



# Parliamentary and Health Service Ombudsman (PHSO)

## Complainant Feedback: Charter Commitment 10

Summary Report of Findings



Parliamentary  
and Health Service  
Ombudsman

Opinion Research Services

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# Summary of Findings

## Background and commission

- 1.1 In 2016, PHSO published its Service Charter. This was developed in consultation with a wide range of stakeholders including complainants. It consists of a series of commitments that explain what individuals can expect from PHSO when they ask it to look into a complaint.
- 1.2 Opinion Research Services (ORS) undertakes the PHSO complainants' survey. The survey asks a series of questions designed to assess PHSO's performance against the majority of their [Service Charter Commitments](#). However, commitment 10 (*"we will evaluate the information we've gathered and make an impartial decision on your complaint"*) is not covered as it was thought to be too complex a concept to be effectively assessed via a questionnaire.
- 1.3 In response to requests from the Public Administration and Constitutional Affairs Committee (PACAC), PHSO have embarked on a programme of qualitative research to explore complainants' perceptions of PHSO's performance in relation to Service Charter Commitment 10.

## Overview of the process

- 1.4 ORS facilitated a focus group on Charter Commitment 10 with complainants in Manchester on 24 September 2019. Subsequently, a series of 25 depth interviews with different complainants were held by ORS to build on the findings from that session.
- 1.5 For the focus group, a small sample of participants was recruited by telephone from ORS's social research telephone unit having been drawn from a pool of those from the Greater Manchester area who had responded to the complainants' survey and agreed to take part in further research. The group lasted for just over two hours and in total there were seven attendees, all of whom, as standard good practice, were recompensed for their time and efforts in travelling and taking part.
- 1.6 For the depth interviews, a sample of 25 participants was drawn from a long-list of people who had completed the complainant survey and agreed to be re-contacted for a more in-depth discussion. A cross-section of people were recruited using a recommended distribution table that included: investigation stage; ethnicity; disability; and location. The interviews lasted on average between 20 and 30 minutes.

## Key findings

### Fairness is seen as an essential component of impartiality

- 1.7 Participants agreed that although they are different, impartiality and fairness are inextricably linked inasmuch as the latter is a consequence of the former. It is clear then that demonstrating impartiality is very important within an organisation aiming to provide a service that is viewed as fair.

## Defining impartiality

### Carefully and thoroughly examining both sides is key

- 1.8 Participants were asked to define what they viewed as impartiality in the context of PHSO complaints. Many stressed that in order for PHSO to demonstrate impartiality (and thus fairness), it must look at both sides of a complaint carefully, thoroughly and objectively - and ensure it gathers and makes use of all relevant information from complainants and the organisations they are complaining about. Not having any preconceived ideas (on either side) until all appropriate facts are gathered was also considered essential.

## Demonstrating impartiality in decision-making

### A perceived lack of thoroughness can lead to allegations of bias

- 1.9 Participants said they had initially felt PHSO would take an exhaustive approach to exploring the minutiae of every complaint, but that this had not been the case in reality. Feedback centred around: unasked and unanswered questions; insufficient thoroughness when going through the issues; and important witnesses not being interviewed.
- 1.10 Furthermore, even where complainants felt their caseworker did the best they could, if they are ultimately unable to gather all relevant information, it was noted that this can also lead to some feeling of impartiality. In this regard, several participants said that the organisation against which they complained had been obstructive, making it difficult for PHSO to investigate as thoroughly as it and the complainant might like.

### There is a perception that PHSO sides with organisations and experts

- 1.11 Participants said that if they feel PHSO has not investigated their complaint or answered their questions sufficiently, this can lead to a perception that it has sided with the organisation being investigated.
- 1.12 Many participants said they felt PHSO favours organisations on the issues as opposed to complainants. Participants also felt PHSO would place less weight on their views due to their emotional investment in their case. Furthermore, the use of experts during the investigation was thought in itself to contribute to a feeling of imbalance inasmuch as it was felt that the former are unlikely to criticise members of their own profession.

### Mismatches between complainants and organisations must be acknowledged

- 1.13 Several participants described their feeling of a mismatch between the complainant on the one hand and the organisation being investigated on the other - and the neutral role of the Ombudsman within that. Overall, feedback indicated a sense that the two parties enter the process on a wholly unequal footing given the latter has a host of resource and expertise at its disposal that the former does not.
- 1.14 Given that complainants may have experienced not only an initial traumatic event, but also a frequently lengthy and complex internal complaints process, some said that they are often in a highly emotional and vulnerable state by the time they reach the Ombudsman and are thus unlikely to be able to make their arguments as coherently as they otherwise might. It was suggested that a guide might be useful to assist people through the process of making a complaint in a less emotional way.
- 1.15 In the context of the above findings, some participants suggested that PHSO's neutral stance reinforces the mismatch between complainant and organisation, and that complainants would be better served by a process that leans slightly in their favour and redresses at least some of the aforementioned (perceived) imbalance.

## Demonstrating fairness in decision-making

### Good communication is essential, but is sometimes felt to be lacking

- 1.16 Good communication is considered a key component in effective and fair complaint management, particularly with respect to keeping in touch with a complainant by phone and letter, as well as providing updates when promised. Many participants were happy that their caseworker had communicated with them consistently throughout the case (mainly via email and telephone). Yet others cited a lack of contact as a negative aspect of the investigation process. Primarily, these participants found that PHSO staff did not always get back to them when they said they would or that they had to chase for updates on their case.

### There were differences in views on whether PHSO listened to and understood key issues

- 1.17 There was no clear consensus among participants as to whether PHSO had listened to and understood the key issues they had raised. Some felt their caseworker did the best they could in terms of understanding their complaint – but others felt that this was not the case and said they had not felt listened to or properly understood. Furthermore, even some of those who felt their complaint had been understood at the outset believed the detail of it had either been misinterpreted or ignored subsequently.
- 1.18 In cases where participants felt their caseworker had not fully understood their complaint and its issues, it was suggested that this may have been because of their lack of specialist (especially medical) knowledge, or apparent difficulties translating theoretical knowledge into an understanding of actual situations.

### Being able to ask questions - and have them answered - is important

- 1.19 Many depth interview participants said they were given the chance to input into questions they would ask of the other party and its experts - and a few stated that PHSO itself asked all the questions it could. However, others said they were not able to put forward specific questions – and that they had expected certain questions to be asked of the organisation against which they were complaining, which were not.
- 1.20 In terms of participants having their own questions answered, there were a few concerns raised about lack of contact - and a couple of participants claimed to not have received answers to several questions posed to the PHSO, or to have felt their caseworker was in a hurry to close the case without a proper and thorough investigation of all the issues. Participants said this can lead them to view their caseworker as uninformed and give the impression that their investigation was insufficiently thorough.

### The reasoning behind decisions and the information used (or not) in reaching them must be carefully explained

- 1.21 A lack of transparency around explanations as to why certain information has been considered was an issue for some participants. Indeed, being seen as selective around the information being relied on when PHSO makes its decisions can add to complainants' perceptions of bias and unfairness. This is especially true if PHSO does not explain why it has relied on certain pieces of information over others. This feedback suggests that providing explanations as to why certain information has or has not been used in a case may well help individuals overcome their disappointment about an unfavourable decision.
- 1.22 Participants said that PHSO should be more open in demonstrating it has done everything possible during the investigation stage, including sharing information on the communication between itself and the organisation being complained against - as well as who exactly they have engaged from the 'other side' and why.

## Demonstrating empathy and understanding

### Empathy and understanding are important in building trust and demonstrating impartiality

- 1.23 Most participants agreed that their caseworker had taken the time to understand their feelings and demonstrated empathy and understanding. However, a minority described their caseworker as obstructive, absent and lacking in empathy. Several depth interview participants in particular felt that PHSO had not taken their feelings into account and had not listened to the impact their experience had had on them.

### Ensuring the human impact of complaints is recognised within the investigation is important

- 1.24 A small number of participants commented that PHSO appears to focus more on process than human impact, with one person expressing frustration about being told they would be unable to progress their case with the Ombudsman until they had exhausted all avenues with the organisation being complained about.
- 1.25 Moreover, participants spoke about the length of the process and the bureaucracy involved, which was a frustration for many. Participants also reported frustration around inflexible deadlines and the lack of empathy shown towards people's needs, particularly in relation to times when PHSO was late providing its outputs, but participants were expected to stick to timetable when providing their comments.

### A lack of face-to-face contact can contribute to perceptions of a lack of empathy

- 1.26 Participants felt that a lack of face-to-face interaction during the investigation process can contribute to perceptions of a lack of empathy. There was certainly a feeling that PHSO is too physically distant from complainants, which is an obstacle in terms of empathising with their particular circumstances.

### Individual needs must be recognised

- 1.27 Recognising, understanding and tailoring a service towards people's particular individual needs and abilities (which is linked to ensuring a decision-making process is delivered on a more equal footing) was considered by participants to be essential in demonstrating fairness. In particular, they spoke of how the bureaucratic nature of PHSO's procedures could be a potential issue for vulnerable complainants, especially those with learning disabilities and/or economic difficulties. Participants felt that not taking these factors into account would make the complaints process less impartial and less fair.

## Impact and influence

### There was a feeling that PHSO needs more powers to enforce its recommendations and bring about real change

- 1.28 As a final question, participants were asked if they felt PHSO is truly impartial, and for their thoughts on how it could be more so. It was suggested that while the Ombudsman, on the whole, listens to people's complaints and largely tries its best to investigate them on their behalf, it perhaps does not have sufficient resources or powers to properly deal with the tactics and behaviour of those being complained against. Participants felt that often leads organisations to over-refer to the Ombudsman in the knowledge that - even if it rules against them - it has little power to enforce its recommendations.

### How best to capture feedback on PHSO's impartiality

- 1.29 Participants were asked if PHSO should include a question in its survey of complainants to find out if respondents believe PHSO had acted with impartiality. There was no explicit disagreement with this - but

participants highlighted that impartiality is an abstract and subjective concept, and that it may be difficult for PHSO's users to fully get across their views on this subject via a survey. This may indicate that capturing feedback on impartiality from PHSO's service users cannot be done through a single survey question alone.

<sup>1.30</sup> In this context though, it is probably worth considering what, for participants, are the key components of impartiality on the part of PHSO. It can be assumed from the findings that these are:

- Being fair and thorough by looking at both side of complaints carefully;
- Gathering all relevant data and using it for cases;
- Treating complainants with compassion, empathy and understanding;
- Having good communications, especially keeping in touch and providing updates
- Listening to key issues and understanding them;
- Giving the option to ask questions and have those questions answered;
- Being transparent about how decisions are reached;
- Not rushing the closure of a case; and
- Taking account of complainant vulnerabilities and making reasonable adjustments.

<sup>1.31</sup> It is thus possible that a rounded, balanced assessment of impartiality might be secured by assessing perceptions of how PHSO performed in these areas.