** [Possible \(three\) questions.doc](#)

---

Hi

I fully agree with your feedback and like you I hope the positive feelings of the Seminar are acted upon. Many of us attended the Seminar and once again "bared our souls"....believe me we live with our pain daily and I agree "historic cases" (or "gold dust" as Dame Julie Mellor described us) means PHSO can only join the dots retrospectively, otherwise "learning lessons" is aspirational only!

As for not being able to afford an investigation into "historical cases" would families affected by Savile, Harris, Clifford et al.....and Hillsborough families be told this? Apart from the "Underspecd" handed back.....the savings made on not investigating maladministration in public office, would more than cover the "historical cases" or "legacy" as NHS spin would have us believe! "Lack of Resources" certainly seems hollow especially with fortunes being paid out on "gagging" " gold plated pensions and pay offs and management consultants/agency nurses!

Kind regards,

Tuesday, July 8, 2014, 1:23:40 PM, you wrote:

Dear Sally,

All members of the Pressure Group felt very positive after our meeting with PHSO staff and we want to put our trust in you to put things right. However, individually, we are still receiving the 'brush off' letters and new members are joining the group with current complaints in the system and reporting back to us all the same failings as before. In this respect, nothing seems to have changed.

We do realise that it will take time, but we are concerned that there has been no real commitment to finding remedy for our individual cases. We are aware that James Titcombe has achieved a review of the way his complaint was originally handled and the flawed review process which led to a delay in investigating his serious concerns about Morecambe Bay, which proved to be correct. We are delighted for James and agree with him that unless you look back to find the point of previous failure you will not be able to move forward with any accuracy as to where improvements need to be made.

We are being told that there is a 'lack of resources' issue with investigating historic cases. This principle does not seem to apply to historic sex abuse cases which are so prevalent in the media, many of which are decades old. The police did not say that to investigate these old cases would take resources away from current victims of crime. We are also aware through FOI that in 2013, PHSO

handed £434k back to the Treasury as 'underspend' and £260k was used to fund specialist expertise to support the Business Transformation Programme, so lack of resources sounds pretty hollow.

We would like answers to the questions submitted at the seminar and more than that we would like an impartial investigation into our cases where there is evidence that maladministration has been left unremedied. Over 75% of our cases were initially submitted after Dame Julie Mellor took office in 2012, so although termed 'historic' the vast majority fall under her remit. There are also important patient safety issues which still require attention among the cases presented by the Pressure Group. There are cases of avoidable deaths which have remained without an investigation and these should take priority.

In your next steps response are you able to give us any commitment regarding our personal cases?

Kind regards,

[phsothefacts.com](http://phsothefacts.com)

---

From: Sally.Sykes@ombudsman.org.uk  
To: phso-thefacts@outlook.com  
CC: Mick.Martin@ombudsman.gsi.gov.uk; Russell.Barr@ombudsman.gsi.gov.uk;  
Chris.Morgan@ombudsman.org.uk; ombudsman.org.uk; ombudsman.org.uk;  
ombudsman.org.uk  
Date: Thu, 3 Jul 2014 18:13:21 +0100  
Subject: RE: Seminar follow up

Dear

Thank you for your follow up and I am pleased that you all felt listened to and heard. That was certainly our intention. I was personally affected by the experiences people recounted and the feedback we received. I assure you we are committed to building upon the feedback.

We are working on a fuller next steps response to you and the group, as well as absorbing the seminar learning in terms of what we need to improve. Naturally this will involve getting further input on the IFF report and our response.

We are grateful for the time you have put in personally to co-ordinate the group and to the attendees for also giving up their time to allow us the benefit of their experiences, which was clearly a painful and difficult process for them.

Thank you for the positive engagement with the process and once again to the group for making the journey to London,

Kind regards,

Sally



**Sally Sykes**  
**Executive Director of External Affairs and Strategy**  
Parliamentary and Health Service Ombudsman  
T: 0300 061 1521  
E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** phso the facts [mailto:phso-thefacts@outlook.com]  
**Sent:** 30 June 2014 11:08  
**To:** Sykes Sally  
**Cc:** Martin Mick; Barr Russell; Morgan Chris;  
**Subject:** Seminar follow up

Dear Sally and PHSO staff,

We would like to offer our thanks for providing the opportunity to meet with you all last Thursday and **we all agreed that we were listened to and heard**. Please thank the team from IFF who were immensely flexible with the arrangement of the meeting and inform them that we would be interested to see a power point of their presentation if they would like to send it to us via this email address.

We apologise for a group member who arrived late

We are sorry if this disrupted the meeting in any way and steps have been taken to ensure that this does not happen again.

Although many in our group used their own recorders to tape the meeting, none of us have a complete overview. We are therefore requesting that a copy of the tape and/or transcript is sent to the group when it becomes available. We would also like to take part in a follow up meeting once IFF have compiled their report. There was very little time to put suggestions of ways forward and as primary stakeholders we would like to be involved in this continuing process.

If you are able to follow up on any of our cases and give answers to the questions raised directly to the individuals concerned, this would be greatly appreciated.

You may be interested to read our summary of the event which has been posted on our website. We feel that it gives a fair reflection of the day and would be happy to post any comments you may wish to make.

<http://phsothefacts.com/phso-seminar-we-talked-they-listened-what-next/>

Best wishes,

[phsothefacts.com](http://phsothefacts.com)

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**Possible (Three) questions for Seminar On Thursday 26<sup>th</sup>  
June 2014**

**org.uk**

- 1) What happens if an “Unremedied Injustice” flag is placed on a complaints file in PHSO office?**
- 2) How does PHSO staff check what is being said to them? In the words of Charlotte Leslie MP from Health Select Committee “How do you know, what you don’t know”?**
- 3) Who oversees monitoring of implementation of recommendations made in various SUI Reports?**
- 4) Does PHSO align recommendations made re care to designated care pathways in any investigations she carries out?**
- 5) Are HSG(94)27 investigations still official guidance?**

**From:** .  
**To:** [Sykes Sally](#)  
**Cc:** .  
**Subject:** Spreadsheet  
**Date:** 17 July 2014 14:18:51

---

**RESTRICTED**

Afternoon Sally,  
Here is the link to the spread sheet of cases that have been identified following the PHSO the facts meeting - as potential cases for customer service reviews. I understand brought round hard copies.

[Ombudsmans Casework Team Admin](#)

If you need anything else please let me know.

**Assistant Casework Manager**  
Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](http://ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:**  
**To:** [+ Leadership Team](#); [+ExternalAffairs&StrategyGroup](#); [+Management](#)  
[Community](#); [Mellor Julie](#);  
[Clinical Advice Directorate](#);  
**Cc:** [Executive Office](#)  
**Subject:** Horizon Scanning Newsletter 2014 July 28  
**Date:** 28 July 2014 10:08:54

---

## HORIZON SCANNING NEWSLETTER

Date: 28 July 2014

### Contents....

[Parliamentary insights](#) [Health insights](#) [Ombudsman landscape](#)

### 3. PHSO the Facts: meeting with Oliver Letwin

### 3. PHSO the Facts

Report that they were to meet with Oliver Letwin, Minister for Government Policy on 24 July. They have published a list of questions on their website.

**From:** [phso the facts](#)  
**To:** [Martin Mick](#)  
**Subject:** management meeting  
**Date:** 25 August 2014 12:29:15

---

Dear Mr. Martin,

I am aware that you are due to have a management meeting early in September to discuss the cases brought to you at the seminar.

Prior to that meeting I wanted to make you aware of our expectations. We are not asking for any special treatment, or a second bite of the cherry. You will be able to see from our files that our initial assessments fell below the standard promoted by your own literature. We are simply asking that this time around we receive the promised impartial review, with evidence based decisions and service delivered according to your principles of good complaint handling.

We are aware that you have many cases to investigate and limited resources. Any drain on these resources is due to the inability of PHSO to get it right the first time round.

There are many lessons to learn from the evidence in our files. If PHSO are to meet their target of investigating 10x more cases then you must deliver to a high standard from the outset. Hopefully a thorough review of our cases will enable you to do this in the future.

Kind regards,

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**From:** [phso the facts](#)  
**To:** [Martin Mick](#)  
**Subject:** RE: management meeting  
**Date:** 27 August 2014 12:06:22

---

Dear Mr. Martin,

Thank you for your reply, I wasn't expecting one. I am looking forward to meeting you on the 15th September, but I am also aware that by the time we meet the senior management at phso will have made a decision on the way forward.

We know that phso are trying to meet demanding investigation targets and reviewing our historic cases will only add to that workload. There will also be fears of 'opening the floodgates'. We can appreciate your concerns. However until phso improve their methodology and service delivery your process will remain snarled up with returning complainants looking for justice.

I am hoping that an honest review of our cases will reveal to management the recurring issues which cause so much grief and frustration to complainants who are looking to improve services for the future and find personal closure.

We have had nothing but denial and cover up so far. Now you have the opportunity to put things right.

Kind regards,

---

From: Mick.Martin@ombudsman.gsi.gov.uk  
To: phso-thefacts@outlook.com  
CC: Mick.Martin@ombudsman.gsi.gov.uk  
Subject: RE: management meeting  
Date: Tue, 26 Aug 2014 16:40:37 +0000

RESTRICTED  
Dear

Thank you very much for your note. I am hoping that we are still booked in to meet in September.

I am grateful for your follow up note since it allows me to focus on identifying what key issues and requirements are outstanding for you and others, which once they are clear, I can ensure we respond to one way or another.

We are doing lots of work around modernising how we work and operate. It will be useful to share some of that with you when we meet.



Kind regards,  
Mick Martin

**Mick Martin - Managing Director**  
Parliamentary and Health Service Ombudsman  
T: 0300 061 4072  
E: [mick.martin@ombudsman.org.uk](mailto:mick.martin@ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

---

**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]  
**Sent:** 25 August 2014 12:29  
**To:** Martin Mick  
**Subject:** management meeting

Dear Mr. Martin,

I am aware that you are due to have a management meeting early in September to discuss the cases brought to you at the seminar.

Prior to that meeting I wanted to make you aware of our expectations. We are not asking for any special treatment, or a second bite of the cherry. You will be able to see from our files that our initial assessments fell below the standard promoted by your own literature. We are simply asking that this time around we receive the promised impartial review, with evidence based decisions and service delivered according to your principles of good complaint handling.

We are aware that you have many cases to investigate and limited resources. Any drain on these resources is due to the inability of PHSO to get it right the first time round.

There are many lessons to learn from the evidence in our files. If PHSO are to meet their target of investigating 10x more cases then you must deliver to a high standard from the outset. Hopefully a thorough review of our cases will enable you to do this in the future.

Kind regards,

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**From:** [phso the facts](#)  
**To:** [Martin Mick](#)  
**Subject:** Last minute addition  
**Date:** 15 September 2014 14:26:04  
**Attachments:** [ATT00001.htm](#)  
[Ombudsman 15.09.14.pdf](#)  
[0.Receipt from Ombudsman 14.02.13.pdf](#)  
[1. 12th Feb Ombudsman.pdf](#)

---

Dear Mick,

Thank you for a very positive meeting today. I will be sharing the main points of our discussion with the group later. When I got home there was a last minute submission in my in-box (see below and attachments) which I have promised to pass on to you. Please include it with the other group submissions.

I am delighted that you are able to deal with these unresolved and historic cases. Hopefully group members will achieve a satisfactory resolution and you will learn a great deal about the ways in which the system has previously worked. The fact that you are determined to have continual after service dialogue is very promising. As you said, things will not change overnight, but as a group we are more than happy to work with you to share our concerns and experiences so that you can find a better way forward.

Many thanks again for your time,

**From:** [phso the facts](#)  
**To:** [Martin Mick](#)  
**Subject:** Reforming dysfunctional cultures  
**Date:** 18 September 2014 13:38:47

---

Dear Mr. Martin,

I thought you would be interested to see an article which was recently copied to me by a member of the Pressure Group. The article itself deals with changing the culture of the banking world, but I feel that there are universal themes here which would also apply to PHSO.

<http://www.theguardian.com/commentisfree/2012/jun/30/fintan-otoole-banking-decency-corrupt-system>

I have picked out some quotes which resonated with me as someone on the receiving end of the process.

**"It is closed, arrogant, unaccountable cultures that turn ordinary people into sociopaths."**

**"Because they had to account to no one outside of their own institution."**

**"These institutions are too big, too justifiably arrogant, too often fawned over by intellectual and political lackeys and too detached from democratic and social values."**

There is in my opinion an internal arrogance about PHSO which stems from lack of accountability. You may well put in new procedures and policies, but until there is full public accountability very little may change as a result. Sunlight really is the best disinfectant.

Kind regards,

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**From:** .  
**To:** ["phso-thefacts@outlook.com"](mailto:phso-thefacts@outlook.com)  
**Cc:** [++caseworkteam@ombudsman.org.uk](mailto:++caseworkteam@ombudsman.org.uk)  
**Subject:** Last minute addition  
**Date:** 19 September 2014 16:35:23

---

RESTRICTED

Good afternoon

I wanted to say thank you for your email to Mick Martin on Monday and of course for your time to discuss matters.

With regard to the additional complaints, as discussed we will of course add them to those we already have and consider how best we can learn from them.

I will be in contact next week with the notes of the meeting. In the meantime if you have any questions, please contact us and we will be happy to help.

Kind Regards,

**Assistant Casework Manager**  
Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](http://ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]

**Sent:** 15 September 2014 14:26

**To:** Martin Mick

**Subject:** Last minute addition

Dear Mick,

Thank you for a very positive meeting today. I will be sharing the main points of our discussion with the group later. When I got home there was a last minute submission in my in-box (see below and attachments) which I have promised to pass on to you. Please include it with the other group submissions.

I am delighted that you are able to deal with these unresolved and historic cases.

Hopefully group members will achieve a satisfactory resolution and you will learn a great deal about the ways in which the system has previously worked. The fact that you are determined to have continual after service dialogue is very promising. As you said, things will not change overnight, but as a group we are more than happy to work with you to share our concerns and experiences so that you can find a better way forward.

Many thanks again for your time,

**From:** [phso the facts](#)  
**To:** [Martin Mick](#); .  
**Subject:** We are waiting ....  
**Date:** 26 September 2014 11:52:58

---

Dear Mr. Martin,

I wonder if you can respond in a timely fashion to this email as I know that many members of the group are waiting to hear from PHSO regarding their cases. I did inform you that trust was paper thin due to the continual denial of the truth by those in authority. There is serious concern among the group that this is just another garden path we are being led along.

You informed me at our meeting on the 15th September that you wanted to start informal meetings with members of the group. Many of us are keen to contribute to these sessions, but we have not been given any dates to work with. Are you able to give us the date of the first meeting and an outline agenda? If you were able to give dates for a few meetings in advance with topic themes then group members could decide which ones they would like to attend. Not everyone has easy access to London.

We are delighted to hear from that it will now be policy to reveal the names and qualifications of all clinical advisors at the assessment stage. This is a major step forward to establishing real transparency within PHSO processes and to be applauded. If we could see more progress like this on our own cases and also on the modernisation programme then we would be reassured that you are really listening and not just paying lip service. It is terrible to be so cynical, but unfortunately the present complaint process destroys trust.

I am sure that there is a lot of positive action taking place at Millbank Tower, so please share with us your progress and plans for the future.

Many thanks,

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**From:** . on behalf of [LRC](#)  
**To:** [+ Leadership Team](#); [+ExternalAffairs&StrategyGroup](#); [+Management](#)  
[Community](#); [Mellor Julie](#);  
[Clinical Advice Directorate](#);  
**Cc:** [Executive Team](#)  
**Subject:** Horizon Scanning Newsletter 2014 September 29  
**Date:** 29 September 2014 10:39:32

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## HORIZON SCANNING NEWSLETTER

Date: 29 September 2014

The previous issues of this newsletter are now available on Ombudsnet. This means you can use the search to search by keyword for something that you might have seen in a previous issue or if you are looking for external insight related to issues or organisations that we monitor. You can get to a [listing of the previous issues](#) from the "applications" tab at the top of Ombudsnet homepage, then 'article' and 'horizon scanning news'.

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[Parliamentary insights](#)

[Health insights](#)

[Ombudsman landscape](#)


2 PHSO the Facts: report of meeting with Mick Martin

## **2 PHSO the Facts - report of meeting with Mick Martin**

PHSO the Facts have published a [report](#) of their recent meeting with Mick Martin.

October 2014				
Monday	Tuesday	Wednesday	Thursday	Friday
		1	2	3
6	7	8	9	10
	<ul style="list-style-type: none"> <li>Phsothefacts meetings Oliver Letwin and Robert Gordon (including Patients Assoc)</li> </ul>			
13	14	15	16	17
20	21	22	23	24
27	28	29	30	31

## PHSO Business Plan - 2014/15

Objectives	Key Performance Measures	Delivered By		Budget	Milestones	Next Steps	Progress Narrative	Status
		Who	When					
Project/priority								
Stakeholder Contact Programme					PHSOthefacts workshop report published		2. PHSOthefacts workshop report publication moved to December.	

**From:** [phso the facts](#)  
**To:** [Martin Mick](#); [Barr Russell](#); [Morgan Chris](#); [John Annette](#); [McBurnie Gavin](#); [Sykes Sally](#)  
**Subject:** RE: We are waiting .... Response.  
**Date:** 01 October 2014 14:12:11

---

Dear Mr. Martin,

thank you for responding so promptly to my email. May I apologise for my own delay, but as I represent a group it is necessary to gain a group consensus before submitting our thoughts.

I am sorry that I was not available on Friday afternoon to talk to you on the phone. and consequently don't take calls during that time. I do agree however, that a lot more talking is necessary.

We appreciate your honesty in regard to the handling of our individual complaints. We realise that some of them have become very complex due to the time delay and repeated obstruction. We accept that you need time to unravel the evidence and we very much want a thorough investigation which will deliver final closure. No rubber stamps! However, having said that we would appreciate regular updates and acknowledgement of correspondence.

We are glad that you are not imposing any predetermined cut off point for accepting historic cases or maintaining dialogue. I have four more cases to submit to you when we next meet and new people are joining the group looking for resolution. Members of the pressure group are also keen to speak face to face with PHSO staff members and share our experience as you move forward in your modernisation programme. Please inform us of the date and area for discussion as early as possible for your informal meetings, so that we can make travel arrangements.

The formal user panel sound very interesting and has triggered much debate among the group. We would like to know how often the panel would meet, would it always meet in London, how many people are likely to be on the panel and whether the PHSO Pressure Group could send more than one representative? We commend the idea of this panel and hope that this will become a permanent feature of PHSO practice, enabling direct contact with users of your services.

Although we are still anxious for personal resolution and to see real change at PHSO, we do accept that you are a large organisation taking on a significant challenge and this will take time. We appreciate your openness in this respect. We look forward to hearing your update following your meeting on Friday.

Best wishes,

[phsothefacts.com](http://phsothefacts.com)

---

From: Mick.Martin@ombudsman.gsi.gov.uk  
To: phso-thefacts@outlook.com; Russell.Barr@ombudsman.gsi.gov.uk;  
Chris.Morgan@ombudsman.org.uk; Annette.John@ombudsman.org.uk;  
Gavin.McBurnie@ombudsman.org.uk; Sally.Sykes@ombudsman.org.uk  
Subject: Re: We are waiting ....  
Date: Sun, 28 Sep 2014 17:11:51 +0000

Hello

Thanks for your note - thanks also for our recent meeting which I found very useful. I tried to telephone you on Friday afternoon on the land line number we have - lots more taking and less writing is needed in my view.

That said, by way of an update:

The context is that we are changing and modernising PHSO services - I intend this to specifically respond to many of the items of feedback people have identified about our service.

A few points of clarification - I get that trust in us is absent from people with long standing complaints - I also get that actions not words are required to slowly build confidence. I have said upfront that change will take time and on individual cases, whilst I will respond to each issue, that may not be with the answers that people want, need or can accept. However, they will be honest answers and where we do need to reverse previous positions and help we will do.

An early and significant change is that there will not be a point where we are no longer prepared to talk with or engage with people - I see no benefit in that for either party; communication should continue even if we don't agree on things.

Following our group meeting, we have made contact and worked with a number of people who have remained unhappy with our service - I felt that in asking people to get involved (in understanding, inputting and reviewing our work to change/modernise) that needed to be preceded by a willingness to listen to individual cases, consider them with fresh ears and eyes and look to see how we could respond. At the very least this intends at giving people a response to their remaining issues - in some cases it is already clear that we need reverse some of our previous positions.

We have more people to meet and I am happy to add people to speak with as requests come in or we identify them. As you know, I am asking my directors to take the lead personally on meeting people - you will also know that they are almost entirely "recent arrivals" into the organisation, hence I can be confident that they are looking at the cases with fresh perspective. I have specifically said that there are no pre-set positions in these reviews - we must and will decide afresh what the right thing to do is.

I have set a timescale of this coming Friday to take stock in meetings/ individual discussions so far - I will then be in the position to update with an overall feel for what we are finding.

As we discussed, we are taking action now to change our service, I would like to share details of that with your group, getting some feedback informally on a regular basis as we proceed - I think that this would be an invaluable sense check and a possible route to meet your group's objective of helping to improve our service for future users. I do have work to do internally to set this up - I don't envisage that taking long and will let you know as soon as we are ready.

More formally, because we recognise that we need to get much more input and feedback as we change and modernise, we will be running an overt process over the next six months or so to enable this. That will include creating a formal user panel who will be asked to help us by reviewing and inputting into our programme to re-define and update our service. We are in the process of setting this panel up and I would very much like you to be on it please. Would you be able to?

I am not being low key or secretive in saying we need to change and modernise, I am being very clear and open about it - this also means making public commitments about doing so. We are making changes now, we need to demonstrate that these reflect feedback from complainants, employees and public sector organisations. We have loads more listening, talking and acting to do in the months ahead.

Let me repeat please - this will take time, and whilst the input and feedback from yourself and the group are important - my goal is modernising/improving the service for the 27,000 people, whose cases we handle every year, in a lasting decisive way.

I will update you as soon as I can on; the matters regarding your case that we discussed, how we are doing overall in long standing cases we have re-engaged on, proposals for informal sessions about the changes we are making.

Would you be able and willing to join the panel?

Mick

Sent from my iPad

On 26 Sep 2014, at 11:52, "phso the facts" <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)> wrote:

Dear Mr. Martin,

I wonder if you can respond in a timely fashion to this email as I know that many members of the group are waiting to hear from PHSO regarding their cases. I did inform you that trust was paper thin due to the continual denial of the truth by those in authority. There is serious concern among the group that this is just another garden path we are being led along.

You informed me at our meeting on the 15th September that you wanted to start informal meetings with members of the group. Many of us are keen to contribute to these sessions, but we have not been given any dates to work with. Are you able to give us the date of the first meeting and an outline agenda? If you were able to give dates for a few meetings in advance with topic themes then group members could decide which ones they would like to attend. Not everyone has easy access to London.

We are delighted to hear from        that it will now be policy to reveal the names and qualifications of all clinical advisors at the assessment stage. This is a major step forward to establishing real transparency within PHSO processes and to be applauded. If we could see more progress like this on our own cases and also on the modernisation programme then we would be reassured that you are really listening and not just paying lip service. It is terrible to be so cynical, but unfortunately the present complaint process destroys trust.

I am sure that there is a lot of positive action taking place at Millbank Tower, so please share with us your progress and plans for the future.

Many thanks,

[phsothefacts.com](http://phsothefacts.com)

PLEASE NOTE: THE ABOVE MESSAGE WAS RECEIVED FROM THE INTERNET.



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The MessageLabs Anti Virus Service is the first managed service to achieve the CSIA Claims Tested Mark (CCTM Certificate Number 2006/04/0007), the UK Government quality mark initiative for information security products and services. For more information about this please visit [www.cctmark.gov.uk](http://www.cctmark.gov.uk)

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# S. 36

Sent from my iPad

On 1 Oct 2014, at 15:11,

"Martin Mick"

<[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)>

wrote:

Sally

Julie,

Very helpful  
and positive  
response from  
- clearly  
keenness to  
participate in  
the panel.

Couple of  
questions to  
respond to  
about the  
details of the  
panel working  
please.

Mick

Sent from my  
iPhone

Begin  
forwarded  
message:

**From:**

phso  
the  
facts

<[phso-  
thefacts@outlook.com](mailto:phso-thefacts@outlook.com)>

**Date:**

1  
October  
2014  
14:12:04  
BST

**To:**

Martin  
Mick  
<[mick.martin@ombudsman.gsi.gov.uk](mailto:mick.martin@ombudsman.gsi.gov.uk)>,  
Barr  
Russell  
<[russell.barr@ombudsman.gsi.gov.uk](mailto:russell.barr@ombudsman.gsi.gov.uk)>,  
Morgan  
Chris  
<[chris.morgan@ombudsman.org.uk](mailto:chris.morgan@ombudsman.org.uk)>,  
John  
Annette  
<[annette.john@ombudsman.org.uk](mailto:annette.john@ombudsman.org.uk)>,  
McBurnie  
Gavin  
<[gavin.mcburnie@ombudsman.org.uk](mailto:gavin.mcburnie@ombudsman.org.uk)>,  
Sykes  
Sally  
<[sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)>

**Subject:**

**RE:  
We  
are  
waiting  
....  
Response.**

Dear  
Mr.  
Martin,

thank  
you  
for  
responding  
so  
promptly  
to  
my  
email.  
May  
I  
apologise

for  
my  
own  
delay,  
but  
as  
I  
represent  
a  
group  
it  
is  
necessary  
to  
gain  
a  
group  
consensus  
before  
submitting  
our  
thoughts.

I  
am  
sorry  
that  
I  
was  
not  
available  
on  
Friday  
afternoon  
to  
talk  
to  
you  
on  
the  
phone.

and  
consequently  
don't  
take  
calls  
during  
that  
time.  
I  
do  
agree  
however,  
that  
a  
lot  
more  
talking  
is  
necessary.

We  
appreciate  
your  
honesty  
in  
regard  
to  
the  
handling  
of  
our  
individual  
complaints.  
We  
realise  
that  
some  
of  
them  
have  
become  
very  
complex  
due  
to  
the  
time  
delay  
and  
repeated  
obstruction.  
We  
accept  
that

you  
need  
time  
to  
unravel  
the  
evidence  
and  
we  
very  
much  
want  
a  
thorough  
investigation  
which  
will  
deliver  
final  
closure.  
No  
rubber  
stamps!  
However,  
having  
said  
that  
we  
would  
appreciate  
regular  
updates  
and  
acknowledgement  
of  
correspondence.

We  
are  
glad  
that  
you  
are  
not  
imposing  
any  
predetermined  
cut  
off  
point  
for  
accepting  
historic  
cases

or  
maintaining  
dialogue.  
I  
have  
four  
more  
cases  
to  
submit  
to  
you  
when  
we  
next  
meet  
and  
new  
people  
are  
joining  
the  
group  
looking  
for  
resolution.  
Members  
of  
the  
pressure  
group  
are  
also  
keen  
to  
speak  
face  
to  
face  
with  
PHSO  
staff  
members  
and  
share  
our  
experience  
as  
you  
move  
forward  
in  
your  
modernisation

programme.  
Please  
inform  
us  
of  
the  
date  
and  
area  
for  
discussion  
as  
early  
as  
possible  
for  
your  
informal  
meetings,  
so  
that  
we  
can  
make  
travel  
arrangements.

The  
formal  
user  
panel  
sound  
very  
interesting  
and  
has  
triggered  
much  
debate  
among  
the  
group.  
We  
would  
like  
to  
know  
how  
often  
the  
panel  
would  
meet,  
would



it  
always  
meet  
in  
London,  
how  
many  
people  
are  
likely  
to  
be  
on  
the  
panel  
and  
whether  
the  
PHSO  
Pressure  
Group  
could  
send  
more  
than  
one  
representative?  
We  
commend  
the  
idea  
of  
this  
panel  
and  
hope  
that  
this  
will  
become  
a  
permanent  
feature  
of  
PHSO  
practice,  
enabling  
direct  
contact  
with  
users  
of  
your  
services.

Although  
we  
are  
still  
anxious  
for  
personal  
resolution  
and  
to  
see  
real  
change  
at  
PHSO,  
we  
do  
accept  
that  
you  
are  
a  
large  
organisation  
taking  
on  
a  
significant  
challenge  
and  
this  
will  
take  
time.  
We  
appreciate  
your  
openness  
in  
this  
respect.  
We  
look  
forward  
to  
hearing  
your  
update  
following  
your  
meeting  
on  
Friday.

Best  
wishes,

[phsothefacts.com](http://phsothefacts.com)

---

From:  
[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)

To:  
[phso-  
thefacts@outlook.com](mailto:phso-thefacts@outlook.com);  
[Russell.Barr@ombudsman.gsi.gov.uk](mailto:Russell.Barr@ombudsman.gsi.gov.uk);  
[Chris.Morgan@ombudsman.org.uk](mailto:Chris.Morgan@ombudsman.org.uk);  
[Annette.John@ombudsman.org.uk](mailto:Annette.John@ombudsman.org.uk);  
[Gavin.McBurnie@ombudsman.org.uk](mailto:Gavin.McBurnie@ombudsman.org.uk);  
[Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)

Subject:

Re:  
We  
are  
waiting

....

Date:  
Sun,  
28  
Sep  
2014  
17:11:51  
+0000

Hello

Thanks  
for  
your  
note  
-  
thanks  
also  
for  
our  
recent

meeting  
which  
I  
found  
very  
useful.

I  
tried  
to  
telephone  
you  
on  
Friday  
afternoon  
on  
the  
land  
line  
number  
we  
have  
-  
lots  
more  
taking  
and  
less  
writing  
is  
needed  
in  
my  
view.

That  
said,  
by  
way  
of  
an  
update:

The  
context  
is  
that  
we  
are  
changing  
and  
modernising  
PHSO  
services  
- I

intend  
this  
to  
specifically  
respond  
to  
many  
of  
the  
items  
of  
feedback  
people  
have  
identified  
about  
our  
service.

A  
few  
points  
of  
clarification  
- I  
get  
that  
trust  
in  
us  
is  
absent  
from  
people  
with  
long  
standing  
complaints  
- I  
also  
get  
that  
actions  
not  
words  
are  
required  
to  
slowly  
build  
confidence.  
I  
have  
said

upfront  
that  
change  
will  
take  
time  
and  
on  
individual  
cases,  
whist  
I  
will  
respond  
to  
each  
issue,  
that  
may  
not  
be  
with  
the  
answers  
that  
people  
want,  
need  
or  
can  
accept.  
However,  
they  
will  
be  
honest  
answers  
and  
where  
we  
do  
need  
to  
reverse  
previous  
positions  
and  
help  
we  
will  
do.

An  
early

and  
significant  
change  
is  
that  
there  
will  
not  
be  
a  
point  
where  
we  
are  
no  
longer  
prepared  
to  
talk  
with  
or  
engage  
with  
people  
- I  
see  
no  
benefit  
in  
that  
for  
either  
party;  
communication  
should  
continue  
even  
if  
we  
don't  
agree  
on  
things.

Following  
our  
group  
meeting,  
we  
have  
made  
contact  
and  
worked

with  
a  
number  
of  
people  
who  
have  
remained  
unhappy  
with  
our  
service  
- I  
felt  
that  
in  
asking  
people  
to  
get  
involved  
(in  
understanding,  
inputting  
and  
reviewing  
our  
work  
to  
change/modernise)  
that  
needed  
to  
be  
preceded  
by  
a  
willingness  
to  
listen  
to  
individual  
cases,  
consider  
them  
with  
fresh  
ears  
and  
eyes  
and  
look  
to  
see



how  
we  
could  
respond.  
At  
the  
very  
least  
this  
intends  
at  
giving  
people  
a  
response  
to  
their  
remaining  
issues  
-  
in  
some  
cases  
it  
is  
already  
clear  
that  
we  
need  
reverse  
some  
of  
our  
previous  
positions.

We  
have  
more  
people  
to  
meet  
and  
I  
am  
happy  
to  
add  
people  
to  
speak  
with  
as

requests  
come  
in  
or  
we  
identify  
them.  
As  
you  
know,  
I  
am  
asking  
my  
directors  
to  
take  
the  
lead  
personally  
on  
meeting  
people  
-  
you  
will  
also  
know  
that  
they  
are  
almost  
entirely  
"recent  
arrivals"  
into  
the  
organisation,  
hence  
I  
can  
be  
confident  
that  
they  
are  
looking  
at  
the  
cases  
with  
fresh  
perspective.  
I

have  
specifically  
said  
that  
there  
are  
no  
pre-  
set  
positions  
in  
these  
reviews

-

we  
must  
and  
will  
decide  
afresh  
what  
the  
right  
thing  
to  
do  
is.

I  
have  
set  
a  
timescale  
of  
this  
coming  
Friday  
to  
take  
stock  
in  
meetings/  
individual  
discussions  
so  
far  
- I  
will  
then  
be  
in  
the  
position  
to

update  
with  
an  
overall  
feel  
for  
what  
we  
are  
finding.

As  
we  
discussed,  
we  
are  
taking  
action  
now  
to  
change  
our  
service,  
I  
would  
like  
to  
share  
details  
of  
that  
with  
your  
group,  
getting  
some  
feedback  
informally  
on  
a  
regular  
basis  
as  
we  
proceed  
- I  
think  
that  
this  
would  
be  
an  
invaluable  
sense

check  
and  
a  
possible  
route  
to  
meet  
your  
group's  
objective  
of  
helping  
to  
improve  
our  
service  
for  
future  
users.

I  
do  
have  
work  
to  
do  
internally  
to  
set  
this  
up  
- I  
don't  
envisage  
that  
taking  
long  
and  
will  
let  
you  
know  
as  
soon  
as  
we  
are  
ready.

More  
formally,  
because  
we  
recognise  
that

we  
need  
to  
get  
much  
more  
input  
and  
feedback  
as  
we  
change  
and  
modernise,  
we  
will  
be  
running  
an  
overt  
process  
over  
the  
next  
six  
months  
or  
so  
to  
enable  
this.  
That  
will  
include  
creating  
a  
formal  
user  
panel  
who  
will  
be  
asked  
to  
help  
us  
by  
reviewing  
and  
inputting  
into  
our  
programme  
to

re-  
define  
and  
update  
our  
service.  
We  
are  
in  
the  
process  
of  
setting  
this  
panel  
up  
and  
I  
would  
very  
much  
like  
you  
to  
be  
on  
it  
please.  
Would  
you  
be  
able  
to?

I  
am  
not  
being  
low  
key  
or  
secretive  
in  
saying  
we  
need  
to  
change  
and  
modernise,  
I  
am  
being  
very

clear  
and  
open  
about  
it -  
this  
also  
means  
making  
public  
commitments  
about  
doing  
so.  
We  
are  
making  
changes  
now,  
we  
need  
to  
demonstrate  
that  
these  
reflect  
feedback  
from  
complainants,  
employees  
and  
public  
sector  
organisations.  
We  
have  
loads  
more  
listening,  
talking  
and  
acting  
to  
do  
in  
the  
months  
ahead.

Let  
me  
repeat  
please  
-



this  
will  
take  
time,  
and  
whilst  
the  
input  
and  
feedback  
from  
yourself  
and  
the  
group  
are  
important  
-  
my  
goal  
is  
modernising/improving  
the  
service  
for  
the  
the  
27,000  
people,  
whose  
cases  
we  
handle  
every  
year,  
in  
a  
lasting  
decisive  
way.

I  
will  
update  
you  
as  
soon  
as  
I  
can  
on;  
the  
matters  
regarding  
your

case  
that  
we  
discussed,  
how  
we  
are  
doing  
overall  
in  
long  
standing  
cases  
we  
have  
re-  
engaged  
on,  
proposals  
for  
informal  
sessions  
about  
the  
changes  
we  
are  
making.

Would  
you  
be  
able  
and  
willing  
to  
join  
the  
panel?

Mick

Sent  
from  
my  
iPad

On  
26  
Sep  
2014,  
at  
11:52,

"phso  
the  
facts"  
<[phso-  
thefacts@outlook.com](mailto:phso-thefacts@outlook.com)>  
wrote:

Dear  
Mr.  
Martin,

I  
wonder  
if  
you  
can  
respond  
in  
a  
timely  
fashion  
to  
this  
email  
as  
I  
know  
that  
many  
members  
of  
the  
group  
are  
waiting  
to  
hear  
from  
PHSO  
regarding  
their  
cases.  
I  
did  
inform  
you  
that  
trust  
was

paper  
thin  
due  
to  
the  
continual  
denial  
of  
the  
truth  
by  
those  
in  
authority.  
There  
is  
serious  
concern  
among  
the  
group  
that  
this  
is  
just  
another  
garden  
path  
we  
are  
being  
led  
along.

You  
informed  
me  
at  
our  
meeting  
on  
the  
15th  
September  
that  
you  
wanted  
to  
start  
informal  
meetings  
with  
members  
of

the  
group.  
Many  
of  
us  
are  
keen  
to  
contribute  
to  
these  
sessions,  
but  
we  
have  
not  
been  
given  
any  
dates  
to  
work  
with.  
Are  
you  
able  
to  
give  
us  
the  
date  
of  
the  
first  
meeting  
and  
an  
outline  
agenda?  
If  
you  
were  
able  
to  
give  
dates  
for  
a  
few  
meetings  
in  
advance  
with  
topic

themes  
then  
group  
members  
could  
decide  
which  
ones  
they  
would  
like  
to  
attend.  
Not  
everyone  
has  
easy  
access  
to  
London.

We  
are  
delighted  
to  
hear  
from

that  
it  
will  
now  
be  
policy  
to  
reveal  
the  
names  
and  
qualifications  
of  
all  
clinical  
advisors  
at  
the  
assessment  
stage.  
This  
is  
a  
major  
step  
forward

to  
establishing  
real  
transparency  
within  
PHSO  
processes  
and  
to  
be  
applauded.  
If  
we  
could  
see  
more  
progress  
like  
this  
on  
our  
own  
cases  
and  
also  
on  
the  
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so  
please  
share  
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the  
future.

Many  
thanks,

[phsothefacts.com](http://phsothefacts.com)

PLEASE  
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MessageLabs.

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For  
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please  
visit  
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**To:** Julie Mellor

**From:**

**Date:** 3 October 2014

**Subject:** Revised report on seminar with PHSO pressure group

**Action:**

- To review and comment on the attached report
- To review and comment on the proposed next steps

**Deadline:** 10 October 2014

**Director cleared with:** Sally Sykes

Following your feedback on IFF's draft report on the seminar we held with the PHSO pressure group, a revised version is attached for your comments.

**To note:**

- The redraft is presented as a PHSO report, rather than IFF report, but acknowledges IFF as an independent facilitator.
- The group's feedback is organised into two sections with a response from us at the end of both.

**Proposed next steps:**

S. 36

**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Cc:** [Martin Mick](#);  
**Subject:** RE: Service User Panel to develop our Service Charter - more details as requested  
**Date:** 08 October 2014 14:45:33  
**Attachments:** [ATT00001.htm](#)

---

Dear Sally,

Thank you for giving further details about the 'service charter user panel' as I represent a group of individuals the best option for us is that I attend all meetings to give continuity and there is also a place for one other group member to attend in rotation. I believe from your email that this would be the case, so I am happy to accept.

Unfortunately, I did not see you yesterday at the Westminster Briefing as this meeting clashed with another at the Cabinet Office where I had the opportunity to speak directly with Mr. Robert Gordon and his team plus Mr. Letwin, Minister for Government Policy. We are contributing to the Cabinet Office inquiry into complaint handling and the role of the Ombudsman.

I look forward to hearing from you regarding dates for the user panel meeting. We are also waiting for dates for the informal meetings for Pressure Group members as suggested previously by Mr. Martin. It has not gone without notice that the promised update regarding our personal cases is also overdue. I understand that you have many priorities and we are hopeful of full investigation into our historic cases, leading to final resolution. We are aware that this will take time, but would appreciate an update from Mr. Martin at his earliest convenience.

Best wishes,

phsothefacts.com<<http://phsothefacts.com/>>

---

From: Sally.Sykes@ombudsman.org.uk  
To: phso-thefacts@outlook.com  
CC: Mick.Martin@ombudsman.gsi.gov.uk; ombudsman.org.uk  
Subject: Service User Panel to develop our Service Charter - more details as requested  
Date: Mon, 6 Oct 2014 15:36:48 +0000

Dear

I hope you are well? Mick has asked me to get in touch with you on a couple of points regarding the above. I know that you have asked for some more information following Mick's request when you met him that you and the group consider taking part in our Service Charter user panel, as we reshape our service

I'm writing now to give you the further information you requested and formally ask if you or a representative from the group would serve on the panel.

We set out last year on a journey to modernise our service to meet the expectations of today's users. Radical change is required to do that. You may recall that the first phase of modernisation has been to conduct more



investigations. Last year we completed six times more investigations than in previous years. The next phase is to improve the nature of our service and be more open and transparent about the work we do. We have learnt a lot from a whole variety of sources already, which is feeding into services changes we have made and are planned. In addition, over the next year we will be:

- \* Conducting research with the public and users about what they would like from an Ombudsman service
- \* Using the research findings to develop a 'Service Charter' which encapsulates our promise to our customers
- \* Engaging with users and potential users on a draft charter to ensure it is as robust as possible
- \* Finalising the charter and developing our service to deliver it

In answer to your specific questions, we expect the panel to meet three to advise and input at the beginning and end of each stage in developing the Service Charter. The timescale is November – March 2015. The meeting venues haven't yet been chosen – the first will probably be in London, but we will establish if other locations are more accessible for people. We have offices, for example in Manchester, which are convenient for public transport. Given your co-ordination role with the PHSO the Facts group and your extensive experience and knowledge, your participation personally would be desirable, but we can accommodate another group member or alternate attendance should you prefer. As to developing a more permanent panel, the Service Charter project has a transition to business as usual at the end, where we can review what sustainability would look like for ensuring we can keep listening to people's feedback.

The panel will be made up of about 8-10 people who:

- Like you, have actively chosen to give us feedback on our service – concerns, complaints and compliments
- Have used our service in the last few months – we will be selecting a representative sample of customers
- Are advocates for those making complaints about public services, for example from a local Health Watch

We will cover travel and subsistence costs for this voluntary role.

I do hope you feel able to accept our invitation to take part in making our service better for the future. If you do have any questions please do call me – or perhaps catch up personally tomorrow if you are at the Westminster Briefing event (7 October) I'm speaking at on complaints – I notice that there are a couple of delegates from PHSO the Facts and I wondered if you might be attending. In any event, I look forward to hearing from you.

Yours sincerely,

Sally Sykes

Executive Director of External Affairs and Strategy

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

E: sally.sykes@ombudsman.org.uk<<mailto:sally.sykes@ombudsman.org.uk>>

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)<<http://www.ombudsman.org.uk>>

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**From:** .  
**To:** [Sykes Sally;](#) . . . [Morgan Chris;](#)  
**Cc:** [Martin Mick;](#) [John Annette](#)  
**Subject:** Draft Notes and Action Points - Service Charter Meeting - Thursday 9 October 2014  
**Date:** 09 October 2014 16:29:37  
**Attachments:** [20141009 Service Charter Meeting 9 October 2014.docx](#)

---

[20141009 Service Charter Meeting 9 October 2014](#)

Dear All

Please find attached draft notes and action log relating to today's meeting. Please let me know if you have any comments, amendments or suggestions.

Many thanks.

**DRAFT Notes and Action Points**  
**Service Charter Meeting**  
**Thursday 9 October - 9.00 - 10.30**

**Attendees:** Sally Sykes

Chris Morgan

**Apologies:** Mick Martin  
Annette John

**SERVICE CHARTER PLAN**

**Stakeholder and Customer Panels**

- **Panel 1:** Stakeholder Panel - BIJs plus bodies such as Patients Association, Citizen's Advice Bureau, etc - Ten organisations
- **Panel 2:** Service User Panels including critics and complimentary stakeholders

- **Action** to obtain PHSO the facts summary report from and to circulate.

Meeting of 9 October 2014	DEADLINE
---------------------------	----------

	External Environment	To obtain PHSOthe facts summary report from and to circulate to meeting.	ASAP
--	----------------------	--	------

**From:** .  
**To:** [Sykes Sally;](#) . . . [Morgan Chris;](#)  
**Cc:** .  
**Subject:** Service Charter Group Meeting - Action Points - Corp Perf Report and Meeting Dates  
**Date:** 10 October 2014 11:54:50  
**Attachments:** [Business Plan 2014 15 - activity schedule - projects and priorities - pr....docx](#)

---

cc for Mick Martin ( Mick's attendance is optional.)

Dear All

Please find attached the one page project summary from the Corporate Performance Report.

Please note that is still working on the PHSOthefacts summary report. This is still in draft form and needs to go to Julie. estimates a nearly final version will be ready towards the end of next week. I will chase and circulate then.

Many thanks.

---

**From:**  
**Sent:** 10 October 2014 10:27  
**To:**  
**Subject:** RE: Corporate Performance Report

Hi,

Please find attached the report. The project at the top is the Service Charter.

**From:** Sykes Sally  
**Sent:** 10 October 2014 15:42  
**To:**  
**Cc:**  
**Subject:** FW: Presentations & Westminster Briefing event read out

Dear (and covering for  
I spoke at the Westminster Briefing event on 7/10. The speaker line up was slightly different from the original pitch - see slides for speakers. Audience was a mix of clinical leaders, nursing staff, complaints managers and 3 delegates from PHSOthefacts - and

The PHSOtf delegates dominated the questions and my session with individual case queries (the chair permitted questions during the talks). Ms said she 'represented 88 people unhappy with PHSO'. Both she and Ms were new to PHSOtf. Ms spoke to me at length about her complaint so I do have some first-hand information that I will convey to Ops&I. Ms is a (?former) Mrs also spoke out in the sessions and to me later about her case and perceived lack of progress. I have flagged this to Russell Barr and have been in email contact with her because she followed up with me. wasn't there as she was seeing Oliver Letwin and Robert Gordon. Whilst I didn't mind handling the questions, I think the other delegates were a bit restive at the interjections and the organisers had asked for individual cases not to be raised.

**Actions to consider**



**From:** [phso the facts](#)  
**To:** [Martin Mick](#)  
**Subject:** PHSO Pressure Group  
**Date:** 13 October 2014 13:19:46

---

Hi Mick,

Can I talk to you on the phone either today or tomorrow? My number is

Thanks

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**From:** <[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Date:** 13 October 2014 14:19:38 BST  
**To:** 'phso the facts' <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)>  
**Subject:** RE: PHSO Pressure Group

Dear

Thank you for your email. Mick is in meetings at the moment, but as soon as he is free I'll speak to him and arrange a time for him to call you. I'll get back to you soon.

Best wishes,

Executive Assistant to Mick Martin, Managing Director  
Executive Office  
Parliamentary and Health Service Ombudsman  
Millbank Tower  
Millbank  
London SW1P 4QP  
[www.ombudsman.org.uk](http://www.ombudsman.org.uk)

T: 0300 061 4995  
F: 0300 061 4940  
Email: [ombudsman.org.uk](mailto:ombudsman.org.uk)

*Please note: I work Monday - Thursday*

---

**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]  
**Sent:** 13 October 2014 13:20  
**To:** Martin Mick  
**Subject:** PHSO Pressure Group

Hi Mick,

Can I talk to you on the phone either today or tomorrow? My number is

Thanks

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**From:** [Martin Mick](#)  
**To:** [phso the facts](#)  
**Subject:** Re: PHSO Pressure Group  
**Date:** 13 October 2014 22:34:52

---

Hello

Thanks for your note - sorry to miss speaking with you today. I will call you tomorrow afternoon, please let me know not convenient, happy if another time suits you better.

Mick

Sent from my iPad

On 13 Oct 2014, at 13:19, "phso the facts" <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)> wrote:

Hi Mick,

Can I talk to you on the phone either today or tomorrow? My number is

Thanks

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**Sent:** 10 October 2014 16:06  
**To:** Martin Mick; Barr Russell;  
**Subject:** FW: Presentations & Westminster Briefing event read out

I know you are aware of the need to get back to PHSOf but thought you might find my read out helpful - I spoke at a Westminster Briefing event this week. Russell knows about Mrs - I would be grateful for a steer on who to talk to about Ms (new member) and Ms cases.

**From:** Sykes Sally  
**Sent:** 10 October 2014 15:42  
**To:**  
**Cc:**  
**Subject:** FW: Presentations & Westminster Briefing event read out

Dear (and covering for  
I spoke at the Westminster Briefing event on 7/10. The speaker line up was slightly different from the original pitch - see slides for speakers.  
Audience was a mix of clinical leaders, nursing staff, complaints managers and 3 delegates from PHSOfacts - and

The PHSOf delegates dominated the questions and my session with individual case queries (the chair permitted questions during the talks). Ms said she 'represented 88 people unhappy with PHSO'. Both she and Ms were new to PHSOf. Ms spoke to me at length about her complaint so I do have some first-hand information that I will convey to Ops&I.

Mrs also spoke out in the sessions and to me later about her case and perceived lack of progress. I have flagged this to Russell Barr and have been in email contact with her because she followed up with me. wasn't there as she was seeing Oliver Letwin and Robert Gordon. Whilst I didn't mind handling the questions, I think the other delegates were a bit restive at the interjections and the organisers had asked for individual cases not to be raised.

Hope all the above is clear - happy to discuss, Sally

---

**From:**  
**To:**  
**Cc:** [Sykes Sally;](#)  
**Subject:** For Julie and Mick's attention: PHSO pressure group report  
**Date:** 24 October 2014 10:03:31  
**Attachments:** [5350 - PHSO Seminar Report Final Draft v01.00.docx](#)  
[20141024 PHSO pressure group - seminar report - cover note.docx](#)

---

Attached is a submission for Julie and Mick regarding the seminar with the PHSO pressure group.

These documents are protected.

Thanks,

**Marketing and Communications Manager**  
Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](http://ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

Follow us on



To: Julie Mellor and Mick Martin

Copied to: Sally Sykes

From:

Date: 24 October 2014

Subject: Revised report on seminar with PHSO pressure group

Action:

- To review and comment on the attached revised report

-

Deadline: 29 October 2014

The revised report

S. 36

### Structure

- I have moved our 'learning and improvement' points to the end of the report now, to a separate section.
- I feel this works better than inserting responses from us at different points throughout IFF's write up. We are not responding to every piece of feedback from the Group and it may look unbalanced if we have 'learning and improvements' for some sections and not others. In my view it works best to have a general response at the end which picks up on some of the specific points made by the Group and shows how we have moved on and are changing.



- The structure of the report is now:
  1. A short intro from us
  2. The IFF report
  3. Our learning and improvements section

### Presentation

- I will tidy up the report before it is shared with The Group. Our logo and IFF's will be on the front, and our sections and IFF's sections will be clearly distinguishable.

### Next steps

S. 36

**From:**  
**To:** [Sykes Sally](#)  
**Cc:**  
**Subject:** SERVICE CHARTER GROUP MEETING - ONE OUTSTANDING ACTION POINT  
**Date:** 31 October 2014 16:30:33

---

## RESTRICTED

Sally	8. A.O.B. Consumer Panel Members	Sally to let have details of response and name of second PHSO the facts person willing to be on panel	ASAP
-------	-------------------------------------	--	------

Dear Sally  
Please see one outstanding action point from the meeting of 24 October.  
Many thanks.

Aim	Project/priority	Owner	Milestones											
			2014						2015					
			Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
	Integrated stakeholder management plan	Sally Sykes								PHSOthefacts workshop report published				

**From:** [Martin Mick](#)  
**To:** [++caseworkteam@ombudsman.org.uk](mailto:++caseworkteam@ombudsman.org.uk)  
**Cc:** -  
**Subject:** FW: Follow up - our conversation today  
**Date:** 04 November 2014 10:39:58

---

RESTRICTED

I have not acknowledged.

---

**From:** phso the facts [mailto:phso-thefacts@outlook.com]  
**Sent:** 15 October 2014 08:45  
**To:** Martin Mick  
**Subject:** RE: Follow up - our conversation today  
Thank you . Will send this round today and let you have any relevant feedback.  
Good to talk to you.

[phsothefacts.com](http://phsothefacts.com)

> From: [Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)  
> To: [phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)  
> Subject: Follow up - our conversation today  
> Date: Tue, 14 Oct 2014 21:03:54 +0000  
>  
> Hello  
>  
> To follow up from our discussion earlier:  
>  
> Informal meetings: Sorry for delay in responding on this. We are ready now to set up the informal feedback sessions covering some of the ways we are specifically changing our services to respond to feedback. We will provide dates for two sessions in late November, one session in Manchester, the other in London. I hope people will be able to come and give us feedback on the changes we are making.  
>  
> Individual cases: We have been engaging with about twenty people with long standing complaints - we owe them a meaningful update on how we propose to respond to them / the actions we propose to take. I will ensure that we telephone each person this week to provide that update - and that we follow that up in writing by email next week.  
>  
> Making contact with more people: Whilst we are engaging with a number of other people with long standing complaints there are 10 people in your group who we don't appear to have contacted yet. I will make sure we make contact with them over the next week or so - and that we provide you with our list to ensure we have captured everyone.  
>  
> I understood also you have details of five more people who we can contact - I am grateful that you will share those with me when we next meet.

- >
- > I hope this helps - very happy to discuss further.
- >
- > Warm regards
- >
- > Mick
- >
- > Sent from my iPhone
- >
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**From:**  
**To:**  
**Subject:** FW: PHSOthefacts to meet Jeremy Hunt  
**Date:** 04 November 2014 17:06:42

---

---

**From:**  
**Sent:** 04 November 2014 16:54  
**To:** Sykes  
Sally; -  
**Subject:** to meet Jeremy Hunt

Hi

Just to be aware that according to their website PHSOthefacts will be meeting Jeremy Hunt next Tuesday (11 November).

From: [Press](#)  
 To: [Martin Mick](#); [+ExternalAffairs&StrategyGroup](#); [Harding Anne](#); [Executive Office](#)  
 Subject: TO BE AWARE: PHSO The Facts PETITION TO THE EUROPEAN PARLIAMENT  
 Date: 07 November 2014 10:16:27

---

<http://phsothefacts.com/petition-to-e-u/>

## Petition to E.U.

### PETITION TO THE EUROPEAN PARLIAMENT

on behalf of the PHSO Pressure Group

#### Petition

This petition falls within a class of case that has at stake the constitutional rights of UK citizens who make complaints against the State. In recognition of Community rights and duties as having constitutional character, and the need for developing key principles and model definitions for improving the consistency and equivalence of EU administrative law and justice across Member States, and further recognizing that modernization and strengthening of public administration has been identified as an essential objective in the EU's 2014-2020 programming period, we call upon the European Parliament to show an active interest in the outcome of the UK Government's consultation exercise on legislative reform of the Parliamentary Ombudsman system of administrative justice and the passage of Part Four of the Criminal Justice and Courts Bill dealing with judicial review of administrative action.

#### Who we are

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[http://www.ombudsman.org.uk/data/assets/pdf\\_file/0004/3874/withstanding-the-test-of-time.pdf](http://www.ombudsman.org.uk/data/assets/pdf_file/0004/3874/withstanding-the-test-of-time.pdf)

Seven years later the "trust" to which she referred has irrevocably broken down and the Office is in "crisis". It has been clear for some time that the UK Parliamentary Ombudsman system offers second-rate justice. It does not offer just processes and just results based on the law to produce correct legal outcomes. This must change.

In June 2014 Parliament's Public Administration Select Committee (PASC) published its latest report on the Parliamentary Ombudsman: Time for a People's Ombudsman Service (HC 655 2013-14). Not for the first time, PASC calls for significant changes to the Ombudsman system.

At the same time the basic characteristics of judicial review, the alternative method of holding the Executive to account in the exercise of wide powers, is being undermined and is under attack. Part 4 of the Criminal Justice and Courts Bill is an attempt by the Government to reduce the scrutiny to which the Executive and the Parliamentary Ombudsman is subjected to the courts. Lord Deben, a former Cabinet minister said during a parliamentary debate on 27 October 2014: "It is unacceptable if we have a system whereby if the government has acted illegally it can't be brought to account in the courts" adding that: "the British defense of freedom is judicial review." Lord Woolf, a former Lord Chief Justice warned: "[T]he alternative amounted to an 'elective dictatorship'." See:

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The Administrative Justice and Tribunals Council whose function it is to keep under review the administrative justice system have conceded that: "Access to judicial review is not a realistic option for most citizens." Judicial review of the legality of Ombudsman decisions is virtually impossible because the UK courts are reluctant to interfere with the exercise of the Ombudsman's wide discretionary powers. This situation can be criticised in terms of "legal certainty" – which is a basic principle of Community law. It is significant to point out that since 1967 only one judicial review application to challenge the lawfulness of an Ombudsman decision has been successful. The three main legal professions in England and Wales have condemned Ministry of Justice plans to prevent charities and non-governmental organizations from intervening in judicial review cases which contain matters of public interest. On top of this the Government are using austerity to try to push through measures to restrict access to justice by its cuts in legal aid. Finally, the justice system is being fractured in the Government's pursuit of a UK Bill of Rights to replace the European Convention on Human Rights from which it wants to withdraw.

#### Approximation of laws and legitimate expectations

It is necessary and desirable, in our opinion, that administrative justice standards to protect citizens from abuse of power should be uniform and indivisible across EU Member States. According to Article 3 (1) (h) EC the approximation of the laws of Member States is one of the activities of the EC. Approximation can be characterized as driving change in legal and administrative rules and structures by conscious and intended

Community action The approximation of laws requires a point of reference, which the law is approximated to For the purpose of our petition two references are applicable The first is the “right to good administration” enshrined in Article 41 of the EU Charter of Fundamental Rights which the UK has not adopted The second reference was created in June 2007 when the Committee of Ministers of the Council of Europe adopted the consolidated Recommendation of the Committee of Ministers to Member States on Good Administration together with a Code of Good Administration See:

[https://wcd.coe.int/ViewDoc.jsp?](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2007)7&Language=lanEnglish&Site=COE&BackColorInternet=DBC2F2&BackColorIntranet=FDC864&BackColorLogged=FDC864)

[Ref=CM/Rec\(2007\)7&Language=lanEnglish&Site=COE&BackColorInternet=DBC2F2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2007)7&Language=lanEnglish&Site=COE&BackColorInternet=DBC2F2&BackColorIntranet=FDC864&BackColorLogged=FDC864)

Recommendations, opinions and non-binding guidelines of the nature of the Council’s have a harmonizing effect comparable to that of open co-ordination to which Member States are presumptively expected to adapt their legal orders In “The Administration and you Principles of administrative law concerning the relations between administrative authorities and private persons: A

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The Council’s 9 principles of good administration are: lawfulness, equality, impartiality, proportionality, legal certainty, taking action within a reasonable time limit, participation, respect for privacy and transparency The Code provides a comprehensive set of principles relating to legal arrangements, as well as codification, internal and external monitoring, and the dissemination of good practice Together the Principles and Code create legitimate expectations the protection of which is at the root of the UK constitutional principle of the rule of law, which requires regularity, predictability, and certainty in dealing with the public Yet, in March 2007, with presumptive knowledge that the Council’s Principles and Code would be adopted three months later, the Parliamentary Ombudsman published a distinct set of 6 Principles of Good Administration in respect to which all public bodies in the UK are expected to comply, namely: getting it right first time, being customer focussed, being open and accountable, acting fairly and proportionately, putting things right, and seeking continuous improvement In Written Evidence dated 14 May 2007 to Parliament’s Joint Committee on Human Rights, the Ombudsman explained that:

” The purpose of the Principles is to be clear both with complainants and public bodies about the sorts of behaviour we expect when public bodies deliver public service, and the tests we apply in deciding whether maladministration and service failure have occurred ” You will see from the enclosed copy of the Principles that the very first principle makes reference to the need for public bodies to act with due regard to the rights of those concerned See:<http://www.publications.parliament.uk/pa/jt200708/jtselect/jtrights/40/40we14.htm>

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Later in November 2007 at a Council of Europe conference at which the Ombudsman presented: “The role of the Ombudsman in the implementation of principles of good administration in the UK” it was stated that:

“The desire to make human rights part of everything we do informs the work my Office has been undertaking to incorporate human rights considerations into our investigation of complaints Our focus has been on raising awareness that human rights frequently affect the daily lives of many people seeking access to public services I have also taken the opportunity to promote this approach in my discussions with Ombudsman colleagues in Europe I spoke in Vienna at a General Assembly of the European Region of the International Ombudsman Institute last year; and I have just returned from a Round Table of European Ombudsmen and the Council of Europe’s Commissioner for Human Rights in Athens where we explored, amongst other things, the scope for co-operation between Ombudsmen and National Human Rights Institutions I enclose a copy of my Vienna speech to give you a flavour of the sort of approach that I am seeking to take and that will shape my future approach to complaints touching upon the human rights of people ..... Relevant too are the Principles of Good Administration recently published by my Office ”

” We need to follow up the launch of the Principles by first of all making sure that PHSO practices what it preaches, that we implement the Principles internally And to keep awareness of the Principles high so that public bodies in jurisdiction have regard to them and put them into practice We want the Principles to become second nature for those involved in public service”

There is a sufficient body of evidence to show that the Ombudsman does not practice what it preaches It systematically breaches rights guaranteed by the European Convention on Human Rights (procedural such as right to a fair hearing under Art 6) In evidence to the UK Parliament (PASC) this year we pointed out that: “The main reason for our dissatisfaction is the systematic manipulation and denial of the facts by [the Ombudsman] in order to find no case to answer or minimize the case against the public body concerned and their total lack of accountability when their poor decision making is criticized ”



A detailed critique of what are the public's concerns about the Parliamentary Ombudsman is set out in our various publications available here: <http://phsothetruestory.com/report-into-reform-of-the-ombudsman/> and here: <http://data.parliament.uk/writtenevidence/WrittenEvidence.svc/EvidenceHtml/4751>

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Responsibility for law reform in England and Wales rests with the Law Commission. In May 2014 a Ministry of Justice report on implementation of Law Commission proposals stated that the Government intended to respond in summer 2014 to proposals made in July 2011 in its report on Public Services Ombudsmen (Law Com No 329). To the best of our knowledge this has not yet happened. The Law Commission is silent on the Council's Principles and Code and makes no recommendation to enforce convergence of a Euro standard by insertion into the UK legal order to ensure full protection of Community rights and adherence to equal standards and so bring the various routes into one highway. Instead the Law Commission writes:

"6.11 We think that the recent development of publishing principles and showing broad examples of best practice is to be encouraged. Ombudsmen are in a unique position as an independent redress mechanism with the capacity to produce such material"

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Significantly, in their second report of 2014: "More complaints please!" PASC concludes that: "Government as a whole cannot be said to be complying with best practice in complaints handling or adapting to the needs and expectations of today's citizen" See:

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In conclusion, Law Commission proposals for domestic legislation should be consistent with the UK's obligations as a member of the European Union. The disparities in terms of convergence and equivalence, in particular the explicit expectations of "legal certainty", "lawfulness", "participation" and "impartiality" can no longer be overlooked. Article 95 EC speaks of 'laws, regulations or administrative processes' referring primarily to the means of positive (statutory) law. It is necessary and desirable, in our opinion, that the Council of Europe Principles and Code should be recognized as the minimum standards for development of UK Government policy and reform of the law in relation to complaints against the State. We urge the European Parliament to intervene and participate in the law reform process currently underway in the United Kingdom. It matters to every citizen that we get this right.

**From:** Sykes Sally  
**To:** Harding Anne;  
**Subject:** FW: TO BE AWARE: PHSO The Facts PETITION TO THE EUROPEAN PARLIAMENT  
**Date:** 07 November 2014 11:39:46  
**Attachments:** image001.png  
 image003.png  
 image005.png

# s.36 and s.42

**From:** Press  
**Sent:** 07 November 2014 10:16  
**To:** Martin Mick; +ExternalAffairs&StrategyGroup;  
 Office  
**Subject:** TO BE AWARE: PHSO The Facts PETITION TO THE EUROPEAN PARLIAMENT

Harding Anne;

Executive

<http://phsothefacts.com/petition-to-e-u/>

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on behalf of the PHSO Pressure Group

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**From:** [Harding Anne](#)  
**To:** [Sykes Sally](#)  
**Cc:**  
**Subject:** Re: TO BE AWARE: PHSO The Facts PETITION TO THE EUROPEAN PARLIAMENT  
**Date:** 07 November 2014 12:19 07  
**Attachments:** [image001.png](#)  
[image003.png](#)  
[image005.png](#)

# s.36 and s.42

**From:** Press  
**Sent:** 07 November 2014 10:16  
**To:** Martin Mick; +ExternalAffairs&StrategyGroup; Harding Anne; Executive  
**Subject:** TO BE AWARE: PHSO The Facts PETITION TO THE EUROPEAN PARLIAMENT

<http://phsothefacts.com/petition-to-e-u/>

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#### Context

The Parliamentary Ombudsman system of complaint handling in the UK is in crisis. It is failing in its duty of holding the Executive to account in its day-to-day encounters with citizens. Masquerading as part of the broader administrative justice system it is effectively a dustbin for complaints against the State. The Office has not proved to be an effective addition to the system of administrative justice. It is neither a "champion of the people" nor a "serious ally of the people" as suggested by Ann Abraham, a former Ombudsman in March 2007 on the 40th anniversary of the Parliamentary Commissioner Act (1967). She was equally mistaken when adding that: "there is much in the present arrangements to celebrate and to nurture. The key is trust amongst the various constitutional players. With that trust, an active and positive Ombudsman can only be good for public administration and public services. Without it, we might just find ourselves stumbling into a crisis that nobody wants." See:

[http://www.ombudsman.org.uk/\\_data/assets/pdf\\_file/0004/3874/withstanding-the-test-of-time.pdf](http://www.ombudsman.org.uk/_data/assets/pdf_file/0004/3874/withstanding-the-test-of-time.pdf)

Seven years later the "trust" to which she referred has irrevocably broken down and the Office is in "crisis". It has been clear for some time that the UK Parliamentary Ombudsman system offers second-rate justice. It does not offer just processes and just results based on the law to produce correct legal outcomes. This must change.

In June 2014 Parliament's Public Administration Select Committee (PASC) published its latest report on the Parliamentary Ombudsman: Time for a People's Ombudsman Service (HC 655 2013-14). Not for the first time, PASC calls for significant changes to the Ombudsman system.

At the same time the basic characteristics of judicial review, the alternative method of holding the Executive to account in the exercise of wide powers, is being undermined and is under attack. Part 4 of the Criminal Justice and Courts Bill is an attempt by the Government to reduce the scrutiny to which the Executive and the Parliamentary Ombudsman is subjected to the courts. Lord Deben, a former Cabinet minister said during a parliamentary debate on 27 October 2014: "It is unacceptable if we have a system whereby if the government has acted illegally it can't be brought to account in the courts" adding that: "the British defense of freedom is judicial review". Lord Woolf, a former Lord Chief Justice warned: "[T]he alternative amounted to an "elective dictatorship" See: <http://ukhumanrightsblog.com/2014/10/28/three-strikes-and-out-major-defeats-for-government-judicial-review-reform-plans-in-the-lords/>

The Administrative Justice and Tribunals Council whose function it is to keep under review the administrative justice system have conceded that: "Access to judicial review is not a realistic option for most citizens". Judicial review of the legality of Ombudsman decisions is virtually impossible because the UK courts are reluctant to interfere with the exercise of the Ombudsman's wide discretionary powers. This situation can be criticised in terms of "legal certainty" – which is a basic principle of Community law. It is significant to point out that since 1967 only one judicial review application to challenge the lawfulness of an Ombudsman decision has been successful. The three main legal professions in England and Wales have condemned Ministry of Justice plans to prevent charities and non-governmental organizations from intervening in judicial review cases which contain matters of public interest. On top of this the Government are using austerity to try to push through measures to restrict access to justice by its cuts in legal aid. Finally, the justice system is being fractured in the Government's pursuit of a UK Bill of Rights to replace the European Convention on Human Rights from which it wants to withdraw.

### Approximation of laws and legitimate expectations

It is necessary and desirable, in our opinion, that administrative justice standards to protect citizens from abuse of power should be uniform and indivisible across EU Member States. According to Article 3 (1) (h) EC the approximation of the laws of Member States is one of the activities of the EC. Approximation can be characterized as driving change in legal and administrative rules and structures by conscious and intended Community action. The approximation of laws requires a point of reference, which the law is approximated to. For the purpose of our petition two references are applicable. The first is the "right to good administration" enshrined in Article 41 of the EU Charter of Fundamental Rights which the UK has not adopted. The second reference was created in June 2007 when the Committee of Ministers of the Council of Europe adopted the consolidated Recommendation of the Committee of Ministers to Member States on Good Administration together with a Code of Good Administration. See: [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2007\)7&Language=lanEnglish&Site=COE&BackColorInternet=DBC864&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2007)7&Language=lanEnglish&Site=COE&BackColorInternet=DBC864&BackColorIntranet=FDC864&BackColorLogged=FDC864)

Recommendations, opinions and non-binding guidelines of the nature of the Council's have a harmonizing effect comparable to that of open co-ordination to which Member States are presumptively expected to adapt their legal orders. In "The Administration and you: Principles of administrative law concerning the relations between administrative authorities and private persons: A handbook": <http://www.coe.int/t/dghl/standardsetting/cdcj/Handbook%20on%20Administration%20and%20You/Admin%20and%20youE.pdf> the Council of Europe said:

6 [1] As regards the significance and practical impact of Council of Europe recommendations and resolutions, it is important to observe the following: contrary to conventions which states may have ratified, recommendations and resolutions have no legally binding effect on states and governments. They do have, however, a moral and political effect on them. This effect stems from two facts: first of all, it is difficult, albeit impossible, for a government to totally ignore for a long period of time certain standards to which all or most of the other democratic states of the region pledge commitment: moreover, there can be an obvious problem with a government's good faith in cases where a government itself is among those who have not only participated in the negotiations of a text, but also voted for its adoption in the form of a "Recommendation from the Committee of Ministers to governments of member states". If such a government later on refuses to conform to its own appeal, politicians, citizens and all kinds of political pressure groups can use the argument at home and abroad, and lawyers might draw additional arguments from them for an interpretation of domestic legal rules in conformity with the content of such texts. This is, however, only valid if a government has not made use of its right to express reservations to all or part of a recommendation, as it can do under Article 10 2 lit (c) of the Rules of Procedure for the meetings of the Ministers' Deputies.

The Council's 9 principles of good administration are: lawfulness, equality, impartiality, proportionality, legal certainty, taking action within a reasonable time limit, participation, respect for privacy and transparency. The Code provides a comprehensive set of principles relating to legal arrangements, as well as codification, internal and external monitoring, and the dissemination of good practice. Together the Principles and Code create legitimate expectations the protection of which is at the root of the UK constitutional principle of the rule of law, which requires regularity, predictability, and certainty in dealing with the public. Yet, in March 2007, with presumptive knowledge that the Council's Principles and Code would be adopted three months later, the Parliamentary Ombudsman published a distinct set of 6 Principles of Good Administration in respect to which all public bodies in the UK are expected to comply, namely: getting it right first time, being customer focussed, being open and accountable, acting fairly and proportionately, putting things right, and seeking continuous improvement. In Written Evidence dated 14 May 2007 to Parliament's Joint Committee on Human Rights, the Ombudsman explained that:

"The purpose of the Principles is to be clear both with complainants and public bodies about the sorts of behaviour we expect when public bodies deliver public service, and the tests we apply in deciding whether maladministration and service failure have occurred." You will see from the enclosed copy of the Principles that the very first principle makes reference to the need for public bodies to act with due regard to the rights of those concerned. See: <http://www.publications.parliament.uk/pa/jt/200708/jtselect/jtrights/40/40we14.htm>

Yet, in Principles of Good Administration: Response to Consultation dated 27 March 2007 the Ombudsman stated that: "After careful consideration we decided against explicit reference to the Human Rights Act which might seem to give precedence to one piece of legislation over another." See:

<http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-administration/consultation-report-principles-of-good-administration>



Later in November 2007 at a Council of Europe conference at which the Ombudsman presented: “The role of the Ombudsman in the implementation of principles of good administration in the UK” it was stated that:

“The desire to make human rights part of everything we do informs the work my Office has been undertaking to incorporate human rights considerations into our investigation of complaints. Our focus has been on raising awareness that human rights frequently affect the daily lives of many people seeking access to public services. I have also taken the opportunity to promote this approach in my discussions with Ombudsman colleagues in Europe. I spoke in Vienna at a General Assembly of the European Region of the International Ombudsman Institute last year; and I have just returned from a Round Table of European Ombudsmen and the Council of Europe’s Commissioner for Human Rights in Athens where we explored, amongst other things, the scope for co-operation between Ombudsmen and National Human Rights Institutions. I enclose a copy of my Vienna speech to give you a flavour of the sort of approach that I am seeking to take and that will shape my future approach to complaints touching upon the human rights of people ..... Relevant too are the Principles of Good Administration recently published by my Office.”

“We need to follow up the launch of the Principles by first of all making sure that PHSO practices what it preaches, that we implement the Principles internally. And to keep awareness of the Principles high so that public bodies in jurisdiction have regard to them and put them into practice. We want the Principles to become second nature for those involved in public service.”

There is a sufficient body of evidence to show that the Ombudsman does not practice what it preaches. It systematically breaches rights guaranteed by the European Convention on Human Rights (procedural such as right to a fair hearing under Art 6). In evidence to the UK Parliament (PASC) this year we pointed out that: “The main reason for our dissatisfaction is the systematic manipulation and denial of the facts by [the Ombudsman] in order to find no case to answer or minimize the case against the public body concerned and their total lack of accountability when their poor decision making is criticized.”

A detailed critique of what are the public’s concerns about the Parliamentary Ombudsman is set out in our various publications available here: <http://phsothetruestory.com/report-into-reform-of-the-ombudsman/> and here: <http://data.parliament.uk/writtenevidence/WrittenEvidence.svc/EvidenceHtml/4751>

#### Law Reform

Responsibility for law reform in England and Wales rests with the Law Commission. In May 2014 a Ministry of Justice report on implementation of Law Commission proposals stated that the Government intended to respond in summer 2014 to proposals made in July 2011 in its report on Public Services Ombudsmen (Law Com No 329). To the best of our knowledge this has not yet happened. The Law Commission is silent on the Council’s Principles and Code and makes no recommendation to enforce convergence of a Euro standard by insertion into the UK legal order to ensure full protection of Community rights and adherence to equal standards and so bring the various routes into one highway. Instead the Law Commission writes:

“6.11 We think that the recent development of publishing principles and showing broad examples of best practice is to be encouraged. Ombudsmen are in a unique position as an independent redress mechanism with the capacity to produce such material.”

“6.12 A risk here is that there is overlap with the role of other bodies, such as the Administrative Justice and Tribunals Council... potential duplication should be avoided.” [Footnote 83 states: “The AJTC recently consulted on potential principles of administrative justice: Principles of administrative justice - consultation draft (2010)”]

“6.14 We do not, however, feel that it would be appropriate to give such principles or codes of practice legal effect. The purpose of these would be to suggest good practice based on the ombudsman’s knowledge of the public sector rather than to allow additional regulatory burdens to be imposed on the public sector.”

Significantly, in their second report of 2014: “More complaints please!” PASC concludes that: “Government as a whole cannot be said to be complying with best practice in complaints handling or adapting to the needs and expectations of today’s citizen” See: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpubadm/229/229.pdf>

On the EU Principle of “transparency” whereas the Law Commission acknowledges at 5.18 that: “.....[t]he closed nature of ombudsmen investigations does not necessarily fit with modern requirements of public administration... closed investigations mean that the methodology adopted by the public sector ombudsmen in their investigations is harder to scrutinize. This can lead some to query the independence of the public services ombudsmen from those they are tasked to investigate...”, it nevertheless recommends that: “...the vast majority of investigations should still be conducted in private.” The effect of this stance is that no Ombudsman jurisprudence has been nor can be built up as distinct from case law derived from judgements made in open courts.

In conclusion, Law Commission proposals for domestic legislation should be consistent with the UK’s obligations as a member of the European Union. The disparities in terms of convergence and equivalence, in particular the explicit expectations of “legal certainty”, “lawfulness”, “participation” and “impartiality” can no longer be overlooked. Article 95 EC speaks of ‘laws, regulations or administrative processes’ referring primarily to the means of positive (statutory) law. It is necessary and desirable, in our opinion, that the Council of Europe Principles and Code should be recognized as the minimum standards for development of UK Government policy and reform of the law in relation to complaints against the State. We urge the European Parliament to intervene and participate in the law reform process currently underway in the United Kingdom. It matters to every citizen that we get this right.

**From:** [Sykes Sally](#)  
**To:** [Harding Anne](#)  
**Cc:**  
**Subject:** RE: TO BE AWARE: PHSO The Facts PETITION TO THE EUROPEAN PARLIAMENT  
**Date:** 07 November 2014 12:25:13

# s.36 and s.42

**From:** Press  
**Sent:** 07 November 2014 10:16  
**To:** Martin Mick; +ExternalAffairs&StrategyGroup; Harding Anne; Executive  
Office  
**Subject:** TO BE AWARE: PHSO The Facts PETITION TO THE EUROPEAN PARLIAMENT

<http://phsothefacts.com/petition-to-e-u/>

## Petition to E.U.

### PETITION TO THE EUROPEAN PARLIAMENT

on behalf of the PHSO Pressure Group

#### Petition

This petition falls within a class of case that has at stake the constitutional rights of UK citizens who make complaints against the State. In recognition of Community rights and duties as having constitutional character, and the need for developing key principles and model definitions for improving the consistency and equivalence of EU administrative law and justice across Member States, and further recognizing that modernization and strengthening of public administration has been identified as an essential objective in the EU's 2014-2020 programming period, we call upon the European Parliament to show an active interest in the outcome of the UK Government's consultation exercise on legislative reform of the Parliamentary Ombudsman system of administrative justice and the passage of Part Four of the Criminal Justice and Courts Bill dealing with judicial review of administrative action.

#### Who we are

**PHSO Pressure Group** is a non-partisan UK pressure group, over 1 year old, which campaigns to improve the effectiveness and accountability of the UK Parliamentary Ombudsman set up to investigate and provide redress from complaints against the State. We have given evidence to UK Parliamentary select committees, have regular contact and consultative status with both the Parliamentary Ombudsman and with the Cabinet Office (which acts as the main liaison department for the Ombudsman). We have a prominent role in raising public concerns about the Parliamentary Ombudsman system of administrative justice. Further information is available at our website: <http://phsothefacts.com/>

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The Parliamentary Ombudsman system of complaint handling in the UK is in crisis. It is failing in its duty of holding the Executive to account in its day-to-day encounters with citizens. Masquerading as part of the broader administrative justice system it is effectively a dustbin for complaints against the State. The Office has not proved to be an effective addition to the system of administrative justice. It is neither a "champion of the people" nor a "serious ally of the people" as suggested by Ann Abraham, a former Ombudsman in March 2007 on the 40th anniversary of the Parliamentary Commissioner Act (1967). She was equally mistaken when adding that: "there is much in the present arrangements to celebrate and to nurture. The key is trust amongst the various constitutional players. With that trust, an active and positive Ombudsman can only be good for public administration and public services. Without it, we might just find ourselves stumbling into a crisis that nobody wants." See:

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#### Approximation of laws and legitimate expectations

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[https://wcd.coe.int/ViewDoc.jsp?](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2007)7&Language=lanEnglish&Site=COE&BackColorInternet=DBCCE2&BackColorIntranet=FDC864&BackColorLogged=FDC864)

[Ref=CM/Rec\(2007\)7&Language=lanEnglish&Site=COE&BackColorInternet=DBCCE2&BackColorIntranet=FDC864&BackColorLogged=FDC864](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2007)7&Language=lanEnglish&Site=COE&BackColorInternet=DBCCE2&BackColorIntranet=FDC864&BackColorLogged=FDC864)

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” We need to follow up the launch of the Principles by first of all making sure that PHSO practices what it preaches, that we implement the Principles internally. And to keep awareness of the Principles high so that public bodies in jurisdiction have regard to them and put them into practice. We want the Principles to become second nature for those involved in public service”

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#### **Law Reform**

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On the EU Principle of “transparency” whereas the Law Commission acknowledges at 5.18 that: “.....[t]he closed nature of ombudsmen investigations does not necessarily fit with modern requirements of public administration... closed investigations mean that the methodology adopted by the public sector ombudsmen in their investigations is harder to scrutinize. This can lead some to query the independence of the public services ombudsmen from those they are tasked to investigate...”, it nevertheless recommends that: “...the vast majority of investigations should still be conducted in private”. The effect of this stance is that no Ombudsman jurisprudence has been nor can be built up as distinct from case law derived from judgements made in open courts.

In conclusion, Law Commission proposals for domestic legislation should be consistent with the UK’s obligations as a member of the European Union. The disparities in terms of convergence and equivalence, in particular the explicit expectations of “legal certainty”, “lawfulness”, “participation” and “impartiality” can no longer be overlooked. Article 95 EC speaks of ‘laws, regulations or administrative processes’ referring primarily to the means of positive (statutory) law. It is necessary and desirable, in our opinion, that the Council of Europe Principles and Code should be recognized as the minimum standards for development of UK Government policy and reform of the law in relation to complaints against the State. We urge the European Parliament to intervene and participate in the law reform process currently underway in the United Kingdom. It matters to every citizen that we get this right

**From:**  
**To:**

**Cc:** [Executive Office](#)  
**Subject:** Horizon Scanning Newsletter 2014 November 10  
**Date:** 10 November 2014 10:53:50

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## HORIZON SCANNING NEWSLETTER

Date: 10 November 2014

### Contents...

[Parliamentary  
insights](#)

[Health insights](#)

[Ombudsman landscape](#)

## 7. PHSO The Facts: Petition to the European Parliament

## **7. PHSO The Facts - Petition to the European Parliament**

PHSO the Facts have [published](#) their petition that calls upon the European Parliament to show an active interest in the outcome of the UK Government's consultation exercise on legislative reform of the Parliamentary Ombudsman system of administrative justice.

**From:** [phso the facts](#)  
**To:** [Martin Mick](#); [Barr Russell](#)  
**Cc:** .  
**Subject:** PHSO appalling behaviour at mediation  
**Date:** 14 November 2014 14:10:31  
**Attachments:** . [TO GO.docx](#)

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Dear Mr. Martin,

Please find attached a letter concerning the recent mediation session between  
and PHSO. My only hope is that this type of behaviour is not part of the new,  
modernised PHSO service you envisage.

and members of the Pressure Group would be interested in your response.

Regards,

[phsothefacts.com](http://phsothefacts.com)

PLEASE NOTE: THE ABOVE MESSAGE WAS RECEIVED FROM THE INTERNET.

On entering the GSI, this email was scanned for viruses by the Government Secure Intranet (GSI) virus scanning service supplied exclusively by Cable & Wireless in partnership with MessageLabs.

In case of problems, please call your organisational IT Helpdesk.

The MessageLabs Anti Virus Service is the first managed service to achieve the CSIA Claims Tested Mark (CCTM Certificate Number 2006/04/0007), the UK Government quality mark initiative for information security products and services. For more information about this please visit [www.cctmark.gov.uk](http://www.cctmark.gov.uk)



14.11.14

Dear Mr. Martin,

I am writing to you on behalf of \_\_\_\_\_ who is a member of the PHSO Pressure Group. It would appear that in the handling of \_\_\_\_\_ case PHSO are walking straight into a P.R. disaster. I am not sure how aware you are of the importance of his case.

PHSO Pressure Group.

**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Subject:** Dates?  
**Date:** 17 November 2014 15:11:20

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Hi Sally,

Following on from our conversation last week, are you able to give us the dates for the seminars in London and Manchester. You confirmed that they would take place in November and we are at the 17th today. Also the date of the first user panel meeting if you have it.

There is also some concern among the group about the time it is taking to review our cases and the lack of contact from our 'buddies'. I have spoken to Mick Martin before about this but just get promises which don't materialise. Can you shed any light on the case resolution issue?

Thanks

[phsothefacts.com](http://phsothefacts.com)

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**From:**  
**To:**  
**Subject:** PHSO the facts report  
**Date:** 18 November 2014 16:10:58

---

RESTRICTED

Hi both,  
Anyone know when we are publishing/sharing with them?

S. 36

**From:**  
**To:**  
**Cc:** [Sykes Sally;](#)  
**Subject:** Pressure group seminar - write up  
**Date:** 19 November 2014 12:16:36

---

RESTRICTED

[20141119 PHSO presssure group - seminar report - cover note](#)  
[PHSO the facts - seminar report - Nov 2014](#)

Hi

Please could you pass this on to Mick for comments/approval.  
Any questions, please give me a shout.  
Thanks,

To: Mick Martin

Copied to: Sally Sykes,

From:

Date: 19 November

Subject: Report on seminar with PHSO pressure group

Action:

- To review and comment on/approve the attached revised report

Deadline: Monday 24 November

Please see attached report on seminar with PHSO the Facts. This is structured as follows:

1. An introduction from us (in your name)
2. The IFF report, which has been presented in two sections.
3. Our learning and improvements at the end of each of the two sections.

The PHSO and IFF logos will be included on the relevant pages to make clear the demarcation between their report and our responses.

# s. 36

**From:** Sykes Sally <[Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)>  
**Date:** 20 November 2014 07:09:55 GMT  
**To:** Bird-Newell Denise <[Denise.Bird-Newell@ombudsman.org.uk](mailto:Denise.Bird-Newell@ombudsman.org.uk)>, Martin  
Mick <[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)>,  
<[ombudsman.org.uk](mailto:ombudsman.org.uk)>,  
<[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Subject:** PHSO Twitter reply

Just to let you know I responded to a PHSO the facts tweet as they were using a case from Wales and from ten years ago to criticise us. My reply is measured and accurate. I know our policy is in development on social media but it felt really bad to have their outdated info as the only voice out there and rude not to reply to a direct message, rgds Sally

**Sally Sykes**  
**Executive Director of External Affairs and Strategy**  
Parliamentary and Health Service Ombudsman  
T: [0300 061 1521](tel:03000611521)  
E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)  
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**From:** [Martin Mick](#)  
**To:** [Sykes Sally](#)  
**Subject:** Re: Dates?  
**Date:** 20 November 2014 10:56:12

---

Hello Sally,

We said we would hold two informal session with the group to feedback / get input on our service changes to date - one in London, one in Manchester.  
Are these still on our radar screen?

Mick

Sent from my iPad

On 20 Nov 2014, at 08:49, "Sykes Sally" <[Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)> wrote:

Dear – hope you are well, it was good to see you at PASC last week.  
On the panel dates, is just getting to critical mass on the numbers by inviting some more users of our service – as you can imagine, we are trying to achieve a representative sample. We are aiming to do the first one before Christmas but recognise (and feel!) the diary pressures – will keep you posted, who leads the service charter work knows that you want to attend yourself and rotate a further panel member from your group. We are also mindful of travel planning and very grateful for the volunteer time.  
We've finalised our work on the IFF seminar report and I would like to talk to you about publication plans – it's the IFF write up and then what we're doing about it. Mick and the team are indeed cracking on with the old cases work, but I have copied him in just to alert him to your concerns.  
Would it be possible to book a call at your convenience next week?

Best wishes Sally

**Sally Sykes**

**Executive Director of External Affairs and Strategy**

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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---

**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]

**Sent:** 17 November 2014 15:11

**To:** Sykes Sally

**Subject:** Dates?

Hi Sally,

Following on from our conversation last week, are you able to give us the dates for the seminars in London and Manchester. You confirmed that they would take place in November and we are at the 17th today. Also the date of the first user panel meeting if you have it.

There is also some concern among the group about the time it is taking to review our cases and the lack of contact from our 'buddies'. I have spoken to Mick Martin before about this but just get promises which don't materialise.  
Can you shed any light on the case resolution issue?

Thanks

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[www.cctmark.gov.uk](http://www.cctmark.gov.uk)

**From:**  
**To:**  
**Subject:** RE: PHSO the facts report  
**Date:** 20 November 2014 15:29:50

---

Hi

No it's not been shared with them yet. It's gone to Mick Martin for sign off and I'll then send it back to IFF.

**Marketing and Communications Manager**  
Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](http://ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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---

**From:**  
**Sent:** 20 November 2014 14:50  
**To:**  
**Subject:** PHSO the facts report

Hi

Where are we at with the PHSO the facts report?

Has this been shared with them yet?

Just thinking of IFF

Thanks

**Senior Analyst**  
Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](http://ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Cc:** [Martin Mick](#)  
**Subject:** RE: Dates?  
**Date:** 21 November 2014 20:11:12

---

Dear Sally,

It looks as though you have done your 'listening to customers' and follow up report already. <http://www.nationalhealthexecutive.com/Health-Care-News/new-guide-for-good-complaints-handling-across-health-and-social-care> Shame none of us were included to deliver some 'I statements'.

According to the slide below, presented by yourself at the Westminster Briefing seminar, it would also appear that the plan for future development of PHSO is already well under way with only the technical detail of legislative change to put in place. No doubt you have been working closely with the Cabinet Office as they undergo their review. So are the proposed 'workshops' and 'user panel' anything more than a public relations exercise?

I am presuming that you will publish the IFF report on your website and be good enough to send us a link, so I am not really sure what there is to discuss next week. Perhaps you could provide more information via email, as I am sure we both have a great many things pressing on our time.

## Towards a 21<sup>st</sup> Century Ombudsman Service

- **First phase**
  - Six times more investigations
- **Second phase**
  - Service Charter: what people can expect from our investigations and our service
- **Third phase**
  - One public ombudsman service covering health and social care, and non-devolved public services accountable to UK Parliament
  - Direct access to our service
  - 'Own initiative' powers



[phsothefacts.com](http://phsothefacts.com)

---

From: Sally.Sykes@ombudsman.org.uk  
To: phso-thefacts@outlook.com  
CC: ombudsman.org.uk; Mick.Martin@ombudsman.gsi.gov.uk;  
ombudsman.org.uk  
Subject: RE: Dates?  
Date: Thu, 20 Nov 2014 08:49:17 +0000

Dear – hope you are well, it was good to see you at PASC last week.  
On the panel dates, is just getting to critical mass on the numbers by inviting some more users of our service – as you can imagine, we are trying to achieve a representative sample. We are aiming to do the first one before Christmas but recognise (and feel!) the diary pressures – will keep you posted, who leads the service charter work knows that you want to attend yourself and rotate a further panel member from your group. We are also mindful of travel planning and very grateful for the volunteer time.  
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**Sally Sykes**

**Executive Director of External Affairs and Strategy**

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E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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---

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**Sent:** 17 November 2014 15:11

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To: Julie Mellor/Mick Martin

From:

Date: 27 November 2014

Subject: Communications strategy for release of the draft report to PHSO Pressure Group

Action: Please approve the approach and statement

Deadline: 27 November 2014

Director cleared with: and Sally Sykes

This submission outlines the communication approach for release of the report to PHSO Pressure Group

#### In this document

- Key messages
- Overall media communications approach
- Risks
- Draft statement (Annex A)
- Q&A (Annex B)

#### Key messages

We are radically modernising, focusing on listening and learning from people's experience of our service so we can better understand what people expect from us.	We are already giving more people justice by moving from doing hundreds of investigations to thousands every year and have halved the average time it takes to complete a case whilst still maintaining satisfaction levels.
Every time someone has a poor experience of our service it really matters to us and we work hard to put things right.	We are meeting with the families mentioned in this report as there may be further learning from their experiences to help shape our service for people who will need it in the future.

ANNEX A  
Draft statement

**Parliamentary and Health Service Ombudsman Julie Mellor said:**

“We want to give more people an independent, impartial and formal decision on the complaint they bring to us. We are radically modernising, focusing on listening and learning from people’s experience of our service so we can better understand what people expect from us.

“We are already giving more people justice by moving from doing hundreds of investigations to thousands every year and have halved the average time it takes to complete a case whilst still maintaining satisfaction levels.

“Every time someone has a poor experience of our service it really matters to us and we work hard to put things right. We have been engaging with each of the families mentioned in this report so we can explain our actions or attempt to put things right and learn from their experience.

“This valuable feedback will help improve our service. We are now working on a charter - a set of promises to service users, so the public and service providers know what they can expect from the service and are pleased PHSO the Facts has agreed to be part of this work.”

**From:** <[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Date:** 24 November 2014 16:12:21 GMT  
**To:** <[ombudsman.org.uk](mailto:ombudsman.org.uk)>,  
<[@ombudsman.org.uk](mailto:@ombudsman.org.uk)>,  
<[@ombudsman.org.uk](mailto:@ombudsman.org.uk)>,  
<[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Cc:** <[ombudsman.org.uk](mailto:ombudsman.org.uk)>,  
<[ombudsman.org.uk](mailto:ombudsman.org.uk)>,  
<[@ombudsman.org.uk](mailto:@ombudsman.org.uk)>,  
<[ombudsman.org.uk](mailto:ombudsman.org.uk)>, Press <[Press@ombudsman.org.uk](mailto:Press@ombudsman.org.uk)>  
**Subject:** PHSO the Facts media handling plan

Dear Julie and Mick's team

Please find here: [20141121 PHSO pressure group - media handling plan](#)

With kind regards

Senior press officer  
Parliamentary and Health Service Ombudsman  
T:  
E: [ombudsman.org.uk](mailto:ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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To: Julie Mellor/Mick Martin

From:

Date: 21 November 2014

Subject: Communications strategy for release of the draft report to PHSO Pressure Group

Action: Please approve the approach and statement

Deadline: 24 November 2014

Director cleared with: and Sally Sykes

---

This submission outlines the communication approach for release of the report to PHSO Pressure Group

---

**In this document**

- Key messages
  - Overall media communications approach
  - Risks
  - Draft statement (Annex A)
  - Q&A (Annex B)
- 

**Key messages**

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From: [phso the facts](#)  
To: [Sykes Sally](#)  
Cc: . [Martin Mick](#) .  
Subject: RE: Dates - response from Pressure  
Date: 24 November 2014 16:38:35

---

Dear Sally,

I believe I speak for the majority of the Pressure Group when I say that we are feeling let down by PHSO's ability to investigate and resolve our historic complaints. We also feel 'sidelined' in relation to contributing to your modernisation programme. Let me start with our personal cases.

Most of us feel that we are in a holding pattern, with sporadic updates which contain so little information that it is almost pointless sending them. It is difficult for us to know why it is taking so long to examine these cases when there is now a wealth of evidence collected via SAR and FOI indicating maladministration. Many in the group have waited patiently to hear the outcomes of their investigation only to find, weeks later, that the viability of their case is still under consideration. These setbacks cause untold emotional damage and have not been handled with appropriate sensitivity.

I spoke to Mr. Martin some time ago and asked for a timeline, so that we could understand the process and know when to wait and when to expect an outcome. None was forthcoming and consequently members of the group have to continually request updates directly from their 'buddy' or request them of me (when I know nothing). This is just not good enough and not in line with Mr. Martin's comments to PASC that, "**We are getting much clearer and more transparent about how we communicate and how we go about doing our investigations.**" We would like to see this in action or there is nothing to convince us that these are not just 'empty words' and rhetoric.

On the second issue, the seminars were promised by Mr. Martin for November and even as late the 10th November you confirmed that they would go ahead later this month. Now we find that they have been postponed. In marketing gathering the opinion of your target market comes close to the start of the process. If you don't know what is wrong then how can you start to fix it. Yet the feedback sessions via the seminars do not seem to have any sense of urgency for PHSO. This would suggest to us that you are already moving forward with your plans and in fact the seminars and the User Panel are simply the outward gestures to demonstrate that PHSO is now a 'listening' organisation. Put us alongside your outreach to Muslim women, older people and those with learning disabilities and you create an illusion of working alongside your customers which has very little basis in reality. It is difficult to know in what way a set of promises wrapped up in a Service Charter would be any different to the Principles of good complaint handling which currently guide your practice and in our experience are largely ignored. Unless the Service Charter is statutory then there is nothing to hold you to your promises.



Regarding statutory changes to the working of PHSO, it was clear from Dame Julie Mellor's response to PASC that PHSO have been working hand in glove with Mr. Gordon, who is currently charged with holding an inquiry into the Ombudsman landscape. I quote;

**"For example, Jane Martin, the Local Government Ombudsman, I and our team have been working to say what this future service will look like and how we can move towards it as much as possible now. We have fed that in to Robert Gordon over the summer, and I know our staff have had regular meetings, so he has been very open and receptive to ideas for how your recommendations might be put into practice."**

This all rather looks like the decisions for the future of the Ombudsman landscape have all been agreed some time ago and even though Mr. Gordon's inquiry is not yet over, PHSO have already started to promote an outcome (Phase 3) which predicts changes to legislation. This rather makes a mockery out of any 'public consultation' process, let alone Parliamentary debate which results from Mr. Gordon's report. We would also dispute the statement made by Ms. Mellor that, "... **Robert Gordon has been very good at going out and listening to everyone...**" After repeated attempts, which began in January 2014, users of the service, in the form of Pressure Group representatives and members of charities such as the Patient Association, finally secured a short meeting with Mr. Gordon on 6th October, but by then he had virtually completed his report. It was clear at this meeting that Mr. Gordon had not spoken to any other service users or to representatives of your own union (PCS). The union represents the front line staff who are faced with an increasing work load and who displayed a marked lack of confidence in senior management decisions in the 2013 staff survey. Not consulted by Mr. Gordon.

It is a great shame that PHSO could not organise itself to take advantage of the good will of members of the Pressure Group who were prepared to freely give up their time and contribute to your 'forward journey'. We have now been let down once again. I am happy to discuss any of the points raised here or your concerns with the IFF report by telephone or by email.

[phsothefacts.com](http://phsothefacts.com)

---

From: Sally.Sykes@ombudsman.org.uk

To: phso-thefacts@outlook.com

CC: ombudsman.org.uk; Mick.Martin@ombudsman.gsi.gov.uk;  
ombudsman.org.uk

Subject: Re: Dates?

Date: Sat, 22 Nov 2014 00:13:28 +0000

Thx - the work on good complaints handling was committed to a year ago and

announced by the Secretary of State for Health last November as a system wide initiative - we have done it in partnership with others in the health and social care system. There is still more to do on our own service charter.

The service charter work builds on it. The 3 phases set out in my slides from the Westminster Briefing event also refer to ombudsman reform generally (for efficiency, effectiveness and a better and simpler service to the public) regarding our convergence with the Local Government Ombudsman. These are on a time frame of 2-3 years and are separate from the Service Charter - there's still such a lot we can do in our own service development in the meantime.

I will gladly explain more in a call and I wanted to discuss the seminar report so you had sight of it prior to publication.

If your preference is email communication then I will send the draft to you. It would be preferable to talk though, regards Sally.

**Sally Sykes**

**Executive Director of External Affairs and Strategy**

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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Dear Sally,

It looks as though you have done your 'listening to customers' and follow up report already.

<http://www.nationalhealthexecutive.com/Health-Care-News/new-guide-for-good-complaints-handling-across-health-and-social-care> Shame none of us were included to deliver some 'I statements'.

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[phsothefacts.com](http://phsothefacts.com)

---

From: [Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)  
 To: [phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)  
 CC: [ombudsman.org.uk](http://ombudsman.org.uk);  
[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk);  
[ombudsman.org.uk](http://ombudsman.org.uk)  
 Subject: RE: Dates?  
 Date: Thu, 20 Nov 2014 08:49:17 +0000

Dear [redacted] – hope you are well, it was good to see you at PASC last week. On the panel dates, [redacted] is just getting to critical mass on the numbers by inviting some more users of our service – as you can imagine, we are trying to achieve a representative sample. We are aiming to do the first one before Christmas but recognise (and feel!) the diary pressures – will keep you posted, [redacted] who leads the service charter work knows that you want to attend yourself and rotate a further panel member from your group. We are also mindful of travel planning and very grateful for the volunteer time. We've finalised our work on the IFF seminar report and I would like to talk to you about publication plans – it's the IFF write up and then what we're doing about it. Mick and the team are indeed cracking on with the old cases work, but I have copied him in just to alert him to your concerns. Would it be possible to book a call at your convenience next week?

Best wishes Sally

**Sally Sykes**

**Executive Director of External Affairs and Strategy**

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**Subject:** Dates?

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**From:** -  
**To:** [Sykes Sally](#)  
**Cc:** . [++caseworkteam@ombudsman.org.uk](mailto:++caseworkteam@ombudsman.org.uk)  
**Subject:** FW: Dates - response from Pressure  
**Date:** 24 November 2014 16:48:53

---

RESTRICTED

Sally

Please can I ask you to make sure that you discuss with Mick before replying to this email as I understand he was going to try and ring this afternoon and I'm not sure if he's managed to get hold of her.

Thanks,

---

**From:**  
**Sent:** 24 November 2014 16:40  
**To:** ++caseworkteam@ombudsman.org.uk  
**Cc:**  
**Subject:** FW: Dates - response from Pressure

RESTRICTED

We have not acknowledged.

EA to MD

---

**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]  
**Sent:** 24 November 2014 16:38  
**To:** Sykes Sally  
**Cc:** Martin Mick;  
**Subject:** RE: Dates - response from Pressure

Dear Sally,

I believe I speak for the majority of the Pressure Group when I say that we are feeling let down by PHSO's ability to investigate and resolve our historic complaints. We also feel 'sidelined' in relation to contributing to your modernisation programme. Let me start with our personal cases.

Most of us feel that we are in a holding pattern, with sporadic updates which contain so little information that it is almost pointless sending them. It is difficult for us to know why it is taking so long to examine these cases when there is now a wealth of evidence collected via SAR and FOI indicating maladministration. Many in the group have waited patiently to hear the outcomes of their investigation only to find, weeks later, that the viability of their case is still under consideration. These setbacks cause untold emotional damage and have not been handled with appropriate sensitivity.

I spoke to Mr. Martin some time ago and asked for a timeline, so that we could understand the process and know when to wait and when to expect an outcome. None was forthcoming and consequently members of the group have to continually request updates directly from their 'buddy' or request them of me (when I know nothing). This is just not good enough and not in line with Mr. Martin's comments to PASC that, "**We are getting much clearer and more transparent about how we communicate and how we go about doing our investigations.**" We would like to see this in action or there is nothing to convince us that these are not just 'empty words' and rhetoric.

On the second issue, the seminars were promised by Mr. Martin for November and even as late the 10th November you confirmed that they would go ahead later this month. Now we find that they have been postponed. In marketing gathering the opinion of your target market comes close to the start of the process. If you don't know what is wrong then how can you start to fix it. Yet the feedback sessions via the seminars do not seem to have any sense of urgency for PHSO. This would suggest to us that you are already moving forward with your plans and in fact the seminars and the User Panel are simply the outward gestures to demonstrate that PHSO is now a 'listening' organisation. Put us alongside your outreach to Muslim women, older people and those with learning disabilities and you create an illusion of working alongside your customers which has very little basis in reality. It is difficult to know in what way a set of promises wrapped up in a Service Charter would be any different to the Principles of good complaint handling which currently guide your practice and in our experience are largely ignored. Unless the Service Charter is statutory then there is nothing to hold you to your promises.

Regarding statutory changes to the working of PHSO, it was clear from Dame Julie Mellor's response to PASC that PHSO have been working hand in glove with Mr. Gordon, who is currently charged with holding an inquiry into the Ombudsman landscape. I quote;

**"For example, Jane Martin, the Local Government Ombudsman, I and our team have been working to say what this future service will look like and how we can move towards it as much as possible now. We have fed that in to Robert Gordon over the summer, and I know our staff have had regular meetings, so he has been very open and receptive to ideas for how your recommendations might be put into practice."**

This all rather looks like the decisions for the future of the Ombudsman landscape have all been agreed some time ago and even though Mr. Gordon's inquiry is not yet over, PHSO have already started to promote an outcome (Phase 3) which predicts changes to legislation. This rather makes a mockery out of any 'public consultation' process, let alone Parliamentary debate which results from Mr. Gordon's report. We would also dispute the statement made by Ms. Mellor that, **"... Robert Gordon has been very good at going out and listening to everyone..."** After repeated attempts, which began in January 2014, users of the service, in the form of Pressure Group representatives and members of charities such as the Patient Association, finally secured a short meeting with Mr. Gordon on 6th October, but by then he had virtually completed his report. It was clear at this meeting that Mr. Gordon had not spoken to any other service users or to representatives of your own union (PCS). The union represents the front line staff who are faced with an increasing work load and who displayed a marked lack of confidence in senior management decisions in the 2013 staff survey. Not consulted by Mr. Gordon. It is a great shame that PHSO could not organise itself to take advantage of the good will of members of the Pressure Group who were prepared to freely give up their time and contribute to your 'forward journey'. We have now been let down once again. I am happy to discuss any of the points raised here or your concerns with the IFF report by telephone or by email.

[phsothefacts.com](http://phsothefacts.com)

---

From: [Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)

To: [phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)

CC: [ombudsman.org.uk](http://ombudsman.org.uk); [Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk);  
[ombudsman.org.uk](http://ombudsman.org.uk)

Subject: Re: Dates?

Date: Sat, 22 Nov 2014 00:13:28 +0000

Thx - the work on good complaints handling was committed to a year ago and announced by the Secretary of State for Health last November as a system wide initiative - we have done it in partnership with others in the health and social care system. There is still more to do on our own service charter.

The service charter work builds on it. The 3 phases set out in my slides from the Westminster Briefing event also refer to ombudsman reform generally (for efficiency, effectiveness and a better and simpler service to the public) regarding our convergence with the Local Government Ombudsman. These are on a time frame of 2-3 years and are separate from the Service Charter - there's still such a lot we can do in our own service development in the meantime.

I will gladly explain more in a call and I wanted to discuss the seminar report so you had sight of it prior to publication.

If your preference is email communication then I will send the draft to you. It would be preferable to talk though, regards Sally.

**Sally Sykes**

**Executive Director of External Affairs and Strategy**

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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On 21 Nov 2014, at 20:11, phso the facts <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)> wrote:

Dear Sally,

It looks as though you have done your 'listening to customers' and follow up report already.

<http://www.nationalhealthexecutive.com/Health-Care-News/new-guide-for-good-complaints-handling-across-health-and-social-care> Shame none of us were included to deliver some 'I statements'.

According to the slide below, presented by yourself at the Westminster Briefing seminar, it would also appear that the plan for future development of PHSO is already well under way with only the technical detail of legislative change to put in place. No doubt you have been working closely with the Cabinet Office as they undergo their review. So are the proposed



'workshops' and 'user panel' anything more than a public relations exercise?  
I am presuming that you will publish the IFF report on your website and be good enough to send us a link, so I am not really sure what there is to discuss next week. Perhaps you could provide more information via email, as I am sure we both have a great many things pressing on our time.

[phsothefacts.com](http://phsothefacts.com)

---

From: [Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)  
To: [phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)  
CC: [ombudsman.org.uk](http://ombudsman.org.uk);  
[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk);  
[ombudsman.org.uk](http://ombudsman.org.uk)

Subject: RE: Dates?

Date: Thu, 20 Nov 2014 08:49:17 +0000

Dear - hope you are well, it was good to see you at PASC last week.

On the panel dates, is just getting to critical mass on the numbers by inviting some more users of our service - as you can imagine, we are trying to achieve a representative sample. We are aiming to do the first one before Christmas but recognise (and feel!) the diary pressures - will keep you posted, who leads the service charter work knows that you want to attend yourself and rotate a further panel member from your group. We are also mindful of travel planning and very grateful for the volunteer time.

We've finalised our work on the IFF seminar report and I would like to talk to you about publication plans - it's the IFF write up and then what we're doing about it. Mick and the team are indeed cracking on with the old cases work, but I have copied him in just to alert him to your concerns.

Would it be possible to book a call at your convenience next week?

Best wishes Sally

Sally Sykes

Executive Director of External Affairs and Strategy

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]

**Sent:** 17 November 2014 15:11

**To:** Sykes Sally

**Subject:** Dates?

Hi Sally,

Following on from our conversation last week, are you able to give us the dates for the seminars in London and Manchester. You confirmed that they would take place in November and we are at the 17th today. Also the date of

the first user panel meeting if you have it.

There is also some concern among the group about the time it is taking to review our cases and the lack of contact from our 'buddies'. I have spoken to Mick Martin before about this but just get promises which don't materialise. Can you shed any light on the case resolution issue?

Thanks

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**From:** [Martin Mick](#)  
**To:** [Sykes Sally](#)  
**Cc:** [John Annette](#); [Barr Russell](#); [McBurnie Gavin](#)  
**Subject:** Fwd: Dates - response from Pressure  
**Date:** 24 November 2014 22:05:31

---

Sally,

I spoke with [redacted] about this today in the course of updating her about her complaint. It is fair to say that before I did update her she was feeling much more unhappy. She said she was about to send the note to you.

Two issues:

We do need to be better at updating long standing complainants on the timelines for any work/ responses we are undertaking. I will follow that up with Annette.

What was intended as two sessions to discuss our modernisation work with the group has changed to integrate with the Service Charter programme - that feels like delay and dilution to [redacted] and the group.

Let's discuss with Annette.

Mick

Sent from my iPad

Begin forwarded message:

**From:** phso the facts <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)>  
**Date:** 24 November 2014 16:38:27 GMT  
**To:** sally sykes <[sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)>  
**Cc:** <[ombudsman.org.uk](mailto:ombudsman.org.uk)>, Martin Mick  
<[mick.martin@ombudsman.gsi.gov.uk](mailto:mick.martin@ombudsman.gsi.gov.uk)>,  
<[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Subject:** RE: Dates - response from Pressure

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Most of us feel that we are in a holding pattern, with sporadic updates which contain so little information that it is almost pointless sending them. It is difficult for us to know why it is taking so long to examine these cases when there is now a wealth of evidence collected via SAR and FOI indicating maladministration. Many in the group have waited patiently to hear the outcomes of their investigation only to find, weeks later, that the viability of their case is still under consideration. These setbacks cause untold emotional damage and have not been handled with appropriate sensitivity.

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**"For example, Jane Martin, the Local Government Ombudsman, I and our team have been working to say what this future service will look like and how we can move towards it as much as possible now. We have fed that in to Robert Gordon over the summer, and I know our staff have had regular meetings, so he has been very open and receptive to ideas for how your recommendations might be put into practice."**

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senior management decisions in the 2013 staff survey. Not consulted by Mr. Gordon.

It is a great shame that PHSO could not organise itself to take advantage of the good will of members of the Pressure Group who were prepared to freely give up their time and contribute to your 'forward journey'. We have now been let down once again. I am happy to discuss any of the points raised here or your concerns with the IFF report by telephone or by email.

[phsothefacts.com](http://phsothefacts.com)

---

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To: [phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)  
CC: [ombudsman.org.uk](mailto:ombudsman.org.uk);  
[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk);  
[ombudsman.org.uk](mailto:ombudsman.org.uk)

Subject: Re: Dates?

Date: Sat, 22 Nov 2014 00:13:28 +0000

Thx - the work on good complaints handling was committed to a year ago and announced by the Secretary of State for Health last November as a system wide initiative - we have done it in partnership with others in the health and social care system. There is still more to do on our own service charter.

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**Sally Sykes**

**Executive Director of External Affairs and Strategy**

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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<http://www.nationalhealthexecutive.com/Health-Care-News/new-guide-for-good-complaints-handling-across-health-and-social-care> Shame none of us were included to deliver some 'I statements'.

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[phsothefacts.com](http://phsothefacts.com)

---

From: [Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)  
To: [phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)  
CC: [ombudsman.org.uk](mailto:ombudsman.org.uk);  
[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk);  
[ombudsman.org.uk](mailto:ombudsman.org.uk)  
Subject: RE: Dates?

Date: Thu, 20 Nov 2014 08:49:17 +0000

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Would it be possible to book a call at your convenience next week?

Best wishes Sally

**Sally Sykes**

**Executive Director of External Affairs and Strategy**

Parliamentary and Health Service Ombudsman

T: 0300 061 1521

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W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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---

**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]

**Sent:** 17 November 2014 15:11



**To:** Sykes Sally  
**Subject:** Dates?

Hi Sally,

Following on from our conversation last week, are you able to give us the dates for the seminars in London and Manchester. You confirmed that they would take place in November and we are at the 17th today. Also the date of the first user panel meeting if you have it.

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Thanks

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**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]  
**Sent:** 26 November 2014 08:53  
**To:** Martin Mick  
**Subject:** Thank you

Dear Mr. Martin,

thank you for taking the time to phone me the other day and to reassure me that my case is still on track. I am aware that others in the group are still feeling anxious and out of touch with the progress of their cases and I am therefore making a personal request of you.

If it is within your power can you arrange for a Pressure Group seminar to take place by mid December in London and Manchester as initially suggested. We would really like to meet face to face with the staff handling our cases, so that would be yourself, Russell Barr, Annette John and Gavin McBurnie plus any others you feel are involved. We believe that Sally Sykes has her main focus on the corporate PR of the Ombudsman and we do not wish to be used as part of an 'outreach' programme where ours views are diluted by the confines of the agenda.

I am aware that a face to face meeting, in the near future, would go a long way to restoring trust and confidence in the Ombudsman and in your personal claims that the Ombudsman is listening, learning and changing. I am therefore hopeful that you will be able to respond swiftly to this request and prioritise this meeting.

I will wait to hear from you,

Best wishes,

[phsothefacts.com](http://phsothefacts.com)

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**From:**  
**To:**  
**Subject:** FW: Statement re PHSO The Facts - pressure group founded by  
**Date:** 26 November 2014 16:28:46

---

**From:** Tom Smurthwaite [mailto:tom.smurthwaite@trinitymirror.com]  
**Sent:** 26 November 2014 15:58  
**To:**  
**Subject:** Statement re PHSO The Facts - pressure group founded by

Hi there

As just discussed on the phone... I'm putting together a piece about Mrs [redacted] and her work with the pressure group PHSO The Facts.

Mrs [redacted] would like to see the PHSO reformed as she believes many cases are not dealt with properly, ie time delays, referral to judicial review, thrown out for 'subjective' reasons.

Can the PHSO comment on whether there is a need for reform? And if so, what does it think needs to be adjusted in the way it handles complaints?  
Can also, if you want, explain the positive work of the PHSO, the vital role it has and why it is important as the final arbitrator.

My deadline is noon tomorrow (Thursday).  
Only need between 50 and 150 words-ish.

Many thanks

Tom

--

Tom Smurthwaite  
Surrey Advertiser - Elmbridge edition  
01483 508915  
[www.getsurrey.co.uk](http://www.getsurrey.co.uk)  
[twitter.com/ElmbridgeTom](https://twitter.com/ElmbridgeTom)  
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**From:**  
**To:**  
**Cc:**  
**Subject:** For approval: Statement re PHSO The Facts - pressure group founded by  
**Date:** 26 November 2014 16:51:09  
**Importance:** High

---

## Issue

A local Surrey paper has done a feature on \_\_\_\_\_ where she has mentioned her campaigning work. Questions from the journalist:

Mrs \_\_\_\_\_ would like to see the PHSO reformed as she believes many cases are not dealt with properly, ie time delays, referral to judicial review, thrown out for 'subjective' reasons.

Can the PHSO comment on whether there is a need for reform? And if so, what does it think needs to be adjusted in the way it handles complaints?

Can also, if you want, explain the positive work of the PHSO, the vital role it has and why it is important as the final arbitrator.

**Deadline is noon tomorrow (Thursday).** Only needs between 50 and 150 words-ish. The below statement is 135. Sally said it doesn't need to go to Julie.

## Line to take

A Parliamentary and Health Service spokesman said:

'We are radically modernising. We are already giving more people justice by moving from doing hundreds of investigations to thousands every year and have halved the average time it takes to complete a case whilst still maintaining satisfaction levels.

'We value feedback about our service and are now working on a service charter - a set of promises to service users and service providers - so they know what they can expect from the service and are pleased PHSO the Facts has agreed to be part of this work.

'We make final adjudications on complaints and where we uphold complaints we make recommendations for remedy. If we find big or repeated issues, we work with others to develop system wide solutions and share our work with Parliament so they hold the providers of public services to account.'

**From:** Tom Smurthwaite [mailto:tom.smurthwaite@trinitymirror.com]  
**Sent:** 26 November 2014 15:58  
**To:**  
**Subject:** Statement re PHSO The Facts - pressure group founded by

Hi there

As just discussed on the phone... I'm putting together a piece about Mrs \_\_\_\_\_ and her work with the pressure group PHSO The Facts.

Mrs \_\_\_\_\_ would like to see the PHSO reformed as she believes many cases are not dealt with properly, ie time delays, referral to judicial review, thrown out for 'subjective' reasons.

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My deadline is noon tomorrow (Thursday).  
Only need between 50 and 150 words-ish.

Many thanks

Tom

--

Tom Smurthwaite  
Surrey Advertiser - Elmbridge edition  
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[www.getsurrey.co.uk](http://www.getsurrey.co.uk)  
[twitter.com/ElmbridgeTom](https://twitter.com/ElmbridgeTom)  
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**From:** .  
**To:** . [Sykes Sally](#); .  
**Cc:** .  
**Subject:** Amendments required to the draft report to PHSO Pressure Group documents  
**Date:** 27 November 2014 09:54:47  
**Attachments:** [Communication strategy for release of the draft report to PHSO Pressure Group.pdf](#)

---

Hi,

s.36

Please can you get the amended document back to me as soon as possible.

Kind regards,

Executive Office Team Assistant  
Parliamentary and Health Service Ombudsman

T:

E: [@ombudsman.org.uk](mailto:@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** .  
**To:** [Martin Mick](#)  
**Cc:** [Sykes Sally](#)  
**Subject:** PHSOTheFacts - meeting date  
**Date:** 28 November 2014 16:54:47  
**Attachments:** [image001.png](#)  
[image002.png](#)






---

Hi Mick, for info. . has just tweeted about waiting for a meeting date. Sally suggested the response below saying we'll be in touch soon, which I tweeted back.

Best wishes

[Tweets](#) [Tweets & replies](#) [Photos & videos](#)

 **phsothefacts** @nohearingus · 1h  
.@AmulesDays @PHSOmbudsman Pressure Group seminar with PHSO - still waiting for a date....  
    [View conversation](#)

 **PHS Ombudsman** @PHSOmbudsman · 31s  
@nohearingus @AmulesDays Just looking at diaries. We'll be in touch soon.  
    [View conversation](#)

**Marketing & Communications Manager**  
Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](http://ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** .  
**To:** [Martin Mick](#)  
**Cc:** [Sykes Sally](#)  
**Subject:** RE: PHSOTheFacts - meeting date  
**Date:** 01 December 2014 09:40:52

---

Hi Mick,  
posted this on Friday evening: .@[PHSOmbudsman](#) @[AmulesDays](#) good. Hope you are looking at December.  
Best wishes

---

**From:** Martin Mick  
**Sent:** 28 November 2014 17:03  
**To:**  
**Subject:** Re: PHSOTheFacts - meeting date  
Thanks

Sent from my iPhone

On 28 Nov 2014, at 16:54, " < [ombudsman.org.uk](mailto:ombudsman.org.uk) > wrote:

Hi Mick, for info. has just tweeted about waiting for a meeting date. Sally suggested the response below saying we'll be in touch soon, which I tweeted back.  
Best wishes

**Marketing & Communications Manager**  
Parliamentary and Health Service Ombudsman  
T: 0300 061 3924  
E: [ombudsman.org.uk](mailto:ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)  
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**From:** [phso the facts](#)  
**To:** . [Martin Mick](#)  
**Cc:** [++caseworkteam@ombudsman.org.uk](#); .  
**Subject:** RE: Handing over case submissions  
**Date:** 01 December 2014 16:40:01

---

Thank you. I will ask for at reception.

[phsothefacts.com](#)

---

**From:** ombudsman.gsi.gov.uk  
**To:** phso-thefacts@outlook.com; Mick.Martin@ombudsman.gsi.gov.uk  
**CC:** caseworkteam@ombudsman.org.uk; ombudsman.gsi.gov.uk  
**Subject:** RE: Handing over case submissions  
**Date:** Mon, 1 Dec 2014 15:43:49 +0000

Of course,  
It's likely to be my colleague ( ) who I've also copied in to this email.  
Thanks,

**Assistant Casework Manager**

Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](#)

W: [www.ombudsman.org.uk](#)

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---

**From:** phso the facts [mailto:phso-thefacts@outlook.com]

**Sent:** 01 December 2014 15:33

**To:** Martin Mick

**Cc:** ++caseworkteam@ombudsman.org.uk

**Subject:** RE: Handing over case submissions

Thank you for your prompt reply. Can you pass on the name of the person so that I can ask for them at reception?

Many thanks

[phsothefacts.com](#)

---

**From:** [ombudsman.gsi.gov.uk](#)  
**To:** [phso-thefacts@outlook.com](#); [Mick.Martin@ombudsman.gsi.gov.uk](#)

CC: [ombudsman.org.uk](http://ombudsman.org.uk); [caseworkteam@ombudsman.org.uk](mailto:caseworkteam@ombudsman.org.uk)

Subject: RE: Handing over case submissions

Date: Mon, 1 Dec 2014 15:23:12 +0000

Thank you for your email

Mick and I both have a meeting scheduled at 2pm on that day but someone from this team will be able to pop down and pick up the papers.

I'll put it in our diary and I'll let reception know so they can call us when you arrive.

Please just email or call if there's any change or you need anything else.

Kind Regards,

**Assistant Casework Manager**

Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](http://ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** phso the facts [<mailto:phso-thefacts@outlook.com>]

**Sent:** 01 December 2014 11:00

**To:** Martin Mick

**Cc:**

**Subject:** Handing over case submissions

As there has been no date set for the Pressure Group seminars with PHSO I am keen to hand over the remaining case submissions for review by senior management. I have nine cases here and would like to hand them personally to either Mr. Martin or a member of staff working in his office.

I have another meeting in London on 10th December in the morning. It would suit me to hand these files over at Millbank House in the afternoon at about 2.00 pm. Can you confirm that someone will be able to collect them from me in the lobby area?

Many thanks,

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**From:** phso the facts <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)>  
**Date:** 2 December 2014 18:58:19 GMT  
**To:** Martin Mick <[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)>  
**Subject:** RE: Handing over case submissions

No problem. It has all been sorted out. I will hand them in to

Enjoy your break.

[phsothefacts.com](http://phsothefacts.com)

---

From: [Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)  
To: [phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)  
Subject: Re: Handing over case submissions  
Date: Tue, 2 Dec 2014 18:34:42 +0000

Hello

I am on annual leave at the moment, will address meetings etc on my return later this week.

Mick

Sent from my iPad

On 1 Dec 2014, at 11:00, "phso the facts" <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)> wrote:

As there has been no date set for the Pressure Group seminars with PHSO I am keen to hand over the remaining case submissions for review by senior management. I have nine cases here and would like to hand them personally to either Mr. Martin or a member of staff working in his office.

I have another meeting in London on 10th December in the morning. It would suit me to hand these files over at Millbank House in the afternoon at about 2.00 pm. Can you confirm that

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Many thanks,

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Charter Project. is now Mick Martin's PA. contact details are:  
0300 061 4053 and her email address is [ombudsman.org.uk](mailto:ombudsman.org.uk).

I thought I would take this opportunity to thank you for confirming that you are able to participate in our service charter Customer Panel.

We have finalised our preparation work for the project and are ready to organise the first panel meeting. I have attached the terms of reference for the panel.

Having checked diaries at this end, and the availability of our external facilitator, we are able to suggest four possible dates for the panel to take place.

Wed 10<sup>th</sup> December 12.30 - 14.00

Wed 10<sup>th</sup> December 15.30 - 17.00

Thursday 18<sup>th</sup> December 9.00 - 13.00

Friday 19<sup>th</sup> December 9.00 - 15.00

I do apologise for the late notice, but we are keen that the first panel takes place in December so that the project can progress in good time.

Could you please advise us of your availability on the dates given above? The panel meeting will last just two hours and will take place in London. Please feel free to phone us, or if you prefer just email us back with your response.

You will see from the attached terms of reference that we will reimburse you for any travel cost you incur.

Please let me know if you need any clarification about the terms of reference.

This is a document we are sending to all panel members as some people might find it helpful. I will also post these details to you.

The purpose of the first panel meeting will be to go through the aims and objectives of the Service Charter Project, talk through the key milestones of the project and discuss the role of the panel.

During this meeting we will also discuss future Panel meetings, preferred dates and venues. We expect the panel to meet three more times in January, February and March.

I would be grateful for an early response, so that we can confirm the date and time as soon as possible. Please do call me if that would be easier.

**My telephone number is**

Finally we hope to be in a position to advise on the dates of the Service Charter workshops which will take place during January and February. I understand that three members of PHSO-thefacts will be participating. If it helps, we will be more than happy to book travel and accommodation for them so as to avoid any inconvenience. As soon as I have the dates I will be in touch.

Best wishes

**Interim Head of Service Charter**

Parliamentary and Health Service Ombudsman

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W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** <[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Date:** 3 December 2014 17:10:33 GMT  
**To:** Mellor Julie <[Julie.Mellor@ombudsman.org.uk](mailto:Julie.Mellor@ombudsman.org.uk)>, Martin Mick  
<[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)>, Sykes Sally  
<[Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)>  
**Cc:** <[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Subject:** Press release on changes

Hi Julie,  
As discussed here is the press release we would like to send out on Friday at 09.30. It will be published alongside the phso-the facts report and the IFF customer satisfaction summary (we will send this separately)  
Sally will speak to \_\_\_\_\_ and share the report an hour before it is published.  
We will inform staff and share the report just before it is published externally.  
Grateful for feedback tomorrow morning.  
Thanks

**Acting Head of Media, Marketing & Internal Communications**  
Parliamentary and Health Service Ombudsman  
T:  
E: [ombudsman.org.uk](mailto:ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)  
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**From:**  
**To:**  
**Subject:** PHSO the Facts - gripes  
**Date:** 04 December 2014 11:16:59

---

PHSO the Facts argues PHSO is 'not fit for purpose' and should be 'totally' reformed.

The pressure group has two objectives: to improve the service for all those who follow, so that each receives a fair and unbiased investigation, remedy and closure; and to compel the Ombudsman to thoroughly investigate historic cases where they perceive them to have had no satisfactory resolution.

Participants believed PSHO would be the final opportunity to have their complaint dealt with but their experience of complaining to PHSO was negative, with no resolution of their complaint.

Participants described the emotional impact of having to relive their trauma over and over again, of feeling abandoned and let down by PHSO and having no redress or closure at the end of the process.

Participants stated that the impact of this had left various people needing serious care to help them deal with the distress it had caused them. One participant stated that they had been suicidal after the PHSO report on their case s.36

### Gathering evidence and engaging with bodies in jurisdiction

- Participants felt PHSO can lack the level of independence required in order to perform the function of holding public bodies to account. the relationship between the PHSO and those bodies being complained about was too close. participants to feel that there is an element of collusion (some claimed corruption) between PHSO and Bodies in Jurisdiction.
- Perception PHSO was more likely to take the word of bodies in jurisdiction at face value compared to the word of complainants themselves and that, on occasion, not all of the appropriate evidence from the body under investigation is gathered.
- Participants felt the victim should be believed first and foremost.
- Participants felt that despite having no expertise, complainants are expected to provide evidence to prove their case, in addition to assessing evidence submitted by those bodies in jurisdiction

### Concerns regarding the investigation process and collation of evidence included:

- The criteria used to decide what complaints to investigate, and how and why PHSO uses 'discretion' to decide that a case is not worth investigating;
- On occasion PHSO fails to investigate a complaint due to a lack of evidence - participants felt this should not prevent PHSO opening an investigation;
- PHSO accepts evidence submitted by the organisation under investigation at 'face-value', and does not scrutinise their version of events appropriately;
- PHSO takes the word of professionals from the NHS/Parliamentary Bodies over complainants, and ignores complainants when they try to point out

- inaccuracies or missing evidence;
- Complainants do not have appropriate opportunities to scrutinise the evidence submitted by the organisation under investigation, and the evidence for the case overall;
- There is no opportunity for the complainant to discuss with PHSO where evidence is missing, inaccurate or false, whereas the organisation under investigation has the opportunity to discuss the case with PHSO in an informal way;
- Bodies continue to discuss a complaint with PHSO, even when a complainant has been told that the case has been closed;
- Participants were concerned that, in old cases, PHSO does not accept new evidence as reason to re-examine a case.

#### **Independence and expertise of clinical experts used by PHSO to assess medical cases. Issues included:**

- Concern that clinical advisers may collude in 'cover-ups' regarding medical notes submitted by NHS staff;
- Concern that PHSO sometimes uses clinical advisers who are not qualified, from the wrong discipline, also employed by the NHS (therefore not independent) or retired, and a perception that PHSO provides confidentiality to clinical advisors, meaning that complainants have no opportunity to check their professional expertise, independence and credentials;
- A sense that clinical advisers just tell PHSO 'what they want to hear';
- Concern that clinical advisers, as experts in how to write a report, can turn evidence against the complainant (some participants felt clinical advisors were complicit with PHSO in trying to find against complainants);
- A belief the balance of power is in favour of the assessment/report of the clinical advisor, rather than the complainant, as they are a medical expert. Consequently if a complainant disagrees with an assessment, or how it has been arrived at, PHSO will back their clinical adviser over the complainant

#### **Inappropriate investigations and reports included.**

- Investigations and reports perceived to focus too much on the small details, rather than the big picture, potentially picking out minor points in a case and using these to dismiss the whole complaint;
- Reports not believed to fully answer the issue or concern raised;
- Report conclusions lacking clear logic;
- A perception among participants that PHSO merges separate complaints (e.g. one of maladministration and one of negligence) into the same complaint investigation and report;
- How the issue of recompense is discussed and decided with bodies under investigation; and the influence of these bodies in shaping reports.
- For participants this was compounded by what they saw as a defensive or adversarial approach to communications, together with a lack of responsiveness from staff.
- Also mentioned was the inappropriate use of the phrase 'no worthwhile outcome', in the past, to explain why PHSO had decided not to investigate a complaint

#### **Review process**

- A feeling that the review process focuses on procedures rather than the actual case, therefore it is not actually a review of the complaint; and
- A sense that the review process is used to close down a complaint, and that once you are with the review team 'nothing gets you out of there'.
- Some participants claimed to have been ignored or insulted by the review team.

#### Other complaints

- They felt that Parliamentary scrutiny of PHSO is not sufficient, resulting in a perceived lack of accountability for PHSO's performance.
- There was a concern that public bodies can drag out the complaints process in order to reduce the likelihood of a legal proceeding at a later stage. Participants questioned why there is any time limit placed on cases.
- Participants suggested that the Ombudsman has not acted on recommendations from the House of Commons Public Administration Select Committee (PASC)
- Participants perceived that the PHSO deliberately avoids investigating or upholding complaints where their findings may challenge significant policy issues or contentious issues.

#### Senior press officer

Parliamentary and Health Service Ombudsman

T:

E: [ombudsman.org.uk](mailto:ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**From:** .  
**To:**  
**Cc:** [Sykes Sally](#)  
**Subject:** Today's main news story  
**Date:** 05 December 2014 09:04:56  
**Attachments:** [PHSO the facts - seminar report - Nov 2014.pdf](#)  
[customer satisfaction.pdf](#)  
**Importance:** High

---

This is the (currently) revised intro text for the press release.  
I have attached the one pager PDF from the slide pack (minus page number) and I have reattached for ease of access the PHSO the facts report PDF as sent over to you by yesterday (just in case you need it!).  
The cleared press release text will follow shortly directly from with aim of it going out within the next hour. We'll get a bit of time to publish it internally first but I've removed the exact timings from the note below.  
On my mobile for next 10 mins.  
Cheers

---

#### **Key report published today**

Later this morning (Friday 5 December) we will be publishing a report [\[LINK\]](#) on a seminar held between members of PHSO's senior management team and the pressure group *PHSO the Facts* as part of our commitment to be transparent about the progress we are making in modernising our service.

The accompanying press release will highlight the dramatic increase in the number of complaints that we've handled, and how we've upheld more than 950 complaints about public services since 1 April 2014. It sets out what we've already done in response to customer feedback and our commitment to keep listening and improving as part of our drive to launch a Service Charter.

Based on comprehensive customer research, the press release also highlights the relationship between customer satisfaction and whether or not a case is upheld; for example 88% of customers whose complaint were fully upheld were satisfied, compared to 53% of those whose complaint was not upheld [\[LINK\]](#). Overall customer satisfaction levels are comparable with other ombudsman services.

---

**From:** [Sykes Sally](#)  
**To:** .  
**Cc:** .  
**Subject:** RE: PDF of the PHSOtf report  
**Date:** 05 December 2014 09:23:46

---

Pls change it if you can and let me, and have the 'final final' pls S

---

**From:**  
**Sent:** 05 December 2014 09:23  
**To:** Sykes Sally;  
**Cc:**  
**Subject:** RE: PDF of the PHSOtf report

There was something that asked if we could change in the description of the structure of the seminar. Not a biggy, but we should make the change if it's not too late.  
Will get to send the PDF.

**Marketing and Communications Manager**  
Parliamentary and Health Service Ombudsman  
T:  
E: [ombudsman.org.uk](mailto:ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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---

**From:** Sykes Sally  
**Sent:** 05 December 2014 08:49  
**To:**  
**Cc:**  
**Subject:** PDF of the PHSOtf report

Grateful if I cd be sent the final locked PDF pls thx S

**Sally Sykes**  
**Executive Director of External Affairs and Strategy**  
Parliamentary and Health Service Ombudsman  
T: [0300 061 1521](tel:03000611521)  
E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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On 5 Dec 2014, at 08:25, <[ombudsman.org.uk](mailto:ombudsman.org.uk)> wrote:

We are publishing one page of the report and yes this is the press release that will upload

thanks

-----Original Message-----

From:

Sent: 05 December 2014 07:41

To:

Cc: Sykes Sally;

Subject: Re: Article for tomorrow morning

Hi

Do you mean we are publishing one page as a report or we are taking a page out?

Is this the press release will be putting up?

Kind regards,

Web Editor

Parliamentary and Health Service Ombudsman Millbank Tower Millbank  
London SW1P 4QP

On 5 Dec 2014, at 07:14,

<[ombudsman.org.uk](mailto:ombudsman.org.uk)> wrote:

Hi guys,

Julie doesn't want the whole customer satisfaction report publishing. Just one of the charts on page 13, so please hang fire until we supply the correct information. The press release is just going to have minor changes.

Sent from my iPhone

On 4 Dec 2014, at 17:55,

<[@ombudsman.org.uk](mailto:@ombudsman.org.uk)> wrote:

This message cannot be displayed because of the way it is formatted.

Ask the sender to send it again using a different format or email program. message/rfc822

**From:** .  
**To:** [Sykes Sally;](#) .  
**Subject:** Fwd: Final final  
**Date:** 05 December 2014 10:17:03  
**Attachments:** [PHSO-the-facts-seminar-report-Nov-2014.pdf](#)  
[ATT00001.htm](#)

---

Web Editor  
Parliamentary and Health Service Ombudsman  
Millbank Tower  
Millbank  
London SW1P 4QP

Begin forwarded message:

**From:**  
**Date:** 5 December 2014 10:15:36 GMT  
**To:**  
**Subject:** Final final

PLEASE NOTE: THE ABOVE MESSAGE WAS RECEIVED FROM THE INTERNET.

On entering the GSI, this email was scanned for viruses by the Government Secure Intranet (GSI) virus scanning service supplied exclusively by Cable & Wireless in partnership with MessageLabs.

In case of problems, please call your organisational IT Helpdesk.

The MessageLabs Anti Virus Service is the first managed service to achieve the CSIA Claims Tested Mark (CCTM Certificate Number 2006/04/0007), the UK Government quality mark initiative for information security products and services. For more information about this please visit

[www.cctmark.gov.uk](http://www.cctmark.gov.uk)

**From:** Sykes Sally <[Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)>  
**Date:** 5 December 2014 10:37:04 GMT  
**To:** " ( @ < @ .  
Martin Mick <[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)>  
**Cc:** Martin Mick <[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)>, <[ombudsman.org.uk](mailto:ombudsman.org.uk)>, <[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Subject:** Seminar Report - going on-line today

Dear

In line with your suggestion in your email of 21 November, we are today publishing the report of the independent seminar conducted with IFF, together with our actions to improve having listened to feedback. An advance copy of the report is attached and it will go live later today on our website.

I also wanted to assure you that we are already acting on the feedback from PHSO the Facts and building it into our Service Charter development . However, some of the feedback from the group needed us to act at pace to put improvements in place, but this does not take away the need for us also to do the Service Charter work for a comprehensive service modernisation to take place over the coming months. It also doesn't mean that we are anticipating the Service Charter consultation outcomes.

Separately from the Service Charter involvement, I know you had a call with Mick on the follow up to your group's cases and I understand work is in hand to meet you with an update.

We are looking forward to seeing you and at the Service Charter service user panel meeting on 19<sup>th</sup> December. Thank you for your continued commitment , giving up your time and for your involvement in our service improvement journey, with best regards, Sally

Sally Sykes  
Executive Director of External Affairs and Strategy  
Parliamentary and Health Service Ombudsman  
T: 0300 061 1521

E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)

W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)

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**IFF Research**



**Parliamentary  
and Health Service  
Ombudsman**

# Report on seminar with PHSO the Facts

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## Introduction from the Parliamentary and Health Service Ombudsman

We are modernising, so that we can better meet the needs of the people who need our service.

To help us with this, in the summer we asked an independent research agency to facilitate a seminar with members of the voluntary pressure group, PHSO the Facts ([www.phsothefacts.com](http://www.phsothefacts.com)). The aim was to find out what they thought needs to change in our organisation. We were pleased to get such honest and frank feedback. The comments and experiences that members of the Group shared with us have shone a light on some areas where we genuinely need to learn and improve. They also reflect past experiences of our service that we had recognised needed to change, and that we have taken steps to address.

The last year has seen us building the foundations for a major transformation of our service. We have already made some significant changes. Some of the personal experiences of members of PHSO the Facts, expressed in this report, pre-date these changes. For example, we now have different criteria for accepting complaints for investigation. So instead of hundreds of statutory investigations a year, we now conduct thousands. We are now giving so many more people the kind of closure that sometimes only a final, statutory adjudication by us can bring.

We are now ready for the next stage in our modernisation plans. This will cover every aspect of what we do. Our aim is to put users of our service at the heart of our work, giving them the best service at every stage of their journey with us—from the first point of contact through to our decision-making and investigation methods.

Over the coming months we will invite more feedback from past, existing and future users, consumer and advocacy groups, and the government and health service organisations we investigate. Their views will help us develop a new Service Charter, which will describe the service people can expect from us in future.



We are extremely grateful to PHSO the Facts for their full and open participation in the seminar. A report, produced by the research agency IFF Research, follows this introduction. We have also highlighted throughout the report changes we have made, and others that we are planning, which are relevant to points raised by members of PHSO the Facts.

Myself and my colleagues are meeting each of the participants in the seminar individually. There may be further learning from their personal experiences that can help us shape our service for our future service users. I am confident that we are listening and learning from feedback, and changing and modernising our service.

**Mick Martin**  
**Managing Director**

December 2014

## Acknowledgements

The report that follows was prepared by the independent research agency, IFF Research, on a seminar held with the pressure group, PHSO the Facts ([www.phsothefacts.com](http://www.phsothefacts.com)).

IFF Research is an independent research agency that specialises in researching public policy issues, and has considerable experience of undertaking research concerning the work of the Ombudsman and the views of their users and stakeholders.

# Introduction and context

## Introduction

IFF Research was commissioned by the Parliamentary and Health Service Ombudsman (PHSO) to facilitate a seminar between PHSO and PHSO the Facts as part of the wider work PHSO are doing to seek feedback and learning from customers, organisations in jurisdiction and stakeholders. The seminar was held on Thursday 26th June 2014.

## About PHSO

The Parliamentary and Health Service Ombudsman (PHSO) combines the two statutory roles of Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) and Health Service Commissioner for England (Health Service Ombudsman). Its role is to investigate complaints that individuals have been treated unfairly or have received poor service from government departments, other public organisations and the NHS in England.

## About PHSO the Facts

The PHSO the Facts website<sup>1</sup> states that the aim of the group is to demonstrate to the Public Administration Select Committee (PASC) that the PHSO is 'not fit for purpose' and should be 'totally' reformed.

The pressure group has two objectives: to improve the service for all those who follow, so that each receives a fair and unbiased investigation, remedy and closure; and to compel the Ombudsman to thoroughly investigate historic cases where they perceive them to have had no satisfactory resolution.

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<sup>1</sup> [www.phsothefacts.com/join-pressure-group](http://www.phsothefacts.com/join-pressure-group)

## About IFF Research

IFF Research is an independent research agency that specialises in researching public policy issues, and has considerable experience of undertaking research concerning the work of PHSO and the views of PHSO customers and stakeholders<sup>2</sup>.

## Structure of the seminar

The seminar was attended by 20 members of PHSO the Facts, senior members of staff from PHSO and three members of staff from IFF Research (in a facilitation role).

The seminar included introductions, a workshop session gathering feedback on the customer experience from PHSO the Facts members and a discussion on the key themes to emerge from the seminar.

The rest of the report sets out the broad themes to emerge from the workshop discussions, captures the views of participants reflected in the feedback and discussion session.

The seminar represented an opportunity for senior individuals at the PHSO to reflect upon the comments from the pressure group and consider those activities and strategies that the PHSO is currently delivering or planning to deliver, which are relevant to the feedback gathered. The report highlights these activities in the 'Learning and improvements' sections throughout the report. These are presented on separate pages in order to differentiate this information from that provided by the group.

This report reflects the views of members of PHSO the Facts raised at the seminar. It is not intended to be representative. It does not reflect the views of IFF Research.

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<sup>2</sup> IFF Research previously conducted the 2009 PHSO Stakeholder and Impact Studies; [post-Francis research](#) among NHS Trusts' Chief Executives, Board Chairs, and Non-Executive Directors regarding their complaints practices; evaluation research examining the PHSO website; and the ongoing PHSO Customer Satisfaction Survey and qualitative follow-up work to map out PHSO customer journeys.

## Key themes from the seminar

In this chapter we summarise the key themes to emerge from participant feedback throughout the seminar. The key themes have been separated into two distinct areas: Those themes relating to the overarching public complaints environment and the Ombudsman's relationship with Parliament, and those relating to the investigation process.



# Ombudsman reform and improving the independence, accountability and transparency of public complaints systems

## Improving the public complaints system

Participants discussed having been involved in the complaints system for a number of years, attempting to have their complaint dealt with appropriately for their needs. They described having to negotiate several different routes to resolve their complaints (e.g. various NHS systems, PHSO and legal routes).

*“It [the complaints system] seems designed not to work”.*

Participants felt that the complaints landscape can be complicated and confusing, and that they had ‘slipped through the gaps’ between different complaints processes, with no one addressing their complaint appropriately.

*“Each institution has just allowed me to slip through the cracks”.*

In many cases their complaint had spanned a period of time in which there had been significant changes at the PHSO (including different Ombudsmen and investigations staff). Participants had approached PHSO with the belief that they would be there as a final opportunity to have their complaint dealt with appropriately. However, they all felt that their experience of complaining to the PHSO had been negative, with no resolution of their complaint.

This led many to feel that there is no ‘safety net’ anymore. In their opinion the last point of recourse, i.e. PHSO, had let them down, in the same way that all previous complaints processes had.

Participants described the negative impacts that being in the complaints system for so long can have, including the negative impact on their own physical and mental health and the sheer time and effort involved in having to battle for recognition of their complaint for some time.



Participants told us that the length of time that it takes to go through the complaints process of an NHS organisation in England or a parliamentary body, then the PHSO complaints process, has a significant impact on their ability to bring a legal case if they do not get the outcome they wish for from PHSO<sup>3</sup>.

Consequently, participants felt that ‘the clock is ticking’ on the timescale of their complaint as soon as it is made.

*“You’ve already been through the NHS process, that’s taken a year perhaps, go through the Ombudsman, that’s another year, what time have you got left for legal action?”*

There was a concern that public bodies can drag out the complaints process in order to reduce the likelihood of a legal proceeding at a later stage. Participants questioned why there is any time limit placed on cases.

## **Ombudsman oversight and accountability**

Participants in the seminar felt that PHSO can lack the level of independence required in order to perform the function of holding public bodies to account. They also felt that Parliamentary scrutiny of PHSO is not sufficient, resulting in a perceived lack of accountability for PHSO’s performance.

Participants suggested that the Ombudsman has not acted on recommendations from the House of Commons Public Administration Select Committee (PASC) for an overhaul of the Ombudsman.

Participants felt that the Ombudsman does not always apply the principles that they themselves set out as good practice, does not always provide redress and justice to the public, and is not capable of getting a resolution because of the boundaries of the legal remit that surrounds it.

---

3 For example, there is a three year limit for clinical negligence claims - [www.nhs.uk/claims/pages/advice.aspx](http://www.nhs.uk/claims/pages/advice.aspx).



## Learning and improvements

### Our service

#### Time bar for bringing complaint to us

The legislation that governs our work says that users should bring complaints to us within 12 months (or to a Member of Parliament to refer on to us if the complaint is not about the NHS in England).

We recognise how long it can take sometimes to go through the local NHS complaints process. That is why we have always been able to use our discretion to take on complaints even if people come to us after a year.

Now we are going further. For serious complaints about the NHS in England, if there is enough evidence to make an investigation viable we will, as a general rule, investigate – even if the complaint is several years old.

#### Helping service providers improve complaint handling

We know that pursuing a complaint through local resolution and then escalation processes can take time and determination.

We want to do more to help service providers improve the way they handle complaints – resolving complaints at service level, quickly and effectively, is better for the user and their ongoing relationship with the service provider. That's why, for the first time, in collaboration with Healthwatch England and the Local Government Ombudsman, we have defined what good complaint handling looks like. The document, *'My expectations for raising concerns and complaints'*, looks at complaint handling from the complainant's perspective and is a set of statements that people might say if they had had a positive experience of making a complaint. Service providers will be able to measure their complaint handling against the statements, to see how well they are doing and where they may need to improve the way they deal with complaints. We are pleased that leaders in the health care system are already committing to using *'My expectations for raising concerns and complaints'*.



## One Public Ombudsman service for England and UK reserved matters

Complaining about public services can mean negotiating a confusing maze of organisation and systems. It needs to be simpler. We are calling for there to be one ombudsman service covering all public services, local and national, in England and all non-devolved services. A unified Public Ombudsman Service would be designed around the needs of people and would aim to make it quicker and easier for users to make a complaint. It would provide a common approach to investigations, so it would be easier and fairer for service providers, and would make it easier to detect big and repeated service failures.

While our vision for one Public Ombudsman Service may be some way into the future, we are already paving the way for it by working with the Local Government Ombudsman to bring our processes and procedures into line with each other.

## Accountability

### Openness and transparency

We now post information about our performance on our website on a monthly basis and every quarter we publish hundreds of summaries of cases we've resolved, so people can see the kinds of complaints we deal with and the decisions we have made.

But we know we need to share more information about our processes and how we make decisions on cases.

We have started work on a new Service Charter. This will be a major step forward in describing our service and explaining how we work. It will cover everything from how we make decisions about whether to investigate a complaint, how we deal with cases where someone could, or is, seeking alternative legal remedy, and how we share facts and findings with the parties to the complaint.

### Accountability to Parliament

Our role is to shine a light on public service failings, so that public service providers can be held to account for the services they provide. Our own performance is currently scrutinised by the Public Administration Select Committee (PASC).

In our view there is a tension between PASC's role in scrutinising our performance and its role in championing our work in Parliament to bring about change and improvement in public service provision.

We are pleased that PASC has recommended that the Public Accounts Commission, or a similar body, should take over primary responsibility for scrutinising our performance. This would allow PASC to focus on using the insight we share through our reports to hold public services to account for acting on our recommendations.

## Investigation process at the PHSO

### Gathering evidence and engaging with bodies in jurisdiction

Participants in the seminar often mentioned how they felt the relationship between the PHSO and those bodies being complained about was too close. This included a perception that the PHSO was more likely to take the word of bodies in jurisdiction at face value compared to the word of complainants themselves and that, on occasion, not all of the appropriate evidence from the body under investigation is gathered. Participants felt the victim should be believed first and foremost.

This perceived imbalance in power also extended to the provision of evidence, where participants felt that despite having no expertise, complainants are expected to provide evidence to prove their case, in addition to assessing evidence submitted by those bodies in jurisdiction.

Other specific concerns regarding the investigation process and collation of evidence included:

- The criteria used to decide what complaints to investigate, and how and why PHSO uses 'discretion' to decide that a case is not worth investigating;
- On occasion PHSO fails to investigate a complaint due to a lack of evidence - participants felt this should not prevent PHSO opening an investigation;
- PHSO accepts evidence submitted by the organisation under investigation at 'face-value', and does not scrutinise their version of events appropriately;
- PHSO takes the word of professionals from the NHS/Parliamentary Bodies over complainants, and ignores complainants when they try to point out inaccuracies or missing evidence;
- Complainants do not have appropriate opportunities to scrutinise the evidence submitted by the organisation under investigation, and the evidence for the case overall;



- There is no opportunity for the complainant to discuss with PHSO where evidence is missing, inaccurate or false, whereas the organisation under investigation has the opportunity to discuss the case with PHSO in an informal way;
- Bodies continue to discuss a complaint with PHSO, even when a complainant has been told that the case has been closed; and
- Participants were concerned that, in old cases, PHSO does not accept new evidence as reason to re-examine a case.

Various experiences relating to these issues had led many participants to feel that there is an element of collusion (some claimed corruption) between PHSO and Bodies in Jurisdiction. For example, one participant stated that they felt the PHSO had allowed ‘manipulation and tactical misdiagnoses’ of evidence submitted by an NHS Trust, while another stated that PHSO had accepted ‘manufactured statements’ from medical professionals.

## Clinical Advisers

Another issue raised by participants was the independence and expertise of the clinical experts used by PHSO to assess medical cases. Specific issues mentioned included:

- Concern that clinical advisers may collude in ‘cover-ups’ regarding medical notes submitted by NHS staff;
- Concern that PHSO sometimes uses clinical advisers who are not qualified, from the wrong discipline, also employed by the NHS (therefore not independent) or retired, and a perception that PHSO provides confidentiality to clinical advisers, meaning that complainants have no opportunity to check their professional expertise, independence and credentials;
- A sense that clinical advisers just tell PHSO ‘what they want to hear’;
- Concern that clinical advisers, as experts in how to write a report, can turn evidence against the complainant (some participants felt clinical advisers were complicit with PHSO in trying to find against complainants); and
- A belief that the balance of power is in favour of the assessment/report of the clinical advisor, rather than the complainant, as they are a medical expert. Consequently if a complainant disagrees with an assessment, or how it has been arrived at, PHSO will back their clinical adviser over the complainant.

## Communicating with complainants and final reports

Participants were frustrated about what they felt were inappropriate investigations and reports.

*“Your complaint will be about the ceiling, but you’ll get an answer about the walls or the floors - they don’t answer the exact question you are asking.”*

Examples of their concerns included:

- Investigations and reports perceived to focus too much on the small details, rather than the big picture, potentially picking out minor points in a case and, in participants’ opinion, using these to dismiss the whole complaint;
- Reports not believed to fully answer the issue or concern raised;
- Report conclusions lacking clear logic;
- A perception among participants that PHSO merges separate complaints (e.g. one of maladministration and one of negligence) into the same complaint investigation and report; and
- How the issue of recompense is discussed and decided with bodies under investigation; and the influence of these bodies in shaping reports.

For participants this was compounded by what they saw as a defensive or adversarial approach to communications, together with a lack of responsiveness from staff.

Also mentioned was the inappropriate use of the phrase ‘no worthwhile outcome’, in the past, to explain why PHSO had decided not to investigate a complaint<sup>4</sup>.

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<sup>4</sup> This term was formally removed from PHSO’s processes in late March 2012, in response to customer feedback.



## The review process

Participants discussed the process of making a complaint about PHSO's service (known as a 'review'). A number of concerns were raised, including:

- A feeling that the review process focuses on procedures rather than the actual case, therefore it is not actually a review of the complaint; and
- A sense that the review process is used to close down a complaint, and that once you are with the review team 'nothing gets you out of there'.

Some participants claimed to have been ignored or insulted by the review team.

## Impact of investigation decisions and duty of care

Participants discussed the impact that PHSO's decision not to investigate their complaint, or not to uphold their case, had had on them, in terms of both their physical and mental health. They described the emotional impact of having to relive their trauma over and over again, of feeling abandoned and let down by PHSO and having no redress or closure at the end of the process.

Participants stated that the impact of this had left various people needing serious care to help them deal with the distress it had caused them. One participant stated that they had been suicidal after the PHSO report on their case.

Participants questioned how PHSO handles its duty of care to complainants, and suggested that they did not see sufficient evidence of suitable duty of care in operation.

## Retention and disposal policy

Participants questioned what the retention and disposal policy of PHSO is, and suggested that it should be reviewed so that important information is not lost. Participants reported that they believed PHSO had destroyed their case files, within what they viewed as an inappropriate time period<sup>5</sup>.

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<sup>5</sup> PHSO keeps all information about complaints for two years after their last action on the case. At that point PHSO deletes some of the electronic and paper records.



## Investigation and upholding of complaints relating to Government policy

Participants perceived that the PHSO deliberately avoids investigating or upholding complaints where their findings may challenge significant policy issues or contentious issues. In their view, PHSO avoids such cases as it is concerned about the embarrassment it may cause the NHS and/or Government and it considers them too complex to deal with. As one participant claimed:

*“They do not want to challenge policy decisions, embarrass policy-driven rationing [of care] and decisions made that are unethical [and designed] to save money”.*

## Corruption in the system

Some participants discussed their belief that there is endemic systematic corruption of the State, which extends to PHSO’s relationship with the Bodies in its Jurisdiction. One participant suggested that all of the various complaints discussed in the seminar need to be considered under an umbrella of “state controlled fraud”.

*“There is endemic systematic corruption in this country right up to the top.”*

## Learning and improvements

### More investigations, faster outcomes

Some of the concerns raised by participants relate to decisions we had made to not investigate their complaints in the past. These date back to a time when we took a different approach to assessing whether or not to investigate. Some of these complaints may have been handled differently if they were considered now, under our current process, which we changed in 2013.

In 2013, in response to strong feedback from users and Parliament, we made a fundamental change to the way we consider complaints, so that we can help more people. Now, if a complaint meets some essential criteria, we will usually investigate it. As a result, in 2013-14, we investigated six times as many complaints as we did the year before – 2,199 compared to 384. We are upholding more complaints and getting service providers to acknowledge and address the impact their mistakes have had on people's lives. We are bringing more people closure.

We have also shortened the length of time it takes us to investigate complaints. In 2012-13, the average length of an investigation was 317 days. In 2013-14, we concluded 95% of cases within six months.

Other concerns raised by members of the group were about decisions we had made to not uphold their complaints. Our job is to investigate and make final decisions on complaints based on evidence. We are the end of the complaints process, and so we recognise that some people will inevitably feel disappointed and let down if we decide not to uphold their complaint.

### Improving our service

We have made other changes to the way we work, to improve people's experience of our service and their confidence in the impartiality of our processes. These include:

- Talking to complainants much more and relying less on emails and letters.
- Speaking to people involved in the case, to gather evidence. In the most serious cases, we interview people.
- Sharing a statement of facts with both the complainant and the organisation complained about at the same time.
- Sharing our draft and final investigation reports with both parties at the same time.



## Going further: our new Service Charter

We have explained in this report how we are already using new ways of working, so that we can help more people. What comes next is a more radical transformation of our service. Our new Service Charter, which we have begun to develop, is a set of promises about our service, covering everything from the time we will take to investigate a complaint, to how we approach our investigations and who we will share our findings with. The comments from the seminar with PHSO the Facts will help us to shape the Charter and make clear what users can expect in the future.

---

<mailto:service.charter@ombudsman.org.uk>

#PHSOservicecharter

**From:**  
**To:** [+ExternalAffairs&StrategyGroup](#); [Executive Office](#); [Martin Mick](#);  
**Subject:** TO BE AWARE: For immediate release: Ombudsman Service upholds more than 950 complaints since April 2014 - PHSO press release  
**Date:** 05 December 2014 11:51:53

---

Hello,

Please find below a press release we have just issued to the media.

The link to the PHSO The Facts report on our website is here

[http://www.ombudsman.org.uk/\\_data/assets/pdf\\_file/0010/28963/PHSO-the-facts-seminar-report-Nov-2014.pdf](http://www.ombudsman.org.uk/_data/assets/pdf_file/0010/28963/PHSO-the-facts-seminar-report-Nov-2014.pdf)

Many thanks

**From:** clientreleases@gorkana.com [mailto:clientreleases@gorkana.com]

**Sent:** 05 December 2014 11:50

**To:**

**Subject:** CONFIRMATION: For immediate release: Ombudsman Service upholds more than 950 complaints since April 2014



## For immediate release

### Ombudsman Service upholds more than 950 complaints since April 2014

New data published today has revealed that since April this year the Parliamentary and Health Service Ombudsman has upheld hundreds more complaints than in previous years.

So far this year, the Ombudsman Service has completed 2,532 investigations about the NHS in England and UK government departments and their agencies. It upheld complaints in 960 of these investigations. In the same period last year (April to November 2013) it completed 867 investigations and upheld 344 cases.

As a result of listening and learning from people's experience of its service, and better understanding of what people expect, the Ombudsman Service has embarked on a radical modernisation drive.

Parliamentary and Health Service Ombudsman Julie Mellor said:

'We have made important changes to our service including giving more people justice by doing thousands of investigations every year and halving the average time it takes to complete a case, whilst maintaining satisfaction with our service and decisions.

'We are on a journey and will continue to listen and be open and transparent about the changes we are making.'

Feedback from independent customer satisfaction surveys, stakeholder feedback, Freedom of Information Act requests, complaints about its decisions, a workshop with the pressure group PHSO The Facts and discussions with long standing complainants has shown that sometimes the Ombudsman Service can be slow, bureaucratic, lack transparency and does not always communicate clearly with people.

Following this feedback the changes it has been making include:

- **More investigations.** So far this year the service has completed 2,532 investigations. In the full year 2013-14 it investigated 2,199 complaints, up from 384 the year before.
- **Quicker investigations.** It completed 99% of cases in 12 months, halving the average time to complete a case from 432 to 223 days. Customers no longer have to go through detailed assessments before investigations begin.
- **Use discretion more positively** to investigate serious health cases brought to the service outside the normal 12 month period specified in law.
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- **Performance statistics published online** on a monthly basis, which show the number of enquiries received, the number of on-going investigations and the number of completed investigations.
- Launching an **on-line complaint form** next month.
- **It is standardising its service and methods**, so that people can get a consistent service. This will include:
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- **Sharing investigation methodology at the start of investigations.**
- Giving complainants more **regular updates** on the progress of their case.

Parliamentary and Health Service Ombudsman Julie Mellor added:

'If someone has a poor experience of our service it really matters to us and that's why our focus is on listening and learning so we provide an even better service to the 27,000 people whose complaints we deal with every year.'

The first phase of the modernisation drive focused on delivering what people told the Ombudsman Service they wanted - more investigations.

The Ombudsman Service is now moving to the next phase of its modernisation agenda and will be carrying out a comprehensive listening exercise to develop a Service Charter - a set of promises to service users, so the public and service providers know what they can expect from the service.

The Ombudsman Service is the final tier of the complaints system and its job is to make formal and final adjudications on complaints. As with other Ombudsman Services there will be times when people are disappointed with its

decision not to uphold a complaint or when it is unable to investigate. That's why it is so important for it to be open and transparent about the way it does things and the basis for its decisions, so people are able to get closure and move on with their lives.

Customer satisfaction figures, published today by the Ombudsman Service, reveals that there is a strong relationship between customer satisfaction and whether or not a case is upheld. For example, 88% of customers whose complaints were fully upheld were satisfied with the Ombudsman Service. In contrast, customer satisfaction where complaints were not upheld was 53%.

Its customer satisfaction levels are comparable with other ombudsman services. In 2012-13, the Financial Ombudsman Service found that 90% of their customers who felt they had 'won' their complaint gave positive feedback on the service they had received. In contrast, 48% of those who said they had 'lost' their complaint gave positive feedback.

Because the Ombudsman Service is taking on many more investigations than before, the proportion of investigations upheld has inevitably declined, from 86% in 2012-13 to 39% in 2013-14. This is in line with the uphold rates of other ombudsman services.

As part of its commitment to be transparent about the progress it is making in transforming its service the Ombudsman Service has published an independent report following a workshop with PHSO the Facts, a pressure group, alongside customer satisfaction figures for 2013-14 and this month's performance figures.

#### Notes to editors

The link to the Ombudsman's Service performance data is [here](#).

PHSO customer satisfaction data from independent research company IFF



Press office contacts: Marina Soteriou, 0300 061 4996  
[marina.soteriou@ombudsman.org.uk](mailto:marina.soteriou@ombudsman.org.uk), Jeremy Dunning 0300 061 4220  
[jeremy.dunning@ombudsman.org.uk](mailto:jeremy.dunning@ombudsman.org.uk) and Ben Miller 0300 061 4324  
[ben.miller@ombudsman.org.uk](mailto:ben.miller@ombudsman.org.uk).

Four out-of-hours media enquiries please call 07825 781 289 or email  
[press@ombudsman.org.uk](mailto:press@ombudsman.org.uk)

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quality mark initiative for information security products and services. For more information about this please visit [www.cctmark.gov.uk](http://www.cctmark.gov.uk)

**From:**  
**To:** [Executive Office](#); [+ExternalAffairs&StrategyGroup](#); [++LeadershipTeam](#); [Bird-Newell Denise](#); [Harding Anne](#); [Martin Mick](#); [Procter Mike](#); [Sykes Sally](#); [Barr Russell](#); [Morgan Chris](#); [Medlock Andrew](#); [John Annette](#); [Kellett Jack](#); [McBurnie Gavin](#);  
**Cc:**  
**Subject:** Update: Ombudsman Service upholds more than 950 complaints since April 2014 - press release  
**Date:** 05 December 2014 14:53:16  
**Attachments:** [image001.png](#)

---

Hello all,

This is an update on the media work for the press release we issued today, for immediate release.

The press release was sent to national health correspondents, health trade press and local government trade press.

We have had no media interest yet and no interview bids have come through.

We have published the PHSO The Facts report on the website, which you can find using this link

[http://www.ombudsman.org.uk/\\_data/assets/pdf\\_file/0010/28963/PHSO-the-facts-seminar-report-Nov-2014.pdf](http://www.ombudsman.org.uk/_data/assets/pdf_file/0010/28963/PHSO-the-facts-seminar-report-Nov-2014.pdf)

Our latest performance stats are available on the home page (on the top right hand link) <http://www.ombudsman.org.uk/improving-public-service/performance-statistics>

Many thanks

## PRESS RELEASE



**Parliamentary  
and Health Service  
Ombudsman**

**For immediate release**

**Ombudsman Service upholds more than 950 complaints since April 2014**

New data published today has revealed that since April this year the Parliamentary and Health Service Ombudsman has upheld hundreds more complaints than in previous years.

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As a result of listening and learning from people's experience of its service, and better understanding of what people expect, the Ombudsman Service has embarked on a radical modernisation drive.

Parliamentary and Health Service Ombudsman Julie Mellor said:

'We have made important changes to our service including giving more people justice by doing thousands of investigations every year and halving the average time it takes to complete a case, whilst maintaining satisfaction with our service and decisions.

'We are on a journey and will continue to listen and be open and transparent about the changes we are making.'

Feedback from independent customer satisfaction surveys, stakeholder feedback, Freedom of Information Act requests, complaints about its decisions, a workshop with the pressure group PHSO The Facts and discussions with long standing complainants has shown that sometimes the Ombudsman Service can be slow, bureaucratic, lack transparency and does not always communicate clearly with people.

Following this feedback the changes it has been making include:

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‘If someone has a poor experience of our service it really matters to us and that’s why our focus is on listening and learning so we provide an even better service to the 27,000 people whose complaints we deal with every year.’

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The Ombudsman Service is now moving to the next phase of its modernisation agenda and will be carrying out a comprehensive listening exercise to develop a Service Charter - a set of promises to service users, so the public and service providers know what they can expect from the service.

The Ombudsman Service is the final tier of the complaints system and its job is to make formal and final adjudications on complaints. As with other Ombudsman Services there will be times when people are disappointed with its decision not to uphold a complaint or when it is unable to investigate. That’s why it is so important for it to be open and transparent about the way it does things and the basis for its decisions, so people are able to get closure and move on with their lives.

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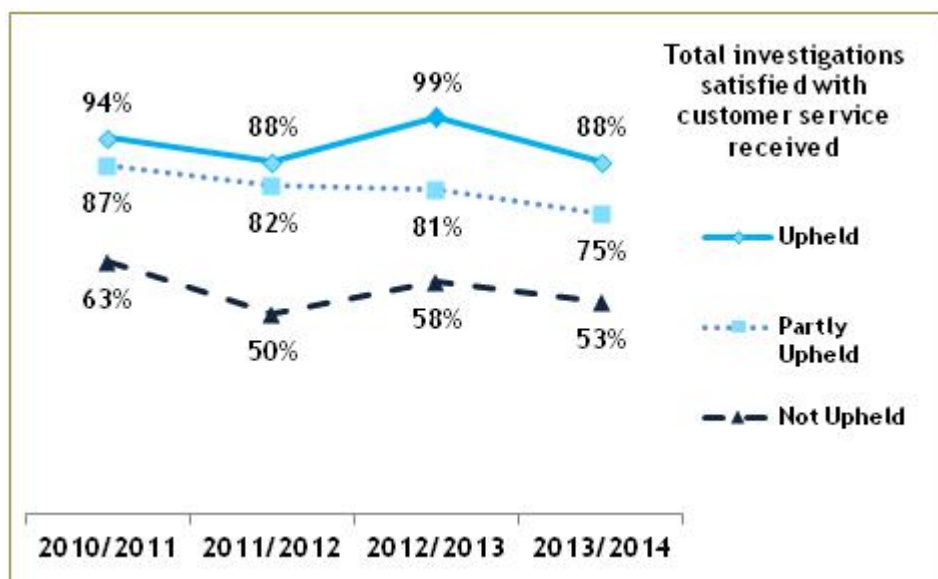
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PHSO customer satisfaction data from independent research company IFF





Press office contacts: Marina Soteriou, 0300 061 4996  
[marina.soteriou@ombudsman.org.uk](mailto:marina.soteriou@ombudsman.org.uk), Jeremy Dunning 0300 061 4220  
[jeremy.dunning@ombudsman.org.uk](mailto:jeremy.dunning@ombudsman.org.uk) and Ben Miller 0300 061 4324  
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Four out-of-hours media enquiries please call 07825 781 289 or email  
[press@ombudsman.org.uk](mailto:press@ombudsman.org.uk)

**From:** <[ombudsman.org.uk](mailto:ombudsman.org.uk)>  
**Date:** 5 December 2014 16:31:10 GMT  
**To:** Mellor Julie <[Julie.Mellor@ombudsman.org.uk](mailto:Julie.Mellor@ombudsman.org.uk)>, Martin Mick  
<[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)>  
**Cc:** Sykes Sally <[Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)>,  
<[ombudsman.org.uk](mailto:ombudsman.org.uk)>,  
<[ombudsman.org.uk](mailto:ombudsman.org.uk)>,  
<[@ombudsman.org.uk](mailto:@ombudsman.org.uk)>  
**Subject:** To be aware: Q&A relating to the PHSOthefacts seminar report

Hi there,  
Here's a Q&A about the PHSOthefacts seminar report for information.  
A statement is to follow.  
I'm on duty over the weekend.

**Senior Press Officer**  
Parliamentary and Health Service Ombudsman  
T:  
E: [ombudsman.org.uk](mailto:ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)  
Follow us on

To: Julie Mellor/Mick Martin

From:

Date: 5 December 2014

Subject: Media Q&A for PHSO changes press release and press release

### In this document

- Key messages
- Q&A (Annex A)
- Press release (Annex B)

### Key messages

We are radically modernising, focusing on listening and learning from people's experience of our service so we can better understand what people expect from us.	We are already giving more people justice by moving from doing hundreds of investigations to thousands every year and have halved the average time it takes to complete a case whilst still maintaining satisfaction levels.
Every time someone has a poor experience of our service it really matters to us and we work hard to put things right.	We are meeting with the families mentioned in this report as there may be further learning from their experiences to help shape our service for people who will need it in the future.

## Annex B

### PRESS RELEASE

For immediate release

#### Ombudsman Service upholds more than 950 complaints since April 2014

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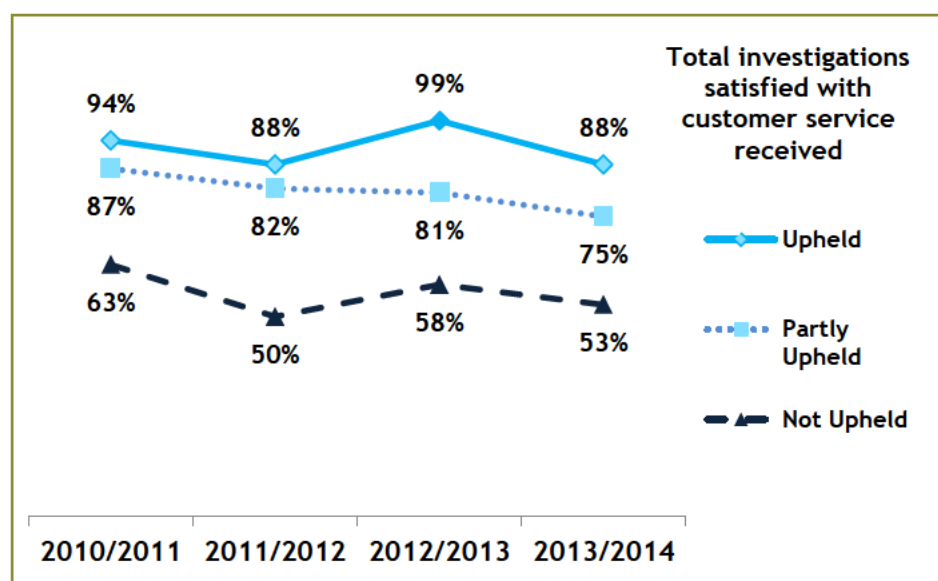
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PHSO customer satisfaction data from independent research company IFF





**IFF Research**



**Parliamentary  
and Health Service  
Ombudsman**

# Report on seminar with PHSO the Facts

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## Introduction from the Parliamentary and Health Service Ombudsman

We are modernising, so that we can better meet the needs of the people who need our service.

To help us with this, in the summer we asked an independent research agency to facilitate a seminar with members of the voluntary pressure group, PHSO the Facts ([www.phsothefacts.com](http://www.phsothefacts.com)). The aim was to find out what they thought needs to change in our organisation. We were pleased to get such honest and frank feedback. The comments and experiences that members of the Group shared with us have shone a light on some areas where we genuinely need to learn and improve. They also reflect past experiences of our service that we had recognised needed to change, and that we have taken steps to address.

The last year has seen us building the foundations for a major transformation of our service. We have already made some significant changes. Some of the personal experiences of members of PHSO the Facts, expressed in this report, pre-date these changes. For example, we now have different criteria for accepting complaints for investigation. So instead of hundreds of statutory investigations a year, we now conduct thousands. We are now giving so many more people the kind of closure that sometimes only a final, statutory adjudication by us can bring.

We are now ready for the next stage in our modernisation plans. This will cover every aspect of what we do. Our aim is to put users of our service at the heart of our work, giving them the best service at every stage of their journey with us—from the first point of contact through to our decision-making and investigation methods.

Over the coming months we will invite more feedback from past, existing and future users, consumer and advocacy groups, and the government and health service organisations we investigate. Their views will help us develop a new Service Charter, which will describe the service people can expect from us in future.

We are extremely grateful to PHSO the Facts for their full and open participation in the seminar. A report, produced by the research agency IFF Research, follows this introduction. We have also highlighted throughout the report changes we have made, and others that we are planning, which are relevant to points raised by members of PHSO the Facts.

Myself and my colleagues are meeting each of the participants in the seminar individually. There may be further learning from their personal experiences that can help us shape our service for our future service users. I am confident that we are listening and learning from feedback, and changing and modernising our service.

**Mick Martin**  
**Managing Director**

December 2014

## Acknowledgements

The report that follows was prepared by the independent research agency, IFF Research, on a seminar held with the pressure group, PHSO the Facts ([www.phsothefacts.com](http://www.phsothefacts.com)).

IFF Research is an independent research agency that specialises in researching public policy issues, and has considerable experience of undertaking research concerning the work of the Ombudsman and the views of their users and stakeholders.

# Introduction and context

## Introduction

IFF Research was commissioned by the Parliamentary and Health Service Ombudsman (PHSO) to facilitate a seminar between PHSO and PHSO the Facts as part of the wider work PHSO are doing to seek feedback and learning from customers, organisations in jurisdiction and stakeholders. The seminar was held on Thursday 26th June 2014.

## About PHSO

The Parliamentary and Health Service Ombudsman (PHSO) combines the two statutory roles of Parliamentary Commissioner for Administration (the Parliamentary Ombudsman) and Health Service Commissioner for England (Health Service Ombudsman). Its role is to investigate complaints that individuals have been treated unfairly or have received poor service from government departments, other public organisations and the NHS in England.

## About PHSO the Facts

The PHSO the Facts website<sup>1</sup> states that the aim of the group is to demonstrate to the Public Administration Select Committee (PASC) that the PHSO is 'not fit for purpose' and should be 'totally' reformed.

The pressure group has two objectives: to improve the service for all those who follow, so that each receives a fair and unbiased investigation, remedy and closure; and to compel the Ombudsman to thoroughly investigate historic cases where they perceive them to have had no satisfactory resolution.

---

<sup>1</sup> [www.phsothefacts.com/join-pressure-group](http://www.phsothefacts.com/join-pressure-group)



## About IFF Research

IFF Research is an independent research agency that specialises in researching public policy issues, and has considerable experience of undertaking research concerning the work of PHSO and the views of PHSO customers and stakeholders<sup>2</sup>.

## Structure of the seminar

The seminar was attended by 20 members of PHSO the Facts, senior members of staff from PHSO and three members of staff from IFF Research (in a facilitation role).

The seminar included introductions, a workshop session gathering feedback on the customer experience from PHSO the Facts members and a discussion on the key themes to emerge from the seminar.

The rest of the report sets out the broad themes to emerge from the workshop discussions, captures the views of participants reflected in the feedback and discussion session.

The seminar represented an opportunity for senior individuals at the PHSO to reflect upon the comments from the pressure group and consider those activities and strategies that the PHSO is currently delivering or planning to deliver, which are relevant to the feedback gathered. The report highlights these activities in the 'Learning and improvements' sections throughout the report. These are presented on separate pages in order to differentiate this information from that provided by the group.

This report reflects the views of members of PHSO the Facts raised at the seminar. It is not intended to be representative. It does not reflect the views of IFF Research.

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<sup>2</sup> IFF Research previously conducted the 2009 PHSO Stakeholder and Impact Studies; [post-Francis research](#) among NHS Trusts' Chief Executives, Board Chairs, and Non-Executive Directors regarding their complaints practices; evaluation research examining the PHSO website; and the ongoing PHSO Customer Satisfaction Survey and qualitative follow-up work to map out PHSO customer journeys.

## **Key themes from the seminar**

In this chapter we summarise the key themes to emerge from participant feedback throughout the seminar. The key themes have been separated into two distinct areas: Those themes relating to the overarching public complaints environment and the Ombudsman's relationship with Parliament, and those relating to the investigation process.

# Ombudsman reform and improving the independence, accountability and transparency of public complaints systems

## Improving the public complaints system

Participants discussed having been involved in the complaints system for a number of years, attempting to have their complaint dealt with appropriately for their needs. They described having to negotiate several different routes to resolve their complaints (e.g. various NHS systems, PHSO and legal routes).

*“It [the complaints system] seems designed not to work”.*

Participants felt that the complaints landscape can be complicated and confusing, and that they had ‘slipped through the gaps’ between different complaints processes, with no one addressing their complaint appropriately.

*“Each institution has just allowed me to slip through the cracks”.*

In many cases their complaint had spanned a period of time in which there had been significant changes at the PHSO (including different Ombudsmen and investigations staff). Participants had approached PHSO with the belief that they would be there as a final opportunity to have their complaint dealt with appropriately. However, they all felt that their experience of complaining to the PHSO had been negative, with no resolution of their complaint.

This led many to feel that there is no ‘safety net’ anymore. In their opinion the last point of recourse, i.e. PHSO, had let them down, in the same way that all previous complaints processes had.

Participants described the negative impacts that being in the complaints system for so long can have, including the negative impact on their own physical and mental health and the sheer time and effort involved in having to battle for recognition of their complaint for some time.





Participants told us that the length of time that it takes to go through the complaints process of an NHS organisation in England or a parliamentary body, then the PHSO complaints process, has a significant impact on their ability to bring a legal case if they do not get the outcome they wish for from PHSO<sup>3</sup>.

Consequently, participants felt that ‘the clock is ticking’ on the timescale of their complaint as soon as it is made.

*“You’ve already been through the NHS process, that’s taken a year perhaps, go through the Ombudsman, that’s another year, what time have you got left for legal action?”*

There was a concern that public bodies can drag out the complaints process in order to reduce the likelihood of a legal proceeding at a later stage. Participants questioned why there is any time limit placed on cases.

## **Ombudsman oversight and accountability**

Participants in the seminar felt that PHSO can lack the level of independence required in order to perform the function of holding public bodies to account. They also felt that Parliamentary scrutiny of PHSO is not sufficient, resulting in a perceived lack of accountability for PHSO’s performance.

Participants suggested that the Ombudsman has not acted on recommendations from the House of Commons Public Administration Select Committee (PASC) for an overhaul of the Ombudsman.

Participants felt that the Ombudsman does not always apply the principles that they themselves set out as good practice, does not always provide redress and justice to the public, and is not capable of getting a resolution because of the boundaries of the legal remit that surrounds it.

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3 For example, there is a three year limit for clinical negligence claims - [www.nhs.uk/claims/pages/advice.aspx](http://www.nhs.uk/claims/pages/advice.aspx).



# Learning and improvements

## Our service

### Time bar for bringing complaint to us

The legislation that governs our work says that users should bring complaints to us within 12 months (or to a Member of Parliament to refer on to us if the complaint is not about the NHS in England).

We recognise how long it can take sometimes to go through the local NHS complaints process. That is why we have always been able to use our discretion to take on complaints even if people come to us after a year.

Now we are going further. For serious complaints about the NHS in England, if there is enough evidence to make an investigation viable we will, as a general rule, investigate – even if the complaint is several years old.

### Helping service providers improve complaint handling

We know that pursuing a complaint through local resolution and then escalation processes can take time and determination.

We want to do more to help service providers improve the way they handle complaints – resolving complaints at service level, quickly and effectively, is better for the user and their ongoing relationship with the service provider. That's why, for the first time, in collaboration with Healthwatch England and the Local Government Ombudsman, we have defined what good complaint handling looks like. The document, *'My expectations for raising concerns and complaints'*, looks at complaint handling from the complainant's perspective and is a set of statements that people might say if they had had a positive experience of making a complaint. Service providers will be able to measure their complaint handling against the statements, to see how well they are doing and where they may need to improve the way they deal with complaints. We are pleased that leaders in the health care system are already committing to using *'My expectations for raising concerns and complaints'*.

## One Public Ombudsman service for England and UK reserved matters

Complaining about public services can mean negotiating a confusing maze of organisation and systems. It needs to be simpler. We are calling for there to be one ombudsman service covering all public services, local and national, in England and all non-devolved services. A unified Public Ombudsman Service would be designed around the needs of people and would aim to make it quicker and easier for users to make a complaint. It would provide a common approach to investigations, so it would be easier and fairer for service providers, and would make it easier to detect big and repeated service failures.

While our vision for one Public Ombudsman Service may be some way into the future, we are already paving the way for it by working with the Local Government Ombudsman to bring our processes and procedures into line with each other.

## Accountability

### Openness and transparency

We now post information about our performance on our website on a monthly basis and every quarter we publish hundreds of summaries of cases we've resolved, so people can see the kinds of complaints we deal with and the decisions we have made.

But we know we need to share more information about our processes and how we make decisions on cases.

We have started work on a new Service Charter. This will be a major step forward in describing our service and explaining how we work. It will cover everything from how we make decisions about whether to investigate a complaint, how we deal with cases where someone could, or is, seeking alternative legal remedy, and how we share facts and findings with the parties to the complaint.

### Accountability to Parliament

Our role is to shine a light on public service failings, so that public service providers can be held to account for the services they provide. Our own performance is currently scrutinised by the Public Administration Select Committee (PASC).

In our view there is a tension between PASC's role in scrutinising our performance and its role in championing our work in Parliament to bring about change and improvement in public service provision.

We are pleased that PASC has recommended that the Public Accounts Commission, or a similar body, should take over primary responsibility for scrutinising our performance. This would allow PASC to focus on using the insight we share through our reports to hold public services to account for acting on our recommendations.

## Investigation process at the PHSO

### Gathering evidence and engaging with bodies in jurisdiction

Participants in the seminar often mentioned how they felt the relationship between the PHSO and those bodies being complained about was too close. This included a perception that the PHSO was more likely to take the word of bodies in jurisdiction at face value compared to the word of complainants themselves and that, on occasion, not all of the appropriate evidence from the body under investigation is gathered. Participants felt the victim should be believed first and foremost.

This perceived imbalance in power also extended to the provision of evidence, where participants felt that despite having no expertise, complainants are expected to provide evidence to prove their case, in addition to assessing evidence submitted by those bodies in jurisdiction.

Other specific concerns regarding the investigation process and collation of evidence included:

- The criteria used to decide what complaints to investigate, and how and why PHSO uses 'discretion' to decide that a case is not worth investigating;
- On occasion PHSO fails to investigate a complaint due to a lack of evidence - participants felt this should not prevent PHSO opening an investigation;
- PHSO accepts evidence submitted by the organisation under investigation at 'face-value', and does not scrutinise their version of events appropriately;
- PHSO takes the word of professionals from the NHS/Parliamentary Bodies over complainants, and ignores complainants when they try to point out inaccuracies or missing evidence;
- Complainants do not have appropriate opportunities to scrutinise the evidence submitted by the organisation under investigation, and the evidence for the case overall;



- There is no opportunity for the complainant to discuss with PHSO where evidence is missing, inaccurate or false, whereas the organisation under investigation has the opportunity to discuss the case with PHSO in an informal way;
- Bodies continue to discuss a complaint with PHSO, even when a complainant has been told that the case has been closed; and
- Participants were concerned that, in old cases, PHSO does not accept new evidence as reason to re-examine a case.

Various experiences relating to these issues had led many participants to feel that there is an element of collusion (some claimed corruption) between PHSO and Bodies in Jurisdiction. For example, one participant stated that they felt the PHSO had allowed ‘manipulation and tactical misdiagnoses’ of evidence submitted by an NHS Trust, while another stated that PHSO had accepted ‘manufactured statements’ from medical professionals.

## Clinical Advisers

Another issue raised by participants was the independence and expertise of the clinical experts used by PHSO to assess medical cases. Specific issues mentioned included:

- Concern that clinical advisers may collude in ‘cover-ups’ regarding medical notes submitted by NHS staff;
- Concern that PHSO sometimes uses clinical advisers who are not qualified, from the wrong discipline, also employed by the NHS (therefore not independent) or retired, and a perception that PHSO provides confidentiality to clinical advisers, meaning that complainants have no opportunity to check their professional expertise, independence and credentials;
- A sense that clinical advisers just tell PHSO ‘what they want to hear’;
- Concern that clinical advisers, as experts in how to write a report, can turn evidence against the complainant (some participants felt clinical advisers were complicit with PHSO in trying to find against complainants); and
- A belief that the balance of power is in favour of the assessment/report of the clinical advisor, rather than the complainant, as they are a medical expert. Consequently if a complainant disagrees with an assessment, or how it has been arrived at, PHSO will back their clinical adviser over the complainant.

## Communicating with complainants and final reports

Participants were frustrated about what they felt were inappropriate investigations and reports.

*“Your complaint will be about the ceiling, but you’ll get an answer about the walls or the floors - they don’t answer the exact question you are asking.”*

Examples of their concerns included:

- Investigations and reports perceived to focus too much on the small details, rather than the big picture, potentially picking out minor points in a case and, in participants’ opinion, using these to dismiss the whole complaint;
- Reports not believed to fully answer the issue or concern raised;
- Report conclusions lacking clear logic;
- A perception among participants that PHSO merges separate complaints (e.g. one of maladministration and one of negligence) into the same complaint investigation and report; and
- How the issue of recompense is discussed and decided with bodies under investigation; and the influence of these bodies in shaping reports.

For participants this was compounded by what they saw as a defensive or adversarial approach to communications, together with a lack of responsiveness from staff.

Also mentioned was the inappropriate use of the phrase ‘no worthwhile outcome’, in the past, to explain why PHSO had decided not to investigate a complaint<sup>4</sup>.

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<sup>4</sup> This term was formally removed from PHSO’s processes in late March 2012, in response to customer feedback.





## The review process

Participants discussed the process of making a complaint about PHSO's service (known as a 'review'). A number of concerns were raised, including:

- A feeling that the review process focuses on procedures rather than the actual case, therefore it is not actually a review of the complaint; and
- A sense that the review process is used to close down a complaint, and that once you are with the review team 'nothing gets you out of there'.

Some participants claimed to have been ignored or insulted by the review team.

## Impact of investigation decisions and duty of care

Participants discussed the impact that PHSO's decision not to investigate their complaint, or not to uphold their case, had had on them, in terms of both their physical and mental health. They described the emotional impact of having to relive their trauma over and over again, of feeling abandoned and let down by PHSO and having no redress or closure at the end of the process.

Participants stated that the impact of this had left various people needing serious care to help them deal with the distress it had caused them. One participant stated that they had been suicidal after the PHSO report on their case.

Participants questioned how PHSO handles its duty of care to complainants, and suggested that they did not see sufficient evidence of suitable duty of care in operation.

## Retention and disposal policy

Participants questioned what the retention and disposal policy of PHSO is, and suggested that it should be reviewed so that important information is not lost. Participants reported that they believed PHSO had destroyed their case files, within what they viewed as an inappropriate time period<sup>5</sup>.

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<sup>5</sup> PHSO keeps all information about complaints for two years after their last action on the case. At that point PHSO deletes some of the electronic and paper records.

## Investigation and upholding of complaints relating to Government policy

Participants perceived that the PHSO deliberately avoids investigating or upholding complaints where their findings may challenge significant policy issues or contentious issues. In their view, PHSO avoids such cases as it is concerned about the embarrassment it may cause the NHS and/or Government and it considers them too complex to deal with. As one participant claimed:

*“They do not want to challenge policy decisions, embarrass policy-driven rationing [of care] and decisions made that are unethical [and designed] to save money”.*

## Corruption in the system

Some participants discussed their belief that there is endemic systematic corruption of the State, which extends to PHSO’s relationship with the Bodies in its Jurisdiction. One participant suggested that all of the various complaints discussed in the seminar need to be considered under an umbrella of “state controlled fraud”.

*“There is endemic systematic corruption in this country right up to the top.”*



## Learning and improvements

### More investigations, faster outcomes

Some of the concerns raised by participants relate to decisions we had made to not investigate their complaints in the past. These date back to a time when we took a different approach to assessing whether or not to investigate. Some of these complaints may have been handled differently if they were considered now, under our current process, which we changed in 2013.

In 2013, in response to strong feedback from users and Parliament, we made a fundamental change to the way we consider complaints, so that we can help more people. Now, if a complaint meets some essential criteria, we will usually investigate it. As a result, in 2013-14, we investigated six times as many complaints as we did the year before – 2,199 compared to 384. We are upholding more complaints and getting service providers to acknowledge and address the impact their mistakes have had on people's lives. We are bringing more people closure.

We have also shortened the length of time it takes us to investigate complaints. In 2012-13, the average length of an investigation was 317 days. In 2013-14, we concluded 95% of cases within six months.

Other concerns raised by members of the group were about decisions we had made to not uphold their complaints. Our job is to investigate and make final decisions on complaints based on evidence. We are the end of the complaints process, and so we recognise that some people will inevitably feel disappointed and let down if we decide not to uphold their complaint.

### Improving our service

We have made other changes to the way we work, to improve people's experience of our service and their confidence in the impartiality of our processes. These include:

- Talking to complainants much more and relying less on emails and letters.
- Speaking to people involved in the case, to gather evidence. In the most serious cases, we interview people.
- Sharing a statement of facts with both the complainant and the organisation complained about at the same time.
- Sharing our draft and final investigation reports with both parties at the same time.

## Going further: our new Service Charter

We have explained in this report how we are already using new ways of working, so that we can help more people. What comes next is a more radical transformation of our service. Our new Service Charter, which we have begun to develop, is a set of promises about our service, covering everything from the time we will take to investigate a complaint, to how we approach our investigations and who we will share our findings with. The comments from the seminar with PHSO the Facts will help us to shape the Charter and make clear what users can expect in the future.

---

<mailto:service.charter@ombudsman.org.uk>

#PHSOservicecharter

**From:** [phso the facts](#)  
**To:** [Sykes Sally](#)  
**Cc:** [Martin Mick](#)  
**Subject:** IFF report and historic cases  
**Date:** 08 December 2014 09:10:38

---

Dear Sally,

thank you for sending out the IFF seminar report. I have circulated it round the group for comment and we will be responding in full to the points raised here.

will be coming with me to the service charter meeting on the 19th. I hope to see you there. Our concern with regard to this charter is that a set of promises alone will not move the service forward. What is required is the opportunity for complainants to hold the Ombudsman to account if there is a failure to deliver on the new charter. No doubt this will be discussed at the first meeting, as public accountability is central to your forward journey.

In relation to our historic cases, it would appear that the Ombudsman's office is very reluctant to hold anyone to account for poor service delivery. Comments are made to the effect that it is not about looking at the original decision when it is crucially about looking at the original decision and finding out how that decision came to be so seriously flawed. That is where the learning is and putting things right will provide the remedy. You appear to be permanently hovering at the edge, passing our cases to legal teams or clinical advisers when the evidence has already been determined. We would like to see PHSO being more objective and stating categorically what went wrong and what can be done to put it right. Only total honesty will do.

You may be interested to read this article published on Friday by the Socialist Health Association. It is particularly relevant to the new service charter.  
<http://www.sochealth.co.uk/2014/12/04/socially-accepted-injustice-inevitable/>

I will be in touch with our response to the IFF report in due course. I would be grateful if you could send me a link to it on your website as I couldn't find it there.

Best wishes,

[phsothefacts.com](http://phsothefacts.com)

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**From:** Sykes Sally <[Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)>  
**Date:** 8 December 2014 09:57:14 GMT  
**To:** phso the facts <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)>  
**Cc:** Martin Mick <[Mick.Martin@ombudsman.gsi.gov.uk](mailto:Mick.Martin@ombudsman.gsi.gov.uk)>  
**Subject: Re: IFF report and historic cases**

Thanks for your reply and the article, which I read with interest.

I have asked our publications manager to send you the link to the report. Good to hear will be with you on the 19 Dec. And yes, we want to get to a clearer and more meaningful set of service and accountability measures.

Thank you, Sally

**Sally Sykes**  
**Executive Director of External Affairs and Strategy**  
Parliamentary and Health Service Ombudsman  
T: [0300 061 1521](tel:03000611521)  
E: [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)  
W: [www.ombudsman.org.uk](http://www.ombudsman.org.uk)  
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On 8 Dec 2014, at 09:10, phso the facts <[phso-thefacts@outlook.com](mailto:phso-thefacts@outlook.com)> wrote:

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Best wishes,

[phsothefacts.com](http://phsothefacts.com)

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**From:**  
**To:** [+ExternalAffairs&StrategyGroup](#)  
**Subject:** The facts link  
**Date:** 08 December 2014 10:01:33

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<http://www.ombudsman.org.uk/report-on-seminar-PHSO-the-Facts>

[http://www.ombudsman.org.uk/\\_data/assets/pdf\\_file/0010/28963/PHSO-the-facts-seminar-report-Nov-2014.pdf](http://www.ombudsman.org.uk/_data/assets/pdf_file/0010/28963/PHSO-the-facts-seminar-report-Nov-2014.pdf)

or search "PHSO the facts" on the website

**Web Editor**

Parliamentary and Health Service Ombudsman

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**From:**  
**To:** [Sykes Sally](#)  
**Subject:** RE: IFF report and historic cases  
**Date:** 08 December 2014 10:16:41

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Oh, ok was just about to hit send.

**Marketing and Communications Manager**  
Parliamentary and Health Service Ombudsman

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**From:** Sykes Sally  
**Sent:** 08 December 2014 10:16  
**To:**  
**Subject:** Re: IFF report and historic cases  
sent me the link so I forwarded to thx S

**Sally Sykes**  
**Executive Director of External Affairs and Strategy**  
Parliamentary and Health Service Ombudsman

**T:** [0300 061 1521](tel:03000611521)  
**E:** [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)  
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On 8 Dec 2014, at 09:51, Sykes Sally <[Sally.Sykes@ombudsman.org.uk](mailto:Sally.Sykes@ombudsman.org.uk)> wrote:

Pl send the report to thx S

**Sally Sykes**  
**Executive Director of External Affairs and Strategy**  
Parliamentary and Health Service Ombudsman

**T:** [0300 061 1521](tel:03000611521)  
**E:** [sally.sykes@ombudsman.org.uk](mailto:sally.sykes@ombudsman.org.uk)  
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**Date:** 8 December 2014 09:10:32 GMT  
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**Cc:** "[mick.martin@ombudsman.org.uk](mailto:mick.martin@ombudsman.org.uk)"  
<[mick.martin@ombudsman.org.uk](mailto:mick.martin@ombudsman.org.uk)>



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**From:** .  
**To:** [Mellor Julie](#); [Sykes Sally](#); . [Martin Mick](#)  
**Cc:**  
**Subject:** For clearance: Patients" Association brief  
**Date:** 09 December 2014 19:25:50  
**Attachments:** [20141209 Patients Association briefing.docx](#)  
**Importance:** High

---

Dear Julie,  
Please see the briefing for tomorrow's Patients' Association interview.  
We are waiting to hear back about our compliance rate statistics but we know them to be very high and we will send these in a separate email, once we have them.

All the best,

**Senior Press Officer**  
Parliamentary and Health Service Ombudsman

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