

Additional evidence provided to the Public Administration and Constitutional Affairs Committee (December 2016 to February 2017)

Part 1

December 2016

- **Annual internal audit report for 2015-16**
To be provided w/c 5 December.
- **Formal minutes of the internal audit committee meetings for 2015-16.**
Copy enclosed.
- **Details on the legal advice we sought over the clinical advice service we provide to other Ombudsmen, which formed the basis for our review of that service.**
To be provided w/c 5 December.
- **Breakdown of our current staff in terms of who is temporary and who is permanent, if possible by department.**

As at 30 November 2016	
Directorate	Full Time Equivalent staff
Executive Office	
Permanent	5.00
External Affairs	
Agency	0.31
Fixed-Term	5.11
Permanent	24.09
Maternity	1.00
Finance, Facilities, Procurement & Governance	
Agency	2.00
Fixed-Term	4.00
Permanent	19.00
Maternity	1.00
Human Resources, People & Talent	
Fixed-Term	3.56
Permanent	10.00
Legal Services	
Fixed-Term	2.50
Permanent	7.50
Operations	
Agency	1.00
Fixed-Term	85.68
Permanent	245.68
Maternity	7.83
Grand Total	425.26

- ***Breakdown of the proposed cuts between now and 2019-20.***
We are currently reshaping our organisation to ensure we have a modernised, fit for purpose service which delivers more impact for more people and value for money for the taxpayer. We are currently in the middle of this transformation programme which has three elements:
 - (i) ensuring appropriate senior management in place to lead the organisation;
 - (ii) reviewing our operating model to ensure we provide an excellent service at lowest cost;
 - (iii) and reviewing our support services and accommodation.

Within both the review of our operating model, and our support services, we are looking at the options for, and impact of, reducing our costs by both 20% and 30% by 2020, to ensure we maximise the use of our resources. The Board will be considering the proposals in January 2017. We are therefore still in the process of preparing detailed plans which show how we will make the 24% spending reductions over the period 2017/18 to 2019/20.

- ***Latest customer feedback surveys.***
You can find the latest complainant feedback survey for 2015-16 on our website at: <http://www.ombudsman.org.uk/improving-public-service/research/complainant-feedback-survey-2015-16>.
- ***Explanation of why the Annual Report was published in November, rather than July, as would be usual.***
We laid our Annual Report and Accounts for 2015-16 before Parliament before the November Recess on the advice of the NAO, to give us the time to embed improvements to our financial processes and provide a high quality set of accounts. The NAO have recognised that we have made significant improvements in this year's accounts. However, our ambition is for our accounts to be of the highest quality. The further financial management improvements our new finance team made during 2016-17, particularly our robust month end procedures, will lead to a high quality year end process and set of accounts for 2016/17.
- ***The estimated cost per investigation for 2016-17***
To be provided w/c 5 December.
- ***An update on the quarterly report the PHSO intended to make to follow-up the launch of its service charter in July - the first one having been scheduled for December.***
To be provided w/c 5 December.
- ***The list of actions and recommendations produced by the working group on staff engagement, presented to the Board on 9 March 2016.***
A copy of the 2015 staff survey action plan and progress report is enclosed.
- ***Information on our current caseload, including backlogs.***
This will be provided in our Memorandum w/c 5 December.

- ***The estimated cost per investigation for 2016-17***

We estimate that in the current business year (2016-17), our cost per investigation will be £7,440. This is based on current workload estimates to year end (i.e. 31 March 2017) and marks a reduction from last year's figure (2015-16) of cost per investigation of £8,766. Please note costs for both years are based on our RDEL budget (Resource Departmental Expenditure Limit) as this is most representative of the resources committed and allows comparison between years.

- ***An update on the quarterly report the PHSO intended to make to follow-up the launch of its service charter in July - the first one having been scheduled for December.***

Following the launch of our Service Charter in the summer, we have been rolling out new ways of obtaining feedback in relation to our Charter commitments. These feedback mechanisms have been in place since September 2016. Before we can report, we needed to accumulate enough new feedback so that our reporting on it can be meaningful. We are planning to publish our first report in February 2017, which will take an initial look at how we are performing against our commitments using data gathered in Quarter 3 of 2016-17 (October-December 2016). This will begin a quarterly reporting cycle.

- ***An update on our service standards as published in the 2014-15 Annual Report.***

We no longer measure performance against the standard on acknowledging complaints within 24 hours, but our performance against the other standards is as follows:

Service standard	2015-16	Current (as of 31/10/16)
Conclude 90% of Enquiries and Assessments in 20 working days	77%	84%
Conclude 65% of Assessments and Investigations in 13 weeks	47%	63%
Conclude 85% of Assessments and Investigations in 26 weeks	73%	80%
Conclude 98% of Assessments and Investigations in 52 weeks	97%	96%

- ***Details on the legal advice we sought over the clinical advice service we provide to other Ombudsmen, which formed the basis for our review of that service.***

We have assisted other UK and Gibraltar Ombudsmen in the important provision of independent clinical advice to support investigations in health matters. This is because we have the largest UK database of specialist clinical advisors who are familiar with the nature of investigations. Economy of scale has driven the development of this service over a number of years.

The nature of the service currently provided includes the following:

- Sourcing advisers and maintaining a database of advisers;
- providing clinical input and advice to support people in making appropriate requests; and
- contracting for the provision of advice

This service is delivered on a full cost recovery basis.

We sought legal advice in February 2015 over concerns that the separate Service Level Agreements (SLA) for clinical advice provision between us and other Ombudsmen carried significant risk for us, as the SLA required that we would assume full responsibility to quality assure the clinical advice. As part of that legal advice, a standard check on the ability for us to provide this service at all (the *vires* power) was carried out, and at this first stage, we were advised that any provision of service (not just clinical advice) to other Ombudsmen, whether paid or unpaid, was unlawful. The exceptions were for joint investigations and in sharing services with other Ombudsmen in England. As a result of that legal advice, we moved to review a service that had been in place for a number of years, where the recharging had shown on our Annual Accounts each year.

We are continuing to provide the current service. We are working with the other Ombudsmen to put in place alternate arrangements no later than 31 March 2017 that would enable to us to return to a lawful position and to do so in a manner that does not create a cliff edge or prevent the obtaining of clinical advice by the other Ombudsmen.

Our Board has requested a review of this issue which is being led by the Executive Director External Affairs and Insight, and will cover the lessons learned and decision making. This review will be presented to the January Board meeting.

We welcome that the draft Bill on Ombudsman reform includes an express power for the new Public Sector Ombudsman to share services with other Ombudsmen. This has been included at our request.

Response to the Committee's follow-up questions

15 February 2017

Thank you for your letter from 9 January with your follow-up questions to our annual scrutiny session. As requested, we have shared with the Committee the minutes of our Audit Committee meetings in 2015/16 as well as the audit reviews by our internal auditor, KPMG. The following sets out our response to the Committee's other questions.

Statement regarding our strategy and value for money

In response to the Committee's question about the effectiveness of our spending, we referred to the National Audit Office (NAO) as saying that ultimately it is the achievement of our strategy that demonstrates value for money. This is the NAO statement to which we referred:

"Value for money judgements also need to look at spending in context. Whether some of the expenditure we have examined provides value for money can only be answered by comparing the work of the organisation over a period of time. So, for example, the value for money obtained from the Strategic Plan would need to be assessed against the impact the organisation is having compared to its previous performance, to see if the benefits are being realised. For example, in the last year there has been a significant increase in the number of investigations carried out by PHSO."

You can find this statement in a NAO report about our procurement practices from September 2014. This is available on our [website](#).

Breakdown of savings in 2015/16 and those planned for in 2016/17

In 2015/16 we made £320,000 accommodation savings from subletting part of our premises in Millbank Tower. This represents 1% of the revenue budget.

2016/17 is the first year of our four year comprehensive spending review, where we have committed to a 24% real term reduction in costs over the four year period. Within our initial Comprehensive Spending Review submission, we said we would save £2.2m in 2016/17. By the time we agreed the 2016/17 budget, this had risen to £3.1m.

The savings we agreed to make are set out in detail in the table below:

Area of savings	Amount in £m
Non-pay savings <i>Including:</i> <i>Travel and subsistence</i> <i>Reducing recruitment costs</i> <i>Improved value for money for contracts (for example cleaning and our staff canteen in Millbank Tower)</i> <i>Reduction in research costs</i> <i>Reduction in publications purchased</i>	0.8
Accommodation savings through sub-letting a floor in Millbank Tower	0.5
Reduction in contingencies (including our contingency for increases in demand)	1.5
Decision not to undertake additional activity to raise awareness of our service	0.1
Small reduction in posts (4)	0.2
Total	3.1

We are on track to achieve these savings in 2016/17.

Explanation of our drawdown of £1.1m in 2015/16

In 2015/16 a total of £493,000 of early departure costs were due to be paid by 31 March 2016, and it was imperative that we had the cash available to make these payments. However, these payments were not requested by MyCSP (which administers Civil Service Pensions) until April 2016. In addition, we were advised by HM Treasury that the additional £275,000 due through the Statement of Excesses in respect of the overdrawn amount of March 2015 may not be received by 31 March 2016, and that we should request it through the Supplementary Estimates.

On 20 February 2016, when we made our submission to HM Treasury, we still had not received either the cash indicated by the Statement of Excess, or the cash indicated by the Supplementary Estimate. We therefore drew our full cash requirement. The Supplementary Estimate was subsequently received on 18 March and the Statement of Excesses on 23 March 2016. If these costs had been incurred as expected and this subsequent funding had not been received, the closing balance would have been £68,000.

Breakdown of staff who have left PHSO

The Committee asked for information on the breakdown of staff who have left PHSO organised by how long they worked at PHSO before they left and what type of contract they were on. The following tables provide this information for 2015/16 and 2016/17 (1 April 2016 to 31 January 2017).

In 2015/16, some 109 staff left PHSO; this was made up of 75 permanent staff and 34 fixed term staff. Staff turnover that year was 23.1%. If fixed term contract staff are excluded, the turnover was 17.6%.

2015/2016		
Length of service	Contract type	Total number of staff
Less than 1 year	Fixed-Term	31
	Permanent	4
Between 1 and less than 2 years	Fixed-Term	2
	Permanent	15
Between 2 and less than 3 years	Fixed-Term	1
	Permanent	3
Between 3 and less than 4 years	Permanent	10
Between 4 and less than 5 years	Permanent	2
Between 5 and less than 10 years	Permanent	33
Between 10 and less than 15 years	Permanent	7
Between 15 and less than 20 years	Permanent	0
Between 20 and less than 30 years	Permanent	1
30 years and more	Permanent	0
Total		109

In 2016/17 (1 April 2016 to 31 January 2017), 121 staff left PHSO, including 86 permanent staff and 35 fixed term staff. Of the permanent staff, 36 left via a voluntary exit programme. Staff turnover was 25.9%, if all fixed term contract staff and staff taking voluntary exit are included. If fixed term contract staff are excluded, the turnover was 15.7%.

2016/2017 (1 April 2016 - 31 January 2017)		
Length of service	Contract type	Total number of staff
Less than 1 year	Fixed-Term	27
	Permanent	2
Between 1 and less than 2 years	Fixed-Term	8
	Permanent	7
Between 2 and less than 3 years	Fixed-Term	0
	Permanent	11
Between 3 and less than 4 years	Permanent	1
Between 4 and less than 5 years	Permanent	10
Between 5 and less than 10 years	Permanent	44
Between 10 and less than 15 years	Permanent	7
Between 15 and less than 20 years	Permanent	1
Between 20 and less than 30 years	Permanent	2
30 years and more	Permanent	1
Total		121

Number of requests for review

Our decisions are final and there is no automatic right to have a review, but we will consider a review if customers can show us that:

- we made our decision based on inaccurate facts that could change our decision; or
- they have new and relevant information that was not previously available and which might change our decision; or
- we overlooked or misunderstood parts of their complaint or did not take account of relevant information, which could change our decision.

A review is essentially a quality check of the process we followed in reaching our decision. If we find that the process was flawed, we will look at what is needed to put this right. If this shows our decision might be wrong, we would consider how best to proceed. On a few occasions, this has involved us doing a new assessment or investigation.

When we receive a review request, our Customer Care team will seek to speak to the complainant about their review request and about our decision. These conversations allow us to address concerns complainants may have about our decisions, by giving additional explanation or providing reassurance about our process, so that is not always necessary to launch a review. Our Customer Care Team will also always explain what we would need from complainants to launch a review, or why we would not be doing a review, if that is the decision we make. The Customer Care Team will then consider all the information presented to see if our review criteria is met and to decide if we should do a review.

When we were asked during the scrutiny session about our reviews, we provided a figure which described the number of cases that we had *accepted* for review in 2015/16. The table below sets out the number of requests for reviews that we *handled* in 2015/16 - this is the same data that we provided in response to the FOI request you reference in your letter. Not all review requests will meet the criteria for review, and some may be resolved through further explanations or actions without the need for the review. For your information, we have added information on the outcomes of the reviews that we undertook in 2015/16. Please note that sometimes complainants ask for a review on more

than one occasion on the same case - the table therefore shows the total number of review requests we handled in 2015/16, rather than the number of decisions about which we received a review request.

Number of review requests in 2015/16			
	Handled	Accepted for review	Fully/Partly Upheld
Intake & Assessment	1,093	56	9
Investigation	876	162	5
Total	1,969	218	14

Measuring and reporting on satisfaction with our Customer Care team

Following the launch of our Service Charter in summer 2016, we re-designed our Customer Feedback surveys so that they align with our Charter commitments and ensure we get real time feedback on all aspects of our service. Our surveys involve an external company carrying out telephone interviews with a randomly selected number of users, asking for feedback about how we did in line with our Charter.

As part of this, we created a survey specific to users of our Customer Care service, which we launched in December 2016. This will enable us to get regular feedback on how our Customer Care Team are capturing and responding to feedback on a day-to-day basis. Feedback from the Customer Care Survey will be fed into our reporting mechanism for how we are performing against the Service Charter - as well as being fed back to the Team to ensure we can improve continuously.

In addition, our Customer Care Team regularly receive positive feedback about all aspects of PHSO's service to say where we have made a difference, and they make sure this is fed back to staff and used to define best practice.

Changes in our reporting on stakeholder engagement

Following our 2014 stakeholder survey, we updated the questions in our 2015 survey to better reflect our work, in particular how we increasingly assist our casework publication process with more active media, policy and public affairs support. This was largely a semantic change in the questions we used, and we updated our reporting on the survey accordingly. The underlying intention, however, has remained unchanged - to share our insight and make recommendations, so that we can drive improvements to service delivery and complaint handling. Our latest 2016 survey builds on this. We have just completed it and plan to publish and share with you the results over the coming months.

How we assess the quality of and compliance with the recommendations we make

Our recommendations form part of our investigation reports and are subject to the same rigorous quality assurance process as our investigations process. This is set out in our Service Model, and requires all investigation decisions to be approved at manager level. To support investigators and managers making decisions on appropriate recommendations, we have developed a database of recommendations for remedy on previous cases, classified by the nature of the injustice experienced by the complainant.

A dedicated Outcomes & Compliance Caseworker monitors trends in financial remedy and supports caseworkers in making decisions on remedy in cases with complex or serious injustice. All cases involving a recommendation for financial remedy of £1,500 or more are referred to an Assistant Director or above for a final decision on remedy.

We monitor compliance with all the recommendations we make. This means that we remain in contact with the organisation to whom the recommendation was made, and we

do not close the case until we are satisfied that agreed remedies have been provided. We do not simply take the organisation's word for it, but ask to see evidence, for example copies of apology letters, or proof of payment of compensation.

For systemic remedies - i.e. where we ask organisations to reflect on their failings and make wider improvements - we ask to see copies of action plans, and will usually assess the plan to determine whether it is likely to prevent a recurrence of the failings identified by our investigation. Where the plan involves clinical matters we may refer it to one of our clinical advisers for their view. We do not currently monitor the implementation or effectiveness of action plans. We make approximately 1,000 systemic recommendations a year, and it would require considerable additional resource for us to monitor the implementation and effectiveness of each of these plans. Most of our systemic recommendations relate to improvements in NHS operations and such monitoring would overlap with the work of the Care Quality Commission (CQC) as the system regulator. Instead, we ask the organisations concerned to send copies of their action plans (along with a copy of our final report) to the relevant regulator (which for NHS complaints will usually be the CQC). As part of our data sharing agreement with the CQC, the CQC will share any issues relating to compliance regarding action plans and learning with us following the conclusion of inspections of the relevant organisation. In addition we provide CQC with information on complaint handling by providers in advance of each round of inspections they conduct.

We are generally very effective at achieving compliance with our recommendations. Over the past three years we have secured compliance in excess of 99% of all recommended remedies each year, with only a handful of recommendations being closed as not having been complied with each year.

Approximately 65% of our recommendations are secured within the timeframe for compliance set out in our investigation reports. We recognise that there is room for improvement here. However, we have no statutory powers to enforce our recommendations. Compliance is in effect voluntary, and we are reliant on dialogue and persuasion rather than coercion to secure compliance.

Where an NHS organisation fails or refuses to comply, we may share that information with the CQC or the appropriate professional regulator. As you are aware, where non-compliance means that an injustice will not be remedied, we may lay a special report before Parliament. This, however, is a last resort and in the history of our office, there have been only a very small number of occasions where we felt it necessary to do so.

I hope you find this information helpful.

Yours sincerely

Dame Julie Mellor, DBE
Chair and Ombudsman
Parliamentary and Health Service Ombudsman