

PACAC Annual Scrutiny Report 2022-23: response from the Parliamentary and Health Service Ombudsman

09 May 2024

We welcome the scrutiny by the Public Administration and Constitutional Affairs Committee (PACAC) of PHSO's performance in 2022-23.

We set out below our response to each recommendation.

- 1. We have heard praise of the PHSO's handling of casework, but we have also received evidence of concerns with some aspects of its service provision. The PHSO told us that it would reflect on the concerns about the service it provided to people with disabilities while outlining the measures it takes to meet the needs of complainants.**

In its response to this report, the PHSO should outline to us the steps it proposes to take to address the concerns we have heard in our written evidence, in particular in relation to service provision to people with disabilities and the elderly.

We are committed to providing a high quality, empathetic and timely service to everyone, including people with disabilities. Around 44% of the complainants surveyed by PHSO report that they have a disability. This is significantly above the population average of 17.7%¹.

To accommodate the diverse needs of complainants, we offer a range of measures and reasonable adjustments, tailored to individual requirements. At the outset we ask everyone who contacts us how they would like us to communicate with them and we consider reasonable adjustments at this point. As standard, we have a BSL phone line, easy read translation, and braille. We also offer adjustments such as the provision of CDs or MP3 files with recordings for those that need them.

In 2024-25, we are planning staff training for all PHSO staff on disability awareness, including learning disability and neurodiversity. This is with a view to enabling staff to recognise when these characteristics arise as a factor in a complaint and better understand the lived experience of individuals and families.

We are currently reviewing how we explain our service to complainants and members of the public in the documentation and correspondence that we use during the different stages of our complaints process. We are also reviewing our house style and language guide to help to improve the accessibility of our website and wider digital content.

The actions we will take through our long-term Digital, Data and Technology (DDaT) strategy and the intended digital transformation could also help us to better understand the people that use our service (including the elderly and disabled) and continue to tailor accordingly. This will complement our outreach and public engagement work and will also inform future service improvements.

¹ 2021 Census, proportion of population of England who reported that they were disabled: [Disability, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/peoplepopulationandcommunity/disabilityandlongtermhealth/bulletins/disabilityandlongtermhealthinenglandandwales/2021)

- 2. We welcome the fact that the PHSO has worked hard to reduce the backlog of cases created by the COVID-19 pandemic and met its target for making initial decisions about cases within seven days. However, we remain concerned by the fact that the PHSO has missed its targets on deciding cases subject to further consideration. The PHSO attributed this to the lag effect of closing cases that had been in the queue for a long time and expect that the time taken to complete further consideration will drop dramatically once the backlog has been cleared.**

In order to clarify how far the work being undertaken to clear the backlog of cases is the main cause of the length of time taken to resolve cases subject to further consideration, the PHSO should find a way to present the information on the time involved in case resolution by giving separate figures for those cases which are part of the COVID-19 backlog and those others which have been received since the end of the pandemic.

We welcome the Committee's acknowledgement of our efforts to reduce the backlog of cases from the Covid period, which resulted in queuing times of decreasing duration, during 2022-23 and 2023-24. This has been a primary area of focus for PHSO. We are pleased to report that by March 2024 we returned to normal operating levels.

Preliminary data for 2023-24 (which will be finalised in our annual report) shows that in 2023-24, we are close to delivering against our KPI targets, which has been made possible due to the successful reduction of the backlog of cases. We are now closing 44% of cases within 13 weeks, 67% within 26 weeks and 84% within 52 weeks - compared to 40%, 51% and 77% respectively in 2022-23.

We are taking steps to improve our casework processes and ensure that we can continue to respond to demand and provide a high-quality and timely service.

- 3. We do not accept the Ombudsman's argument that we would have been critical of the PHSO for setting lower, yet more realistic, targets for case resolution. The setting of unrealistic targets leads to them being missed, and draws unwarranted criticism where realistic targets would not do so. Rather, we are of the view that targets should be simultaneously ambitious and realistic, to allow the public and us to assess the performance of the organisation more clearly. In its response to this report, the PHSO should provide details of the methodology it uses for deciding its targets for how quickly it should resolve cases subject to further consideration, and outline any steps it will take to review that methodology to arrive at more realistic targets to be used in the future.**

We currently aim to close 50% of cases within 13 weeks, 75% within 26 weeks and 95% within 52 weeks. These targets aim to capture the quality and level of service we are striving to provide to complainants. Our targets for case resolution are longstanding and reflect best practice in the ombudsman sector with the 13, 26 and 52 week targets also used by various other ombuds including the Local Government and Social Care Ombudsman (LGSCO).

We believe that these are realistic yet ambitious targets and our previous performance levels indicate that they can be met and/or exceeded. For example, in 2019-20, prior to the Covid-19 pandemic and the consequent impacts that followed, we were operating at 48% closed within 13 weeks, 80% closed within 26 weeks and 93% closed within 52 weeks.

As outlined above, preliminary data for 2023-24 indicates that we are getting progressively closer to delivering our performance against our KPI targets at pre-pandemic levels. However, in the event of another significant impact on productivity in the future, we will reflect on our KPIs and consider whether they need to be reviewed.

- 4. We welcome the increase in the number of cases resolved by mediation and PHSO's ambition to widen the range of cases resolved by mediation in 2023/24. The PHSO stressed that the cultural attitudes of stakeholders, notably in the NHS, were a barrier to increasing the number of cases resolved through mediation. The PHSO should outline how it is working with stakeholders to place a stronger emphasis on mediation in the Complaint Standards for the NHS and for Government.**

The PHSO should also write to us before our next annual inquiry into the PHSO, setting out whether it has matched its ambition for 2023/24 to maintain the number of cases resolved by mediation and to appropriately widen the types of cases resolved to include more complex cases and cases beyond those focused on healthcare. It should also set out what its medium and long term aims are for mediation and the measures it is intending to take to achieve those aims.

Mediation is an important tool which can achieve, in appropriate cases, significant positive impacts for complainants and the organisations that we investigate.

Our ambition in 2022-23 was to double the number of cases that we closed by mediation in comparison to the previous year as we developed our in-house capabilities. In 2023-24 we aimed to maintain the number of cases that we closed by mediation and we were successful in this. We also widened the use of mediation to include more complex cases, cases involving multiple organisations and cases regarding government departments and agencies in order to test the possibility of mediation on different types of cases.

However, it is not appropriate to use mediation in all cases. Our focus has been on building our capacity in order to enable us to use mediation where it can deliver efficiencies and better outcomes for complainants and the organisations that we investigate.

We welcome the Committee's recognition that successful mediation is dependent on the support of all parties to a complaint and that the barriers to mediation cannot be overcome solely by PHSO. For example, at the oral evidence hearing, we outlined the cultural barriers regarding attitudes towards mediation amongst clinicians.

In 2024-25, we are aiming to strengthen the data we collect on our mediation cases to help inform a mediation strategy. This will allow us to make better decisions earlier in our processes in the future, improve our understanding of where mediation is likely to be the most appropriate tool and also determine whether mediation actually provides value for money as a long-term alternative to investigations.

The Committee proposed using the Complaint Standards to place a stronger emphasis on mediation for NHS and government department complaints. The Complaint Standards were designed to support organisations to provide a quicker, simpler and more streamlined complaint-handling service. The Standards set out a complaints procedure rather than a mediation process and therefore do not address mediation specifically. Nevertheless, they can empower staff to prioritise the early resolution of complaints and to embed learning.

As requested, we will provide a further update on mediation prior to the Committee's next inquiry.

- 5. We reiterate the concerns we expressed in our 2021-22 report about the PHSO's continuation of the 'severity of injustice' approach to case management which means certain cases are very unlikely to be resolved and are not subject to detailed investigation. This was introduced as a temporary measure during the pandemic. The PHSO have stated it intends to review its future approach when the backlog of cases caused by the COVID-19 pandemic has been dealt with, with this likely to take place towards the end of the 2023/24 financial year. We reiterate the recommendation from our 2021-22 report that the PHSO should set out publicly the criteria it will use during the review to determine its future approach.**

PHSO, like all other ombudsman services, receives a number of complaints that relate to very minor issues (e.g. a rude receptionist or a one-off complaint due to annoyance, frustration or inconvenience as opposed to prolonged distress, pain or devastation). It is important that cases of serious avoidable harm, death and serious financial distress are prioritised ahead of cases of minor grievances, annoyance and inconvenience. This is common practice in the ombudsman sector to ensure fair and effective use of public funds.

We currently triage health complaints by severity and do not investigate less serious complaints. Although this was put in place initially temporarily due to the pandemic and the subsequent backlog, the continued escalation in demand for our service means that this approach may have to be sustained for the near future.

To enable us to operate as effectively as possible and deliver the greatest value for money, we are exploring a new 'public value model' which is being tested internally as part of our triage process.

The model we are testing is broader than the current approach and considers additional factors alongside severity. Our objectives are to ensure that our resources are used to deliver greatest possible impact and to improve our abilities to predict and respond to demand for our service.

The criteria we are currently testing are:

- severity of injustice level of the case;
- complainant's individual needs and additional support requirements;
- whether the complainant is from a group who don't usually access our service, or are otherwise disadvantaged;
- whether the wider public have shown an interest in this topic; and
- whether the case is potentially systemic.

Based on initial research we are now engaging with users to gather feedback from members of the public, former complainants, advocacy groups, and organisations we investigate. We will be reviewing the feedback from users, alongside the results from internal testing to reach a recommendation for a future model.

We plan to report back to the Committee on these findings after the launch of the public value model and we would be happy to provide further information as required, given the importance of this approach to our work and the interest of the Committee.

- 6. We welcome the PHSO's actions following our previous recommendation, resulting in reforms to how it conducts its Service Charter survey and differentiating the data depending on the outcome of a complaint's case. However, we remain concerned that these changes do not address the underlying problems revealed by missing the targets for the three KPIs, and by the persistently low scores related to gathering information, explaining decisions, and making and communicating the final decision to complainants in a timely fashion. The PHSO should set out in its response to this report the steps it is taking to drive continual improvement in its scores in these key areas.**

We are committed to using feedback from our surveys to continuously improve our service. Feedback is collected throughout the year via an online survey run by PHSO and through telephone surveys managed by an independent research company.

Our Service Charter scores are steadily improving. In 2023-24, the time taken to close cases has improved across all three of our KPI measures (cases closed within 13/26/52 weeks). The queue reduction work also means that we can begin work on cases much sooner with cases now being allocated within 15-20 weeks (down from a peak of 65 weeks in September 2022).

To help improve our Service Charter KPI on gathering information and evidence, we have delivered a series of workshops to our operations staff. This included delivering training for staff on how to identify gaps in casework evidence and the steps staff can take to address these issues.

We are also reviewing how we write our decisions, in order to make these clearer and easier to understand. We have had input from our Public Engagement Advisory Group² to help us understand their views on our investigation reports and improve the language and communication of our decisions.

With regards to improving the timeliness of how we make and communicate our final decision to complainants, we have taken steps to improve our casework processes so that we can reach decisions quicker and provide a quicker response to complainants. This has included introducing a new decision form for standard casework to improve efficiency in case handling and focus on making the right decision at the right time, alongside improvements to our Casework Management System.

Following the last inquiry, the Committee asked us to prioritise completing a review of PHSO's regular survey of complainant satisfaction. We have now changed the survey to give us a clearer picture of the experiences of people who use our service. This improves our understanding but will initially limit our ability to analyse trend data and comparing the results to previous years. However, we will be setting ourselves targets and establish strategies to achieve them in due course.

- 7. We note the welcome increase in the PHSO's number of staff, especially its new caseworkers. Likewise, we welcome the fact that it has retained specialist workers and has increased the amount of training it delivers to staff. This increase in training means it is even more important for the PHSO to retain staff, given the additional investment now being made in them. The Ombudsman and Chief Executive suggested current levels of staff turnover could be the result of a lack of opportunity for career development and the PHSO's different policy on hybrid**

² This group comprises former complainants who we engage with on a regular basis to inform user-focused improvements to our service.

working compared to other ombudsmen. We welcome the PHSO's intention to review its hybrid working policy next year. The PHSO should separately assess whether there are further steps it can and should take to reduce staff turnover, including how far its hybrid working policy is leading to higher turnover than other ombudsmen. The PHSO should look to complete its reviews of hybrid working and the factors causing staff turnover by the summer of 2024, and share its findings with us ahead of our next scrutiny session for the 2023/24 period.

We recognise the importance of retaining our staff, particularly specialist casework staff in whom we have significantly invested with training. For 2022-23, our turnover figures were 12% for permanent staff. This was an unusual year in our reporting, following relatively low levels of attrition during the pandemic (7% in 2020-21). Preliminary data in 2023-24 staff turnover was 9.9% for permanent staff - showing a clear reduction of 2.1% in staff turnover figures that were already lower than comparator organisations in the wider public sector (civil service average is 11.9%³).

Our new Flexible Working Model went live on 1 January 2023 after considerable research and communication with staff about hybrid working. This introduced a requirement to attend the office for a minimum of 40% of the working week following a trial period. A further review of hybrid working will take place during the summer of 2024, following the refurbishment of our main office in Manchester. The refurbishment began in February 2024 and is on track to conclude in June 2024. We will complete the review of hybrid working following this and report back to the Committee on next steps.

8. We welcome the PHSO's digital ambition and believe that this is a sensible way to increase value for money. We request from the PHSO a further update on progress towards achieving these aims, along with a detailed analysis of any financial savings expected to be made as a result, with both to be included in the PHSO's next Annual Report and Accounts.

The nature of PHSO's work means that we have the potential to harness data to identify recurrent failings in public services nationally and advise on system improvements.

Our DDaT strategy launched in September 2023 sets the direction over the next five years for how we will use technology and data to improve our service. Our ambition is to be a leading digital ombudsman through a full digital service pathway from finding out about PHSO to the closure of a complaint. This will enable us to deliver a more accessible service that is tailored to the needs of individuals:

- Complainants and members of the public to be guided through the complaints process as easily as possible, including being able to track the progress of their complaint
- MPs and their staff will be able to use our digital services to access information and insight about the complaints they have referred and the issues that we are seeing in their constituencies
- Organisations we investigate will understand how we investigate complaints and what we expect from them, as well as being able to safely and securely share evidence with us online.

³ Institute for Government, Whitehall Monitor 2024, [Whitehall Monitor 2024: Part 1 | Institute for Government](#)

- PHSO colleagues will be digitally confident using technology that simplifies delivery so that we can be more data driven to help predict demand and spot trends.

We also plan to maximise our use of artificial intelligence to make us more effective and efficient by saving time where it is appropriate to use such technologies.

This strategy is part of a broader package of work to improve the public value of our service, is informed by the 2022 independent peer review of PHSO's service and is in line with HMT's public value framework. We are concluding the embedding of review recommendations which include taking steps to understand and plan for the demand implications of increased public awareness and widened access to our service.

We have made efficiencies in our casework processes, which have enabled us to date to absorb demand above forecast levels. Through the introduction of our public value model and the improved use of data analytics we will be better able to predict demand for our service.

We will provide a progress update in our next annual report, and prior to the next inquiry we will report back to the Committee on potential financial savings that have been identified to date through the delivery of our Digital, Data and Technology strategy. We anticipate that we may potentially begin to realise some of these benefits from year 2-3 of the DDaT strategy in 2026 up until 2030.

9. We renew our call for legislative reform of the PHSO, the principle of which enjoys widespread support among stakeholders and the ombudsmen that would be directly affected. The PHSO have outlined to us some concrete examples of the operational issues that are being caused, and exacerbated over time, by the lack of reform. Reforms are long overdue, and we do not agree with the Government that this is not an urgent issue; rather it has been neglected too long and further delay is no longer tenable. The Government should reconsider its position on reforms and set out its plans, ahead of the general election. It should consult with a wide variety of stakeholders, including different ombudsmen, parliamentarians and PHSO service users. All political parties should include a commitment to reforming the legislation relating to the PHSO in their upcoming manifestos ahead of the next General Election, coupled with a commitment to introduce such legislation early in the next Parliament

We welcome this recommendation and PACAC's continued support on the matter of legislative reform. It is regrettable that the Government has chosen not to act on the recommendations from PACAC and its predecessor Committees to progress Ombudsman reform.

There are opportunities to streamline the number of public service ombudsman schemes in the UK to generate efficiencies and improve services by creating a single Public Service Ombudsman. This could occur alongside reforms to:

- Allow citizens a choice on whether to refer their complaint via their MP or directly to the Ombudsman;
- Enable the Ombudsman to investigate public service failings that affect people who are unable or unwilling to complain; or
- Introduce stronger powers to drive improvement in complaint-handling in frontline public services.

We particularly welcome the recommendation of a consultation on the nature of legislative reform and the recommendation that all political parties include a commitment in their upcoming manifestos ahead of the next General Election to reform the legislation relating to the PHSO.

We believe that ombudsman services in England can play a stronger role in our justice landscape and that work to review the landscape and consult on the nature of reform could deliver significant efficiencies and improve access to justice.

10. We welcome the PHSO’s continual collaboration with ombudsmen in other countries and across the UK, along with its collaboration with other organisations. In its response to this report the PHSO should outline the lessons it has learnt and best practices it has adopted because of its collaboration with other ombudsmen.

PHSO is well respected in the international ombuds community and has played a leading role in delivering joint activities such as the publication of [‘The Art of the Ombudsman: Leadership Through International Crisis’](#). The majority of our work with international colleagues involves us sharing our best practice and expertise and learning from the experiences of others to improve our own service.

Some examples of where we have learned from the experience of international colleagues include:

- adopting the Canadian Ombudsman’s ‘Complaints Champions’ model of engagement where individuals who already have social capital within many underserved and underrepresented populations (e.g. faith leaders, social prescribers and youth workers) are trained on how to effectively navigate the complex complaints landscape;
- adopting the principles of the Dutch and Western Australian ombudsman approaches to ‘roadshows’. These provide an opportunity for the Ombudsman to visit various community groups and MPs to learn more about the issues faced by residents and seldom heard communities when using public services. Most recently, we held such events in Stockton-on-Tees and Bristol; and,
- organising a learning exchange focusing on mediation with the Israeli Ombudsman who are more advanced in this particular area.

We have also co-hosted the launch of the European International Ombudsman Institute (IOI) learning academy in partnership with the IOI and the national ombudsman offices of Greece and the Netherlands. This conference was held in Manchester attended by 30 international ombuds with a further 60 IOI colleagues joining virtually. Building on the success of the Manchester Memorandum in 2021, this PHSO organised event marked a new chapter in ombudsman learning with the launch of the European Learning Academy.

11. We welcome the progress that has been made in developing and rolling out Complaint Standards for the UK Government and the NHS. These Standards have the potential to improve the quality of public services and the handling of complaints. Ensuring that staff know about and act on these Standards is critical to achieving these goals. In its response to this report, the PHSO should set out both the proportion and number of all relevant NHS and UK Government staff who have been trained in its respective Complaint Standards, broken down by department where appropriate, and inform us of its targets for training over the 2023-24 financial year.

We reiterate the recommendation from our previous report that the Cabinet Office should strongly encourage Government departments and public bodies to sign up to the Government Complaint Standards. In its response to this report, the Government should outline how many departments and public bodies have now signed up to the PHSO Complaint Standards, and set out its plan and timetable to introduce these Standards across all departments and public bodies.

In March 2023, we published our evaluation report on our pilot of the NHS Complaint Standards. The pilot saw us work with 11 NHS organisations and one private provider to explore how best to embed the Standards in their work. By the end of the pilot, over 70 Early Adopters had also joined the programme.

By piloting the materials, we have shown that the NHS Complaint Standards in practice can help organisations to deliver good complaint-handling. Since the start of 2023 we have offered a suite of training resources and guidance to NHS complaint teams, with take-up exceeding expectations. By April 2024, over 1,248 NHS learners had registered on our learning platform and over 720 people from 145 NHS organisations had completed our Continuing Professional Development training courses.

In March 2023, following the successful launch of our NHS Complaint Standards, we launched the UK Central Government Complaint Standards, alongside a set of supporting materials including a four-step plan to help organisations embed the Standards.

We selected a small number of trailblazer organisations that we could shadow on their journey to embed the Standards, to ensure that the materials work in practice for all sizes/configurations of organisation. Their feedback has been very positive in terms of how helpful the Standards and the supporting materials have been in helping them improve the way they deal with complaints. The trailblazers are currently completing their final feedback reports.

We are yet to deliver training to government departments. We are in the process of testing a draft iteration of the bespoke training we want to deliver. We expect to launch this by June 2024.

We currently offer two different types of courses to NHS organisations:

- 1) **‘How to recognise and resolve complaints early’** (CPD certified) This is designed to help staff understand and resolve complaints quickly, and capture any learning to support improvements to their service.
- 2) **‘Taking a closer look - how to investigate and respond to complaints’** (CPD certified). This is a more in-depth course designed to train staff on how to handle and respond to complaints during the different stages of the casework process, including maintaining good records, identifying evidence, and providing a remedy.

Although we are prevented from charging for training which limits what we are able to do, we do welcome PACAC’s recommendation on the role for the Cabinet Office and agree that this has the potential to help drive improvements in the standards of complaint handling across government departments.