

PACAC Annual Scrutiny Report 2018-19: response from the Parliamentary and Health Service Ombudsman

10 September 2020

We welcome the Committee's report on the work of PHSO in 2018-19. Its recommendations will inform PHSO's work as we continue the journey to becoming an exemplary Ombudsman service, as set out in PHSO's 2018-21 strategy.

Outlined below is a response to each of the recommendations made in the Committee's report, including our views on those not directly made to PHSO.

- 1. The Committee recommends that gathering information and explaining how PHSO makes its decisions and recommendations should be a priority area for improvement for the PHSO. PHSO should report back to the Committee with the actions it is taking to improve these scores and the results of those actions. This report should also highlight any similarities between the types of cases that seem to consistently attract low scores. The PHSO should also review its internal assurance procedures to narrow the gap between complainant scores and the internal assurance scores (Paragraph 12). The PHSO should also include casework assurance scores against the Service Charter in its Annual Report (Paragraph 40).**

We are committed to improving the quality of PHSO's service. The sector-leading Service Charter is an important way to understand people's experience of using our service. Under PHSO's previous approach to monitoring casework outcomes, we also assessed and reported on compliance with the published casework processes, alongside complainant experience scores for the Service Charter commitments.

In 2019-20 we developed a new, more robust and consistent approach to monitoring and assuring quality. We no longer publish internal process scores against the Service Charter, as these did not measure the quality of the casework outcome. These measurements have been replaced by a Quality Assurance Framework. We are now introducing a new set of public-facing quality measures that align better to the complainant feedback and from which we can better assess comparative performance.

We agree with the Committee that there is a need to improve the way PHSO explains how it gathers and uses evidence and the decisions that are made. Steps are already being taken to improve on these two areas. Guidance has been published on how PHSO considers and assesses the evidence we receive. There will be additional training for casework staff in this area later this year. However, some of this activity has had to be paused due to the impact of the Covid-19 pandemic on our work. This activity will resume from September 2020 and we can update the Committee on progress during the next scrutiny inquiry.



PHSO is committed to making improvements to the quality of casework and people's experience of the service. However, we know that a crucial factor affecting Service Charter scores is whether a person achieves the outcome they were hoping for, i.e. people whose complaints are upheld are far more likely to report a positive experience of using PHSO's service than those who do not achieve the outcome they were hoping for.

As PHSO is the only public Ombudsman service collecting and publishing the type of information set out in the Service Charter, we are unable to benchmark the scores. Where other surveys do exist, the different questions or methodology do not allow for meaningful comparisons to be made.

- 2. The Committee recommends that PHSO should ensure that its reporting on the time taken to complete cases is not distorted and may need to compensate with extra information in its 2020-21 annual report, for example, by publishing further information on the time taken to complete NHS cases that do not include the time lost to Covid-19. This will present a clearer picture of the PHSO's productivity. (Paragraph 20)**

We agree it is important to be transparent about the impact that the Covid-19 crisis has had on the timeliness of PHSO's casework. We have already taken steps to present information on the time taken to complete health cases during the pandemic through two different metrics - inclusive and exclusive of the period of time during which we paused health casework. We are currently considering how to present this information in the next Annual Report in an accessible way.

- 3. The Committee recommends that the PHSO closely monitors and reports back on the effectiveness of the changes to clinical advice. A further follow-up review should be commissioned at the end of the two year implementation period, and again this should be overseen by an independent expert adviser. (Paragraph 29)**

We agree this is an important area of work and that it will be necessary to monitor and assess the effectiveness of the changes that we are making to the way we use clinical advice.

As PHSO has had to focus resources on managing the impact of Covid-19 on casework, this may result in a delay to some of the planned changes to the clinical advice processes. We will update the Committee on progress during the next scrutiny inquiry.

During the next Peer Review of PHSO's service, we will conduct an independent evaluation to assess the impact of these changes once they are embedded, as the Committee recommends.

- 4. The Committee recommends that the PHSO carries out more analysis into the learning and development results from the Civil Service People Survey, including consulting staff directly, to understand why these scores are low and what training staff feel is needed. The PHSO should report its findings to the Committee, alongside an action plan for improvement before the next survey. (Paragraph 35)**

Careful analysis of the scores from the Learning and Development section suggests that the low scores specifically related to a questions about career development and promotion opportunities, rather than the quality or availability of learning and development activities. We are not be eligible to participate in the next Civil Service People Survey, as the participation

criteria have changed to exclude independent bodies such as PHSO. However, we will seek to maintain consistency across most question areas to allow for comparison with both PHSO's previous scores and those of the civil service. We will also use this opportunity to expand on specific question areas, such as career development, to give us better insight.

In the meantime PHSO is taking a number of actions to improve career development including:

- a. Working with managers to map out the learning and development requirements of their teams and developing a list of potential opportunities to address these needs.
- b. Increasing the number of senior caseworkers and manager roles to create more development opportunities.
- c. Holding focus groups to understand colleagues' views, with a particular focus on career development and inclusion.
- d. Introducing a new development programme for aspiring managers
- e. Creating a package of support for internal candidates when manager-level roles are advertised

We are also currently implementing a new Equality, Diversity and Inclusion Strategy and refreshing and growing the learning and development curriculum for all staff.

We will report back to the Committee in more detail at the next scrutiny inquiry.

5. The Committee recommends that future value for money studies should provide assurance on the quality of the PHSO's casework, by comparing it with best practice in the Ombudsman sector. (Paragraph 38)

We welcome the Committee's recognition of the benefits of the independent peer review of PHSO's Value for Money in 2018. We agree with the Committee that casework quality is an important element of value for money.

Over the coming months, we will explore the most effective approach to undertaking this work and share our plans with the Committee.

6. The Committee would support an evidence-based bid for more funding if it could be demonstrated that this would improve service to complainants. The PHSO should prepare this evidence ahead of the now-postponed Spending Review and keep the Committee fully informed of its funding requirements and the implications of the eventual settlement. (Paragraph 43)

We welcome the Committee's support for increased funding for PHSO as part of an evidence-based bid through the Comprehensive Spending Review (CSR). The Government has since launched the CSR and the deadline for submissions is 24 September. We have written separately to the Committee as part of this process highlighting priorities for the bid and the Ombudsman has discussed the intended approach with the Chair of the Committee.

- 7. The Committee recommends that the Government should start the legislative process for Ombudsman reform anew, with an updated draft Bill for consultation and pre-legislative scrutiny. As part of such legislative reform, the PHSO and the Local Government and Social Care Ombudsman should be replaced with a single Public Service Ombudsman. (Paragraph 51)**

We fully endorse the Committee's view that the legislative process for Ombudsman reform should be started anew. We are calling on the Government to revisit their plans to ensure that citizens are much better served by a single, modern Public Service Ombudsman. This would bring England and UK citizens in line with their counterparts in the devolved nations, the Republic of Ireland and most of mainland Europe. We welcome the Committee's recommendation that the Government should introduce a draft Public Service Ombudsman Bill for consultation and pre-legislative scrutiny.

The Committee's predecessor recommended that legislation on ombudsman reform should include the removal of the MP filter and this is a position that has been supported by a number of authoritative reviews.¹

We recognise the important role that MPs play in representing their constituents. Removing the 'MP filter' would not stop an MP from referring a complaint to us when a constituent came to them, as now happens for complaints about the NHS. It would mean, however, that where people did not want to approach their MP for their own personal reasons they would not be prevented from approaching the Ombudsman on their own. The status quo is an outdated barrier to accessing justice.

- 8. The Committee recommends that PHSO should include compliance information in its Annual Reports and should set out the steps it has taken to maximise compliance with, and impact of, its reports. As part of this work, the PHSO should strengthen its relationships with Departmental Select Committees, especially at official level. Select Committees would benefit from learning about findings against Departments ahead of sessions with Permanent Secretaries on the annual reports and accounts. (Paragraph 55)**

PHSO accepts this recommendation. We have already taken steps to publish data on the recommendations we make and whether or not organisations have complied with them.

In 2019-20 PHSO delivered improvements to the compliance process and will continue to focus on this area of work during 2020-21. For example, we will be supporting caseworkers to improve the quality of recommendations, assessing how we capture data to measure performance on compliance, and reviewing the sanctions available when an organisation does not comply. We will explore how best to report on compliance in the 2020-21 Annual Report.

We have already begun to establish relationships with Select Committees where we have relevant casework of interest to their work. For example, we contacted the Work and Pensions Committee regarding complaints we have received about the communication of changes to women's state pension age. We will share learning from our casework with Select Committees on a regular basis going forward.

¹ Public Administration Select Committee (2014) Time for a People's Ombudsman

9. The Committee supports the PHSO's work on the Complaints Standards Framework and will seek an update at the next scrutiny session on how that framework is received and how its effectiveness is being monitored. (Paragraph 57)

We warmly welcome the Committee's support for the the Complaint Standards Framework. We launched a [public consultation](#) on the Framework on 15 July 2020. By the autumn we will have concluded the consultation and will be able to feedback to the Committee as part of either (and preferably) a specific inquiry or our annual scrutiny session about how the Framework has been received by the public, the NHS and sector organisations. This will include how we will use the feedback received to refine the Framework before it is formally launched next year.

In due course, we would welcome the Committee's support for the Framework being placed on a statutory footing, with PHSO having Complaint Standard Authority powers to monitor compliance with the Framework. We would also welcome the Committee's support for PHSO having legal powers to offer and charge for training, which will enable us to assist with professionalising complaint handling across the bodies in our jurisdiction. As the legislative process for Public Service Ombudsman reform will take some time, we would welcome the Committee's support for these changes being made as part of another legislative vehicle. This would help PHSO improve complaint handling and the role of complaints in supporting service improvements across the NHS in England and for UK Government bodies more quickly.

The Complaints Standards Framework will be finalised after the public consultation has ended, including how its effectiveness will be monitored after we have received and analysed feedback from the consultation. We set out in our report [Making Complaints Count](#)² that the Framework will provide a best practice benchmark for front-line providers and service users. In parallel, the Framework will also be used by NHS regulators to measure and assess NHS organisations' performance on complaints, and by NHS commissioners to hold NHS providers to account regarding learning from complaints.

We plan to pilot the Framework after it is finalised to assess how best it can be embedded across the NHS. We will continue our active engagement with patients and advocacy groups to gather feedback on their experience of raising complaints and concerns in the NHS to ascertain whether this matches the standards set out in the Framework and [My Expectations](#).³ Feedback from the public consultation will tell us more about the best way to monitor the effectiveness of the Framework, which we will then act on.

² Parliamentary and Health Service Ombudsman (2020) Making Complaints Count

³ Parliamentary and Health Service Ombudsman (2014) My Expectations