

# Parliamentary and Health Service Ombudsman Peer Review 2022: response from PHSO

16 November 2022

We welcome the report by the Peer Review Panel in accordance with the agreed terms of reference and International Ombudsman Institute guidance and would like to express our appreciation to all members of the Panel for the considerable time, effort and professionalism contributed. We have set out below PHSO's response to each of the Panel's recommendations.

- 1 PHSO should consider taking more steps to understand the potential demand implications of its increased public awareness and accessibility (particularly with regard to vulnerable populations) and to plan for these accordingly.**

We agree. The work to increase public awareness will be undertaken in tandem with work on the casework programme, which is designed to:

- increase efficiency and improve the capability of PHSO to flex the kinds of casework it does
- introduce mechanisms to allow PHSO to respond appropriately to increases in demand by adjusting our casework approach.

In addition the programme aims to enable increased ability to identify and consider systemic cases, which will enable more investigations to cover multiple complaints.

- 2 PHSO should provide clear reporting on its actions in an easily understandable and accessible way on progress with delivering the strategic plan.**

We agree. We are developing this as part of our business planning for 2023/24, to make sure that we are joined up in our reporting to staff, service users and stakeholders.

- 3 The following matters could usefully be given attention: (1) it would be profitable to introduce a direct interface between PHSO's IT systems and those of the NHS. This has the potential to improve significantly and streamline the investigation procedure. (2) The secure egress email system should be replaced. This matter is on PHSO's agenda.**

PHSO has recently secured NHS accreditation to the NHS Data Security and Protection Toolkit to enable digital documentation to be exchanged as part of the process of better connection with the NHS. The complexity of NHS systems and processes and disconnects within them mean this is only part of the journey. Smooth interaction between the NHS (and other bodies in jurisdiction) is a key part of the casework programme objectives.

PHSO plans to review secure messaging as part of the casework programme. The aim to is provide a seamless yet secure mechanism

for sharing information appropriate to both message and recipient. Our focus is less on replacement of specific tools and more on improving the user experience.

- 4 The Panel supports the publication of decisions. PHSO should make every effort to publish all of its decisions in the interests of transparency. If, for some reason, it is not possible to publish the decision itself, then a summary of the investigation and its outcome should be published.**

We agree that publication is an important strand of transparency. Work to achieve our ambition of publishing the majority of our casework is ongoing. We are currently working to improve our publishing process and ensure there is effective resourcing for this work so we can continue to increase the number of casework decisions we publish. We are also exploring options for publishing information about cases when we are not able to publish the decision itself.

- 5 Sending anonymous reports to complainants is an impersonal means of communication. The investigation reports sent out to complainants should refer to them by their personal name. Investigation reports published online should, of course, continue to refer to complainants anonymously.**

Complaint decisions are anonymised for publication, in order to ensure that we comply with data regulation and protect the privacy of complainants. In order to provide the most efficient use of our resources, only one response is currently produced, with the anonymised decision being provided to the complainant either in a report (with a personalised covering statement) or in a personalised letter. The caseworker explains in a telephone conversation why the decision has been anonymised, and this explanation is also included in the covering statement or letter. All correspondence other than the final decision is personalised.

We understand and appreciate the panel's concerns and are now considering different solutions, which would allow us to provide the complainant with a more personalised report or letter.

- 6 Letters and correspondence with complainants should be written in a manner that is readily comprehensible by people without a professional or medical training or background.**

We provide training to caseworkers and managers on producing clear and simple reports in plain English as part of their initial training and again after 12 months. In addition, the quality assurance we undertake includes regularly checking the content, style and clarity of decision

letters and reports to complainants. Findings from these quality reviews are shared in a monthly report enabling managers to identify key improvement opportunities and offer targeted support.

We agree that this is an important area of continuous improvement and are working to improve our performance in this area.

**7 Face to face meetings with complainants should be encouraged, especially in difficult cases.**

We agree. We offer meetings via Teams or face to face if requested and will talk to the complainant and their advocates to understand their needs and preference. This includes choice of location for a face-to-face meeting, as some complainants prefer a neutral venue, whereas others are happy to attend one of our offices. In very sensitive cases in which the complainant has suffered a significant impact, for example bereavement, we will proactively offer to meet in the complainant's home if we can see this would be the most comfortable environment for them.

**8 Complainants should be regularly updated on the progress of their complaints and the investigation.**

Complainants receive progress updates at various stages through the process of an investigation. Complainants are also contacted at these points in order for us to gather information about their case. At present we have significant wait times for cases to be allocated and whilst we currently inform people how long the wait time will be when their case joins our queue and provide general updates on our website, we do not currently have an IT system that provides regular updates directly. We are developing our IT systems to enable electronic updates. .

**9 PHSO should continue monitoring the restoration of the queue to frictional levels.**

We agree. PHSO has a clearly articulated recovery plan for reducing the queue to frictional levels and updates the PHSO Board and PACAC on progress to deliver this on a regular basis. Progress to reduce the queue is slightly ahead of plan this year and the business continues to monitor progress towards frictional levels by the end of 2023-24.

**10 The Panel recognised that PHSO is currently in the initial stages of making its service more accessible to vulnerable populations. The panel recommended that PHSO continue pursuing this end, given that a significant proportion of the population is unaware of its existence and therefore also how to use contact or use its services. We think that PHSO could do much valuable work in this regard by analysing**

**statistical data on the complaints it receives, conducting surveys and communicating with stakeholder organisations.**

See below (response to recommendation 11).

- 11 PHSO could do more outreach work to raise its wider public profile. This could include targeted outreach work with particular stakeholders who represent cohorts of the population who make few complaints to the PHSO.**

We agree with both these recommendations. We are currently undertaking extensive research in this area, alongside engagement with stakeholders to help us to identify what sections of the population would most benefit from targeted outreach from us. We will use this alongside analysis of our own data to pilot a number of outreach engagements in 2023.

- 12 PHSO could provide more coaching for caseworkers sitting between probation and senior caseworker roles.**

We continue to coach, mentor and train casework colleagues beyond their probation. Caseworkers complete a professional skills training programme after 12 months in role, following the initial caseworker development programme training. In addition, we offer drop-in sessions with subject matter experts, including Legal, and Clinical Advice, and we regularly hold Casework Discussion Forums as well as providing ongoing and regular subject specific training modules and learning workshops. Line managers are enrolled on a 'performance coaching skills' module in our 'Exemplary Managers for PHSO' programme and mentoring is also provided by senior caseworkers.

- 13 PHSO's intake team should be trained to the same extent, a matter that we were informed is on PHSO's agenda.**

Currently, new intake caseworkers receive induction training; a six-week training programme with a dedicated trainer covering the two areas of the role (telephony and written work); additional, tailored trainer support as required; a range of elective training by request, e.g. mental health emergencies.

We are exploring further strengthening of our Intake training offer including the development of a certification route for intake caseworkers.

- 14 PHSO staff who respond to contestations about complaints and are in contact with the complainants should be members of its Ombudsman Assurance Team (and not the original complaint investigators), so that the complainant challenging a decision on a complaint can see that**

**the matter has been handled and examined by a separate, designated unit.**

Initial feedback on our decisions are handled by the caseworker (or their manager). Where a casework decision is materially challenged, the Ombudsman Assurance Team ('OAT'), which is separate from casework decision making and part of PHSO's Quality Assurance Framework, considers the merit of the challenge. This is made clear to the service user by the original caseworker in standardised written wording explaining what will happen next. This wording highlights that the challenge will be considered by someone independent of the decision making in their case, although feedback will be given by the original caseworker unless OAT conduct a full case review, when they will liaise directly with the complainant.

Nonetheless, we understand and appreciate the panel's concerns on this for the category of cases not meeting our review criteria. As such we are now considering different communication solutions, which would emphasise the independent scrutiny the decision challenge has been given by a separate designated team.

- 15 Value for money: PHSO could collect together and present information which would assist in terms of enabling others to form a more rounded understanding and appreciation of its impact and effectiveness.**
- a. The Panel thought that PHSO could also publish responses by government and public bodies to its systemic reports; and weblinks to relevant parliamentary debates and select committee evidence sessions and reports concerning the Ombudsman's reports.**
  - b. In its Corporate Strategy, PHSO intends to 'monitor the implementation of our recommendations, identify gaps and develop strategies for improving levels of compliance'. We think that information generated by this could usefully be included also.**
  - c. PHSO could also publish information on its outreach work and updates on the implementation of its Complaint Standards Framework.**

We welcome the Panel's recommendations on how to broaden the appreciation of our impact. We will integrate this into the development of our 2022/23 annual report to provide a more holistic picture of our impact and effectiveness.

- 16 The Panel concluded that PHSO’s annual report could include more information on the outcomes of complaints and should also include information that is of more direct interest to the public.**
- a. Financial implications of decisions should be calculated in a comprehensive manner, even if the public body has not yet consented to refunding the money to all the persons involved, not just the complainant.**

We are exploring ways in which we could better illustrate the impact we are having on public services, including in the annual report. We will take this forward as we start work on the 2022-23 Annual Report & Accounts.

- b. The Panel also concluded that PHSO could publish more information about the characteristics of complainants, for example the breakdown of complainants by education, gender, area of residence or religion, and with cross-cutting data relating to different population groups.**

We recognise that understanding the diversity of the people who use our service is vital and can help us identify barriers to complaining and enable us to better support complainants. We already publish demographic data in the annual report including gender, age, ethnicity, and disabilities.

We have plans to enrich our understanding of those who do (and those who do not) bring complaints to us through three key activities. The first is, if appropriate, extension of the information we collect on claimants’ protected characteristics when they bring their complaint to us. The second is AI-driven analysis of complaint information which includes documents and evidence gathered as part of complaint-handling. The third is using external data sources to benchmark against other public services, census data, or socio-economic status. Examples include using the UK index of mass deprivation to correlate complainant’s location with availability of local services or digital divide data produced by retail banks to compare take up of online services.

- c. The annual report should emphasise one or two data which will interest the wider public and be the focus of publicity.**

We are always looking at ways to make the annual report and accounts more accessible and meaningful to audiences. We include in our annual report key facts and data and also casework stories, but we will reflect on how we can better convey public interest stories in the 2022/23 Report. As data collection is increased, we will explore other changes that could be made.

- 17 The Panel concluded that there is an overwhelming case for a reformed public services ombudsman. From the Government’s perspective, we understand that reform is a question of not if but when. However, the ‘when?’ question has become increasingly urgent. It is now six years since the 2016 Bill was published. Further delay in achieving effective reform not only weakens the ombudsman; it also disadvantages complainants and the public as a whole. For these reasons, we strongly recommend that the UK Government should progress with Ombudsman reform.**

We fully endorse the Panel’s recommendation that the Government should take urgent steps to reform UK public service Ombudsman schemes. This has been recommended by the Public Administration and Constitutional Affairs Select Committee for the last three years and by the Committee’s predecessors.

We welcome the Panel’s commendation of PHSO as a robust institution providing a high quality service. However, the modernisation of our out-dated legislation is essential, both in terms of access to justice and also in terms of improvement to public services. This has been clearly demonstrated by the review of PHSO against the Venice Principles, which has shown that the UK and England are out of step with the international standards adopted by the UN General Assembly following a resolution co-sponsored by the UK Government itself. Given the current unprecedented pressures facing the health system and public sector generally, it becomes even more urgent to ensure that PHSO is in the best possible position to have impact.

A Public Service Ombudsman Bill must legislate for a single national public ombudsman; remove the undemocratic MP filter which has been shown to be a barrier to justice; provide own-initiative powers, which will allow PHSO to address systemic issues impacting vulnerable individuals who cannot themselves bring complaints; provide Complaint Standards Authority power to ensure PHSO has the tools to improve frontline complaint-handling and address cultural barriers in public bodies; and allow PHSO access to the health sector “safe space”, to protect its constitutional role.



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