



Sarah Wollaston MP,
Chair, Health and Social Care Committee
By email

11th April 2019

Dear Sarah,

NHS Long-term Plan: Legislative Proposals Inquiry

I am writing to submit my views to the Committee on the legislative proposals published by NHS England (NHSE) and NHS Improvement (NHSI) to support the implementation of the NHS Long Term Plan.

The public expect the NHS to be an integrated service but when things go wrong they often experience fragmented responses from the bodies that have provided care and treatment. As the final tier of the NHS complaints system, we often see how difficult it can be for patients and families to navigate the current landscape of service provision and commissioning.

I therefore fully support the principle that NHS bodies, as well as local authorities, need to be free to work together with partners to plan and provide care around patients, not services and institutions. We also broadly support legislative proposals that would make this principle a reality by enabling integrated care provision within and across local health systems.

We particularly welcome the emphasis on shared responsibility for the NHS and proposals for a statutory duty requiring NHS bodies to work together to promote the 'triple aim' of better health for everyone, care for patients and efficient use of resources. In complaints that concern care and treatment across a care pathway, we too often see local responses that show poor co-operation between organisations and mutual failures to learn and improve. This is a specific instance of the wider point made by NHS England and NHS Improvement about NHS bodies, and local authority partners, making isolated and disconnected decisions despite existing statutory duties to co-operate.

We have provided detailed accounts of such failures in the casework we have shared with Parliament in recent years; most notably our [report](#) on the tragic and avoidable death of three year old Sam Morrish from sepsis, and our [report on Eating Disorders](#), which included



Millbank Tower
Millbank
London SW1P 4QP

the case of Averil Hart, whose death we found to be avoidable and where once again the system failed to look closely enough at what had gone wrong.

It is not our role to express a view on the specific powers and duties that should be in place for NHSE, NHSI or the Secretary of State to enable new ‘integrated care systems’. However, whatever new organisational vehicles are established, there must be a transparent and consistent approach to complaint handling across local health systems and the NHS. As and when legislative proposals are further developed, it will be important to review the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 to ensure that they are aligned with any new models of commissioning and provision.

I also wanted to emphasise how the focus on integration in the NHS Long Term Plan reinforces the need to create an integrated public service ombudsman. As local NHS bodies and local authorities become part of integrated care systems, it is essential the ombudsman is organised in a way that can effectively investigate and remedy injustice occurring at the interface of health and social care services.

The draft Public Service Ombudsman Bill

While we of course recognise the demands on Parliament due to Brexit, I should also highlight the importance of progressing the proposed legislation in our own area. We continue to urge the Government, as do the Public Administration and Constitutional Affairs Committee (PACAC), to facilitate parliament establishing a Joint Committee of the House to subject the Draft Public Service Ombudsman (PSO) Bill (published in 2016) to pre-legislative scrutiny. Together with the Local Government and Social Care Ombudsman (LGSCO) we have said that the Bill reflects some of the essential changes that are needed to make the public service ombudsman landscape more accountable, navigable and effective for citizens.

However, there are some areas where the draft Bill could be strengthened to further the benefit that a public service ombudsman could have. Last year I commissioned an independent panel to carry out a peer review assessment of our value for money, led by Peter Tyndall, Ombudsman for the Republic of Ireland and President of the International Ombudsman Institute. The review found that our current legislation restricts our ability to do more in terms of improving public services.

In particular, they identified that our lack of powers to investigate without receiving a complaint and to set standards for frontline compliant handling place us “out of line with other UK public services ombudsman offices and wider international practice”. The draft PSO Bill did not contain provisions on either of these powers. The value for money study underlines the need for such powers to be included in the Bill.

In the absence of legislation, we continue to work with the LGSCO where our jurisdictions overlap, such as complex cases involving health and social care, and we intend to continue to work closely together and to learn from each other. Finally, as part of our commitment to greater transparency in our 2018-21 strategy, we will be aligning ourselves more closely with



Printed on 100% recycled paper

Millbank Tower
Millbank
London SW1P 4QP

I hope that this information proves useful. If you have any further questions, please contact public.affairs@ombudsman.org.uk. I am copying this letter to Sir Bernard Jenkin MP, Chair of PACAC.

Yours sincerely,

Rob Behrens

Rob Behrens CBE

Ombudsman and Chair



Printed on 100% recycled paper

Millbank Tower
Millbank
London SW1P 4QP

