



**Every complaint matters**

Annual Report  
2008–09

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The Parliamentary and Health Service Ombudsman (PHSO) exists to:  
**Provide a service to the public by undertaking independent investigations into complaints that government departments, a range of other public bodies in the UK, and the NHS in England have not acted properly or fairly or have provided a poor service.**

#### **Our aim and vision**

**To provide an independent, high quality complaint handling service that rights individual wrongs, drives improvements in public services and informs public policy. Our values shape our behaviour, both as an organisation and as individuals working in PHSO, and incorporate our Principles of Good Administration.**

#### **Excellence**

We pursue excellence in all that we do in order to provide the best possible service:

- We seek feedback to achieve learning and continuous improvement.
- We operate thorough and rigorous processes to reach sound, evidence-based judgments.
- We are committed to enabling and developing our staff so that they can provide an excellent service.

#### **Leadership**

We lead by example so that our work will have a positive impact:

- We set high standards for ourselves and others.
- We are an exemplar and provide expert advice in complaint handling.
- We share learning to achieve improvement.

#### **Integrity**

We are open, honest and straightforward in all our dealings, and use time, money and resources effectively:

- We are consistent and transparent in our actions and decisions.
- We take responsibility for our actions and hold ourselves accountable for all that we do.
- We treat people fairly.

#### **Diversity**

We value people and their diversity and strive to be inclusive:

- We respect others, regardless of personal differences.
- We listen to people to understand their needs and tailor our service accordingly.
- We promote equal access to our service for all members of the community.

## **Annual Report 2008–09**

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of the Parliamentary Commissioner Act 1967

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**“... I must say that your comprehensive reply has gone a long way to restoring my trust in accountable government and I thank you for it.”**

*Complainant*



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All the people photographed in the Annual Report 2008–09 are PHSO staff members.

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## 1

## Introduction



The year 2008–09 has been a significant one in the history of the Parliamentary and Health Service Ombudsman. The reform of the health service complaints system saw my Office becoming the second and final stage of the system. As importantly, there has been a clear commitment on the part of the NHS to local resolution, something which complainants want and for which I have argued for many years.

The work to prepare for this major change took place mainly unseen by the public. That was not the case with two other major pieces of work.

First, my report *Equitable Life: a decade of regulatory failure* was laid before Parliament in the full glare of publicity, as were the subsequent debates. While those debates continue as I write, the report achieved one of the outcomes sought by everyone who brings a complaint to my Office: to establish the facts in a complex situation. It is a tribute

to the team who worked on the report that it has been accepted by all major parties to the debate as an authoritative account of what happened.

Second was the publication of *Six lives: the provision of public services to people with learning disabilities*, with the Local Government Ombudsman. While the media coverage of the report and issues it raised was welcome, it will be the personal responses to the stories of those six people and their families that will remain in my mind, and indeed in the mind of everyone who works for my Office. While the report focused on the experience of people with learning disabilities, their stories touched many people who have had reason to complain of their treatment by the health service and felt that their voices had not been heard.

How much injustice could be avoided if public services learnt to respond to complaints as an opportunity to put things right and to learn from what went wrong? There are some positive signs. The new health complaints system itself, HM Treasury's new requirement for all departments to publish information on complaints, and the response of the Department for Work and Pensions to the ongoing work my Office does with them suggest that some things are moving in the right direction. In these times of economic recession, it is heartening that improving complaint handling by public services is still being championed within the public sector because learning from complaints should lead to more effective public services. There is still much to improve and too many complaints come to my Office when they could easily have been resolved by the public body in question,

**“... high levels of compliance with our recommendations... now at over 99 per cent.”**

avoiding injustice and preventing what can be years of suffering for the individuals affected. This report contains only a few of the cases brought to me and I am aware that many people continue to suffer injustice unheard.

That context brings into sharp focus the needs of those 16,317 people who contacted my Office this year. Each one commands our attention, including those who are complaining about bodies outside my jurisdiction who simply need a courteous response and informed advice on where to take their complaint. They are all important and ensuring continuous improvement of the service my Office provides was a major focus this year, as it must be for all parts of the complaints system, from the front line worker listening to their customer, to complaints departments within major public services.

First, we had to prepare ourselves for the new health complaints system from April 2009 onwards.

This included:

- Setting up a new site in Manchester – and recruiting over 100 new staff.
- Developing closer working relationships with the Department of Health and the NHS.
- Transitional planning, including changing our approach to the health complaints coming to us throughout the year to take account of changes at the Healthcare Commission in its final months of complaint handling.

I explain some of the work involved in this in a little more detail later in this report.

Those have not been the only changes in 2008–09. There was also a noticeable change of emphasis in the nature of both the parliamentary and health investigations work. The key reason for that was the significant decline in the number of complaints relating to tax credits and to the NHS funding of long-term care needs (often referred to as ‘continuing care’) under investigation. Both of these are areas that have been the focus of two special reports each by my Office in previous years. It has certainly taken longer than we had hoped for the recommendations in those reports to work their way through, but I see the marked

decline this last year in those areas of our work as clear evidence of progress.

The nature of the health cases that we took on for investigation also began to change during the transition to the new NHS complaints system and will continue to change significantly over the coming year. This is because the majority of health investigations that we conducted this year were looking solely at the Healthcare Commission’s complaint handling. Where that was found wanting, we would refer the matter back to the Healthcare Commission for it to put things right – as that is generally the best way for organisations to learn how to get it right first time the next time. Over the next year or so, while the new NHS complaints system develops, we expect to be referring a significant proportion of cases back to the NHS for proper local resolution, so that this learning can take place. But what that also means is that those cases that we do take on for investigation are likely to be the more difficult, complex or entrenched complaints – as well as those we consider are also likely to have a wider significance.

I am pleased to report that, after much work in 2008 preparing ourselves for this new challenge, every case that is brought to us is assigned to a caseworker with little or no delay.

Reducing the time it takes to carry out investigations remains a major challenge. This will involve significant changes to the way we work – which are already under way so that we can reduce the throughput time at the same time as maintaining or improving the quality of our investigations. Maintaining and increasing quality is essential if we are to maintain the high levels of compliance with our recommendations, now at over 99 per cent, another key desire of our customers.

My Office has always sought to intervene where possible to put things right before an investigation is required. We shall be increasing the focus on this area of work, so again we would expect to see a reduction in the number of investigations reported on but with a corresponding improvement in putting things right for complainants in a shorter space of time.

Whilst righting individual wrongs is the core of our work, my Office also has a wider 'public benefit' role. One of my Office's key priorities is therefore to capture and share the learning from our casework in order to drive improvements in public services and to inform public policy. To that end, in addition to the special reports already mentioned, we have this year published three digests of complaints which illustrate both good and bad practice in dealing with complaints – details of which are set out later in this report. We have also published a consolidated version of the trilogy of *Ombudsman's Principles (Principles of Good Administration, Principles of Good Complaint Handling, and Principles for Remedy)* which we had published previously, in order to make it easier for people to see and understand the connections across the three documents.

I am also pleased to be able to report that in February 2009 the Department for Business, Enterprise and Regulatory Reform finally announced the outcome of their review of the ex gratia compensation scheme for Icelandic water trawlermen, which I had recommended when I published my report on the administration of that scheme in February 2007. This took the form of a consultation on the introduction of a new scheme, which I welcome.

Finally, I would like to take this opportunity to thank the Public Administration Select Committee. Throughout the year they have continued to provide me with both robust challenge, in terms of my own Office's performance, and encouraging support, such as in their response to the Government's response to my report on *Equitable Life*, both of which are of enormous value to me.

In summary, 2008–09 involved my Office in a lot of hard work. There were a significant number of major achievements and we ended the year in a much better situation than we started it, and in a good position to tackle the challenges ahead. But there is a lot more still to be done. Although we have extra resources to deal with the additional work arising from NHS complaints, we need to respond effectively to the views of our stakeholders who say that if we are to be exemplary complaint handlers, then there must be no delay in our cases

being assigned for assessment or investigation. The investigations must also take considerably less time to complete. I am very pleased to be able to report that, despite a difficult start to the year, and in addition to the successful completion of the transition arrangements ready for our new role in the NHS complaint handling system, my Office was able to rise to the challenge of meeting five out of six of our operational targets for 2008–09. That was a very real achievement in 2008–09, of which my staff can justly be proud.

To build on our achievements in 2008–09 will mean not just maintaining our momentum, but increasing our pace, in our investigations work in particular, and without compromising on quality. We have, therefore, an even more challenging year ahead of us.

**Ann Abraham**

Parliamentary and Health Service Ombudsman  
15 July 2009

## 2

## Every complaint matters



### Welcome to the Parliamentary and Health Service Ombudsman

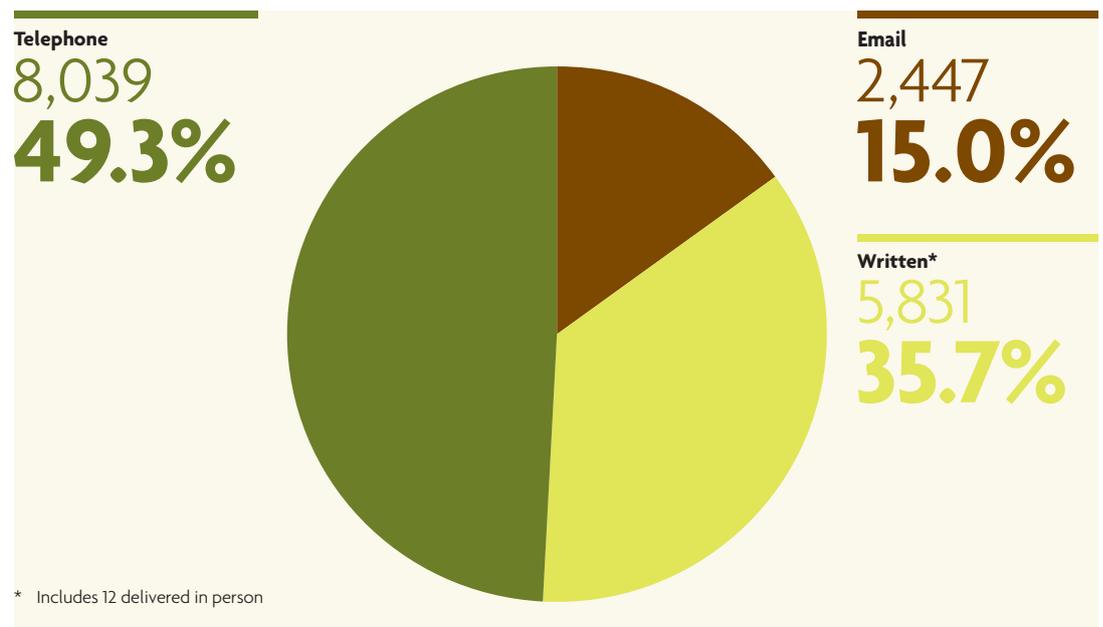
We receive a large number of enquiries from the public, in all some 16,317 in 2008–09. These can be by telephone and email, in person as well as in writing, as Figure 1 shows. All of them have first to be appropriately assessed. Every complainant matters, even when people may appear to be complaining to the wrong place.

The first step is for us to carry out a series of simple, preliminary checks with the complainant to ensure that their complaint is one which falls within the terms of our legislation. If it does not, then we aim to explain why, and in a way that will help the complainant resolve their complaint effectively by a different route if this is possible.

In quite a significant number of the enquiries we receive, the body involved, or the matters that people wish to complain about, are not within the Parliamentary and Health Service Ombudsman's (PHSO) jurisdiction. This year, for example, we have seen a number of complaints about private companies, solicitors, financial institutions and local councils. In such instances, our customer services officers will refer those complainants to the body which we think is most likely to be able to help them (in the case of those cited, to Consumer Direct or Citizens Advice, the Legal Complaints Service, the Financial Ombudsman Service, and the Local Government Ombudsman respectively). During the year we closed 2,830 enquiries as they were out of our remit.

Figure 1.

#### Enquiries by methods of delivery



**“... I understand and accept that you are unable to intervene in this case, but I’m so grateful that you took the time and trouble to advise me in such detail on the procedures possible...”**

*Complainant*

#### **Showing the way**

A woman complained to us that a private company was pursuing her for payment for an item which she had already returned to the company. We referred her to Consumer Direct and Citizens Advice for guidance.

A woman complained that the company from which she had purchased her mattress was refusing to deal with her complaint. The customer was referred to Consumer Direct.

A man complained about an NHS advert aimed at encouraging people to stop smoking. We referred him to the Advertising Standards Agency.

#### **Local resolution matters**

Once we are clear that the complaint is one that falls within our jurisdiction, we need to check whether it has completed the local complaints process. One of PHSO’s key aims is to get government departments and the NHS to take complaints seriously, and to handle them appropriately. Our experience is that most people simply want to be listened to, and to have their complaint understood and resolved as quickly and painlessly as possible. The best place for that to happen is as close to the source of the complaint as possible. It is also important that those bodies understand the importance of good complaint handling, not just to the complainant, and in order to provide good customer service, but to themselves, as an important source of feedback and learning. It is essential, therefore, that those bodies get the opportunity to put things right before PHSO considers the matter. If they have not had that opportunity, we consider such a complaint to have come to us prematurely, and we will generally decline to investigate it at that point and ask people to make full use of the local complaints process. That would include them putting the complaint to an arms-length departmental complaint handler such as the Department for Work and Pensions’ Independent Case Examiner.

We do, however, have discretion not to require someone to exhaust the local procedure if there is good reason for that. We might use that discretion, for example, where there is some urgency (such as if the complainant has a terminal illness), or where returning to the local procedure is unlikely to be effective.

However, those cases are the exception, and we still receive far too many complaints that could and should be resolved locally. This year we closed some 9,583<sup>1</sup> cases which were either not properly made or otherwise premature, including referring many back to the relevant bodies. That number is likely to increase over the coming year while the new NHS complaints system beds in, and local NHS bodies develop a better understanding of the system and, most importantly, of the expectations upon them.

Overall, in 2008–09 some 79 per cent of the enquiries we closed did not satisfy these basic checks (see Figure 2). That is a matter of some considerable concern to us as we want people to understand clearly what we can help them with, and when they should bring those matters to us. Essentially, we want people to be able to make the right complaint at the right time to the right organisation, and to achieve a good outcome. It is evident that we are nowhere near that position yet, and this is therefore an area we will be focusing on in the future.

#### **Putting things right**

Once a complaint has satisfied preliminary checks, we then move on to our more detailed assessment of the complaint.

In order to be able to launch an investigation, we must first satisfy ourselves that there is some evidence of administrative fault or of service failure. If we cannot see any indication of either of those, then we cannot look at the complaint and have to explain this to the complainant.

Where we are satisfied that there is an indication of administrative fault or of service failure, the next test to be applied is to see whether injustice or hardship has flowed from it.

<sup>1</sup> Not properly made – health complaints not made in writing or parliamentary complaints not referred by an MP.



Finally, if both of those criteria are satisfied, we consider whether there is a reasonable prospect of an investigation by PHSO leading to a worthwhile outcome. This is how PHSO makes sure that we make the best use of our resources in order to have the greatest impact and provide the taxpayer with value for money.

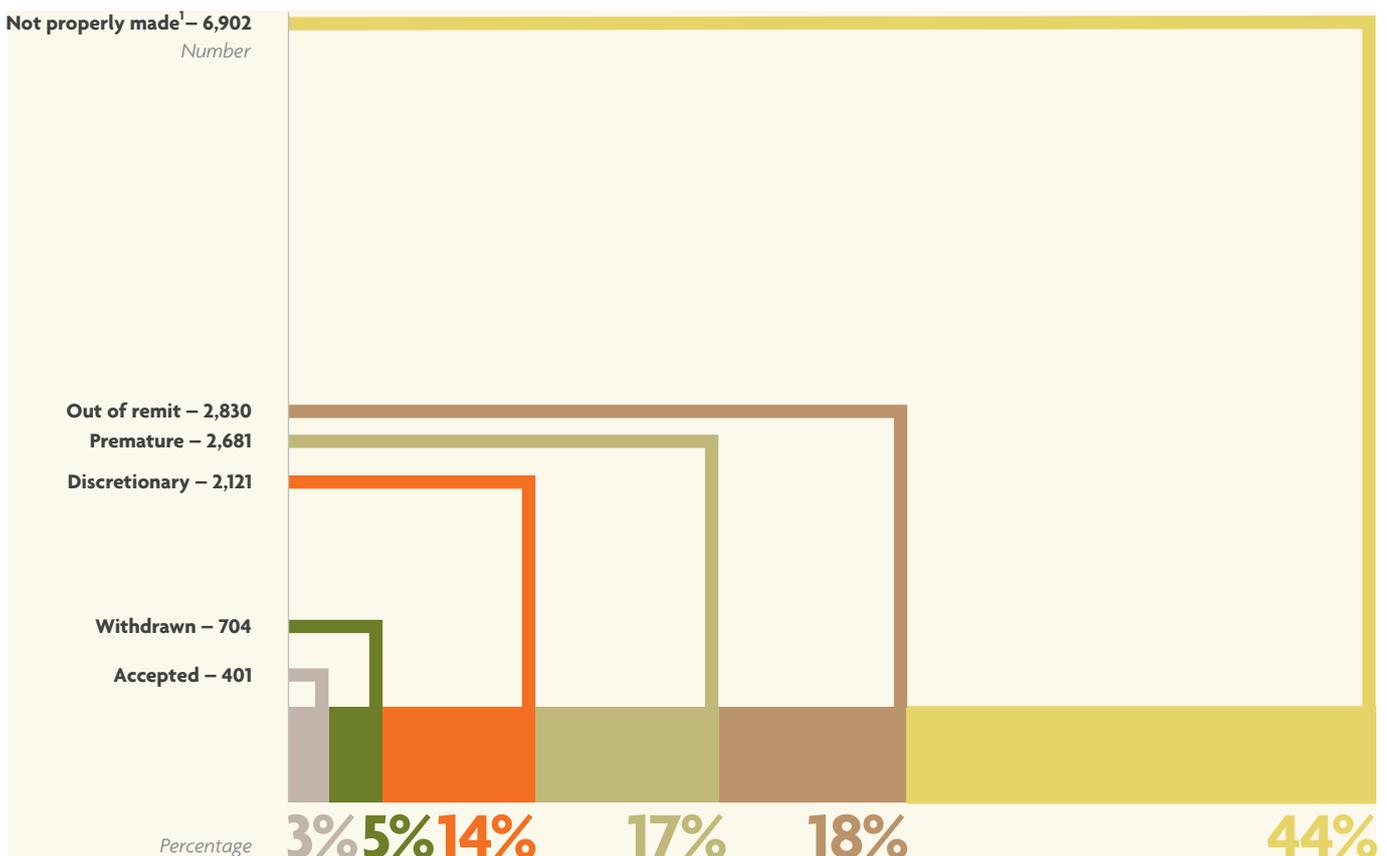
That does not mean that we choose not to take on those cases where we think it will be difficult to achieve the appropriate outcome, perhaps because of the stance taken by the body so far. But there are cases where we can tell at the assessment stage that an investigation is unlikely to be able to uncover any new evidence to confirm the events complained about (for example, where the body's papers have been destroyed in line with its proper destruction procedures). There are other cases where we can see at the outset that there would be no possibility

that we would be asking for the remedy that the complainant is seeking (we might seek an apology, but the complainant wants a significant sum of compensation and the Chief Executive of the body concerned to be dismissed). In such instances, we would confirm first with the complainant that, knowing that, they still want the matter investigated.

At this point, we may well decide that the evidence of maladministration by the body concerned leading to an unremedied injustice is so clear that we might not need to launch an investigation to find out what happened, but instead we can work with the relevant parties to achieve a satisfactory resolution. We try to do this wherever appropriate, because in such cases what the complainant often wants is just to have things put right as quickly as possible, and not a detailed report explaining and analysing what has happened.

Figure 2.

**Types of closed enquiries**



**“... I am sure that your intervention prompted a quick reply. Up until you looked at my problem I felt that I was up against a blank wall of authority...Thank you for your positive attention.”**

*Complainant*

### Putting things right

#### Child Support Agency <sup>2</sup>

Ms B complained that the Agency had failed to comply with the recommendations made by the Independent Case Examiner that she should be provided with:

- an account breakdown on her case advising the outstanding arrears balance and how this figure was calculated; and
- an assurance that, once a maintenance calculation had been completed, it would refer her case for consideration of a financial loss payment.

Following our intervention, the Agency sent her an account breakdown and agreed to a financial loss payment of £824.48: £610 for actual financial loss of child maintenance premium and £214.48 in interest. They also agreed a consolatory payment of £75 for the gross inconvenience she had suffered in trying to get her complaint resolved.

#### HM Revenue & Customs

Ms A complained on behalf of her partner, Mr F, who has mental health problems, about overpayments amounting to £2,445.24 on his tax credit awards for 2005–06 and 2006–07. Because of Mr F's mental health problems he had sought help from Jobcentre Plus staff when he made his initial claim for tax credits, and they had completed the form for him.

When HM Revenue & Customs (HMRC) reconsidered the circumstances of the overpayment at our request, they concluded that staff at Jobcentre Plus had filled in Mr F's claim form incorrectly by not indicating that he had a partner, and that they had not questioned Mr F appropriately when he had told them he was sharing a house with someone. They also said that Mr F had made it clear at the time that he had been unable to fill in the forms himself or to understand the award notices that he had received. HMRC accordingly agreed to remit the full overpayment of £2,445.24. They also paid Mr F £50 compensation in recognition of delays during the complaints process.

### The investigations

Where we are not able to settle things quickly by an intervention, we will conduct a thorough and in-depth investigation. Every investigation must be focused on the specific complaint. Every investigation is different and can have different implications. We have chosen a few of the 713 investigations carried out this year by the Office to illustrate our work.

The cases we investigate are complex and difficult, and may have a much wider impact than for the complainant alone. In the case of Mr L, we recommended that Jobcentre Plus should not only pay compensation, but also consider what reasonable steps to take to identify other men in a similar position and to remedy any injustice they may have suffered; and that Jobcentre Plus take our findings into account if other men in a similar position complain along the same lines.

Some of the cases we investigated also raised important equality and diversity issues. Miss C's case, for example, involved a dental practice's failure to make reasonable adjustments to its service for someone who was severely disabled, and for a failure of the Healthcare Commission to take disability issues into account in its consideration of the handling of the complaint.

In the case of Mr M, we found that the Service Personnel and Veterans Agency had allowed an inflexible application of its data protection policy to override the obligations placed on it by the *Disability Discrimination Act 1995* to make reasonable adjustments.

<sup>2</sup> The Child Support Agency was formerly an Executive Agency of the Department for Work and Pensions, and from October 2008 became one of the services provided by the Child Maintenance and Enforcement Commission.

## Mr L, a widowed man and his children



### Background

Mr L complained that when the law changed to introduce widowed parent's allowance to enable men to claim this bereavement benefit, the scan conducted by the Child Benefit Office failed to identify him as eligible to claim the allowance, and that he had therefore missed out on several years' worth of benefit. He complained that he may not have been identified because of unreasonable bias in the way the scan was carried out. He also complained that when Jobcentre Plus considered his request for a special payment to compensate him for missing out on the allowance for four and a half years, it failed to give full consideration to all the circumstances of the case.

We considered the guidance set out in the Civil Service Department's 1979 report *Legal Entitlements and Administrative Practices*, which offers guidance on the administrative practices to be followed when a change in statutory provisions gives rise to new entitlements. In such cases, the relevant department 'should act reasonably in taking such steps as may be practicable to identify those with an entitlement'. We compared this to the actions of Jobcentre Plus and the Child Benefit Office in the lead-up to the change in the law in April 2001 which extended bereavement benefits, which had previously only been available to widows, to widowers.

### Resolution

We found that the Child Benefit Office had undertaken a scan of the child benefit database to try to identify potentially eligible widowers to whom invitations to claim bereavement benefits were sent but, as the database was never set up for that purpose, we found that there was every likelihood that potentially significant numbers of eligible widowers would not be identified by the scan. Jobcentre Plus then undertook a publicity campaign, but we found that due to its size and scope there could not have been a reasonable prospect that it would have been successful in informing all those affected about the changes to the law. We concluded that Jobcentre Plus' reliance on an inadequate scan and publicity campaign to inform widowers of their new entitlements was maladministration.

We found further maladministration because both Jobcentre Plus and the Child Benefit Office were unable to provide us with full records about the considerations given to the question of how they should approach the task of acting reasonably in taking practicable steps to identify widowers with a new entitlement. We also upheld Mr L's complaint that when considering his request for an ex gratia payment to cover his missing benefit, Jobcentre Plus had failed to take all relevant circumstances into account. We concluded that if Jobcentre Plus had executed its responsibilities more thoroughly, Mr L would have claimed bereavement benefit from April 2001, when he became eligible.

As a result of our investigation, Jobcentre Plus paid Mr L £34,850 for lost benefit, interest, inconvenience, distress and costs. The Child Benefit Office also made him a payment of £500. We also recommended that Jobcentre Plus should consider what reasonable steps it could take to identify other men in a similar position and to remedy any injustice they may have suffered. It should also take our findings into account if other men in a similar position complain along the same lines, and consider whether it should make any changes to its records management policies or the way those were adhered to.

## Mr G, the loss of a business, and more

### Background

Mr G complained that HM Revenue & Customs (HMRC) obtained his sequestration through a procedural error and without his knowledge. Mr G further complained that it then failed to take remedial action once its error had come to light, and that it frustrated his efforts to have the sequestration recalled. Mr G claimed that, as a result, he had lost his business and his share of the marital home, his health had suffered and he needed counselling. He also claimed that he had been unable to work, and that his reputation had been destroyed.

HMRC failed to realise that Mr G had paid the VAT he had owed before it commenced its action. It then compounded that error by failing to act on a further payment that he made, or to react appropriately to being told that the debt under action had been paid. Throughout the course of proceedings HMRC failed to exercise any effective control over the case whatsoever. Following Mr G's sequestration it took HMRC seven months to inform him of its error. Despite the ten-week time limit for applying for a recall of the sequestration, HMRC first sought policy advice and then Counsel's opinion before admitting its error. HMRC then actively frustrated Mr G's attempts to recover the situation. HMRC first declined to apply for a recall of Mr G's sequestration, and then opposed Mr G's application for legal aid to seek a recall himself, relying in part on the fact that his application for recall had not been made within the statutory time limit. Rather than take responsibility for its actions, and seek to put things right, HMRC merely offered an ill-informed defence of its actions, relying on the fact that further VAT debts had built up while it had been taking action against Mr G. That attitude persisted even after we had launched our investigation.

HMRC accepted that it should have identified immediately the further payment made by Mr G, and it apologised for the delay in doing so. However, even at that late stage, HMRC did not grasp the extent of its failings, or identify that the original payment had cleared the debt under action before that action commenced.

### Resolution

The Ombudsman found that HMRC had pursued Mr G with a reckless disregard for his rights and the consequences that he had had to live with for five years. HMRC has considerable power at its disposal, but with that power comes a responsibility to act proportionately, appropriately and fairly, and with regard for the law and its own internal procedures. In Mr G's case, PHSO found that HMRC fell a long way short of that. Post-sequestration, HMRC's actions could legitimately be described as self-serving and mean-spirited. In their desire to defend their own position HMRC completely lost sight of the devastating impact that their mistake had had on Mr G. It neither apologised to him, nor gave any thought to remedying the situation.

As a result of HMRC's maladministration, Mr G was incorrectly placed in sequestration, with all of the implications of that. This led to considerable worry and distress for Mr G, which had a detrimental impact on his family life and on his health that persists to this day. Mr G also lost his business and his reputation. In addition, Mr G's wife had to buy out his share of the marital home to avoid a forced sale.

Although HMRC's maladministration had serious consequences for Mr G, it was not possible to determine exactly what position he would have been in were it not for their errors. Had HMRC acted correctly, Mr G would still have faced a significant VAT debt and, whilst it was possible that he could have recovered the situation, PHSO could not say with any certainty how long his business would have survived. Nevertheless, PHSO found that a significant compensation payment was merited in recognition of the considerable worry and distress suffered by Mr G and his family as a result of HMRC's serious and persistent failings in the handling of his case, both before and after the award of sequestration. PHSO recommended that HMRC should make a compensation payment to Mr G of £50,000. PHSO also recommended that a senior officer of HMRC should apologise to Mr G for the serious maladministration identified by our investigation and for HMRC's failure to neither recognise the injustice caused to him, nor seek to provide any remedy for their mistakes.



**Miss C was doubly incontinent, so she often needed unpredictable time to prepare and so could not always attend her appointments promptly.**

## Miss C – equality and diversity

### Background

Miss C was blind and had physical and learning disabilities. She had been removed from a dentist's patient list, after missing two appointments and being late for a third. The practice was operating a 'zero tolerance' policy whereby two missed appointments meant removal from the list. Miss C's sister, her carer, complained that her removal from the list was unfair as the dates of the appointments had been confused by the practice. Miss C was doubly incontinent, so she often needed unpredictable time to prepare and so could not always attend her appointments promptly. Therefore, the practice's response was to take the patient back as a 'gesture of goodwill', but said it would remove her permanently at the first sign of non-attendance. The Healthcare Commission (the Commission) considered the practice was entitled to impose a zero tolerance policy and that the dentist had offered a reasonable resolution. The complaint had not been framed in terms of the Miss C's disability, and nor had the dentist or the Commission made any reference to the fact that she was disabled. Miss C's sister complained to us on the grounds that the Commission had not given adequate consideration to the fact that the missed appointments were not her sister's fault.

### Resolution

We found that, despite the way in which Miss C's sister had framed the complaint, the practice had not given any consideration to making reasonable adjustments for someone so severely disabled as Miss C, neither had the Commission chosen to make reference to it. We also found that policies of 'zero tolerance', imposed unthinkingly, might lead to injustice to individuals, especially to those who have individual or special needs. There were reasons why the decisions might be regarded as unfair in any circumstances, but the fact that Miss C was so severely disabled should not have been ignored. We also concluded that there was no evidence that the Commission had considered the equalities issues in the complaint and/or questioned the Practice's policies about disabled people. We upheld the complaint and asked the Commission to reinvestigate the matter, taking account of all the relevant evidence, legislation and guidance.

## Mr M – data protection?

### Background

Mr M is aged 74, lives in Australia, and is severely hearing-impaired. He complained that the Service Personnel and Veterans Agency (an agency of the Ministry of Defence) had refused his request to correspond with him mainly or solely by email. He said that mail sent to him by post from the Agency took a minimum of 20 days to reach him, and usually 25, whereas emails arrived within minutes. Mr M pointed out that the Agency provided a telephone helpline service to other disabled war pensioners as an alternative to postal correspondence, but because of his hearing disability he was unable to take advantage of that service. He said that he had been severely inconvenienced by the Agency's refusal to correspond with him by email. He believed its approach was discriminatory, and said that the Agency had failed to offer him the same level of service that it offered to those who were not hearing impaired. He wanted it to conduct correspondence with him entirely by email in future.

The Ministry of Defence told us that its policy was not to release personal data over the internet (including any information that could be used to identify an individual customer) in order to comply with the *Data Protection Act 1998*. Despite the fact that Mr M had told the Agency that he was content to waive his right to privacy and to agree to it corresponding with him solely by email, the Agency continued to refuse to email him as it continued to maintain that email was not a secure system.



In the course of our investigation we consulted the Information Commissioner's Office which told us that, in its view, Mr M's explicit consent to email correspondence being sent to him in Australia was enough to secure compliance with the data protection principles, and it saw no reason why correspondence with Mr M should not be undertaken by email. In the light of that advice we found that by failing to give proper consideration to Mr M's request, and by rigidly adhering to its policy, the Agency had fettered its discretion. It had taken an overly strict interpretation of the Act and appeared to have ignored a relevant consideration, which was that Mr M had given his consent for information to be emailed to him. We found that the Agency's approach had fallen so far short of the *Principles of Good Administration* as to be maladministrative.

As to Mr M's disability, the Agency told us that it had sought to make every reasonable adjustment to cater for his hearing impairment as the *Disability Discrimination Act 1995* required. However, we found that it had not in fact made any adjustments, reasonable or otherwise, and that that failure had made it either impossible or unreasonably difficult for Mr M to make use of the services it provided and had effectively excluded him from the full enjoyment of those services. That amounted to maladministration and had left Mr M suffering from an unremedied injustice.

### Resolution

The Agency subsequently agreed to conduct all future correspondence with Mr M by email (unless there was a statutory requirement that would not be fulfilled by electronic communication); to apologise to Mr M and make a consolatory payment to him of £250 in recognition of the inconvenience they had caused him by its refusal to do so sooner; and to examine its guidance on emailing personal data over the internet in the light of our findings and consider how it can ensure that it is read as guidance within which it has some discretion, rather than as an absolute rule from which it cannot deviate.

**Mr D suffered a life-threatening drop in blood pressure caused by the failure of a syringe pump to maintain his blood pressure.**

**Mr D – death of a loved one**

**Background**

On 26 May 2003 Mr D, who had insulin-dependent diabetes, was taken to A&E at Manchester Royal Infirmary (the Hospital) after collapsing at home. On arrival he was in a serious condition and overnight his condition deteriorated to the extent that he suffered a cardiac arrest. A decision was made to transfer him to another hospital (managed by a separate trust) where an intensive care bed was available. At the start of the transfer in the ambulance, Mr D suffered a life-threatening drop in blood pressure caused by the failure of a syringe pump to maintain his blood pressure, and then a further cardiac arrest. He died later that day at the second hospital.

In June 2003 Mrs D, his mother, complained to the Hospital about the events leading to her son's death. There were extensive attempts at local resolution but Mrs D remained dissatisfied and complained to the Healthcare Commission (the Commission) which held a formal independent review and upheld the majority of Mrs D's complaints. It made seven recommendations to the Hospital. The Hospital implemented four of these, but did not accept three recommendations that were all based on the Commission's conclusion that Mr D was unfit for transfer to the second hospital on the day he died, and that his transfer was contrary to accepted clinical guidelines issued by the Intensive Care Society (ICS). The Hospital disagreed with that view. The Commission concluded that there was nothing it could do to force the Hospital to comply. Mrs D was dissatisfied with the outcome of its review because the Hospital would not implement all the recommendations.

**Resolution**

We recommended that the Trust should apologise to Mrs D in writing for the failings identified, including its failure to implement the recommendations. The Trust should also inform Mrs D how they would implement the Commission's recommendations: first, that its Medical Director should review with the medical staff involved the circumstances which had given rise to the decision to transfer Mr D and determine

Our investigation found that the Commission had carried out an appropriate review of the matters raised by Mrs D. It took the unusual step of establishing a formal investigation into these matters, taking advice from two clinical advisers, and producing a lengthy report with a number of specific findings and recommendations. We were satisfied that the Commission's recommendations were appropriate and reasonable. It had made reasonable efforts to persuade the Hospital to address the recommendations, and the Trust subsequently complied with some of them. Taken as a whole, we found no maladministration in the way that the Commission reviewed Mrs D's complaint and so did not uphold that aspect of it.

However, we found that the Hospital had been maladministrative in refusing to accept the findings and implement two of the outstanding recommendations made by the Commission. The Hospital told the Commission that it disagreed with the conclusion that Mr D was not fit for transfer. However, the basic clinical chronology was not in dispute and it was clear that the Hospital had not acted in accordance with the ICS's guidelines. The Hospital did not explain clearly and helpfully to Mrs D the reasons for its refusal to accept the Commission's findings. The injustice to Mrs D was that she had had no effective remedy for her long-standing complaint.

the lessons to be learnt from this aspect of the complaint; and secondly, that the Trust should review its policies for the transfer of critically ill patients to ensure they meet the ICS's guidelines. The Trust also agreed to make Mrs D a payment of £1,000 for the distress, worry and inconvenience which their delay in resolving her complaint has caused her.



## 3

## Learning from complaints

**“... we fully endorse the principles ... and we strive to apply them to all we do in our role as an intermediate complaints handler...”**

*The Adjudicator’s Office*

#### Helping others to learn

One of PHSO’s key priorities is to capture and share the learning from our casework, both to improve local complaint handling, and to drive improvements in public services and inform public policy. But our real aim is to put ourselves out of business for all but the most difficult, complex and entrenched complaints.

It is inevitable, given the scale on which some public bodies deliver services, that things will go wrong from time to time. But the key is then how those bodies respond when such problems arise, and what they do to put things right. We have made it clear that we expect bodies to have an open, accessible, flexible and sensitive approach to complaint handling, which deals with all complaints in an appropriate and timely manner. We also expect them to have good systems in place to capture and share the learning from them. If they can get all of that right, then only a handful of the most difficult complaints should make their way to PHSO.

But to make that vision become a reality, we need in particular to help those public bodies who do not have well developed complaints systems to understand what good complaint handling looks like, and to make sure that they understand the standards that we expect from them when providing services to the public, including the principles they should be following when things do go wrong.

One way of doing that is by regularly producing case digests which highlight examples of both good and bad practice in dealing with complaints. Last year we published three such digests.

The first, *Remedy in the NHS: Summaries of recent cases*, published in June 2008, reviewed twelve NHS cases which touched on a wide range of issues. Some identified failings in service provision, from poor communication with patients, relatives and carers and poor record keeping through to more serious clinical failings, including in one case an avoidable death. Others demonstrated failings in



complaint handling. Of course, in all those cases where we upheld the complaint, we identified what we considered to be an appropriate remedy in line with our *Principles for Remedy* (which was first published in October 2007).

The second digest, *Improving public service: a matter of principle*, published in December 2008, included complaints involving a wide range of public bodies. Eight of the complaints were NHS related, and included complaints about a GP and a dentist, as well as Primary Care Trusts, Strategic Health Authorities and the Healthcare Commission. The remaining twelve cases involved complaints about other public bodies, some very familiar to this Office (as Chapter 5 demonstrates) such as Jobcentre Plus, HM Courts Service, UK Border Agency and HM Revenue & Customs, and others not so familiar, such as the Health and Safety Executive, and the Security Industry Authority.

The third digest, *Putting things right: complaints and learning from DWP*, published in March 2009, looked at twenty-two cases involving complaints relating to a range of issues, such as delay, poor record keeping and complaint handling. As Figure 3 on page 24 shows, the largest number of complaints

to PHSO involve the Department for Work and Pensions (DWP) and its agencies. That is not at all surprising, given the size and nature of its business. However, what is perhaps surprising is that many (although by no means all) of the complaints received in 2008-09 could have been resolved much sooner and by DWP itself, if its complaint handling had been more customer focused.

Given the imminent changes in the NHS complaints system, we also decided in February 2009 to publish a consolidated version of the trilogy *Principles of Good Administration*, *Principles of Good Complaint Handling* and *Principles for Remedy*. This was both to help emphasise that these three documents clearly set out the standards that we apply when assessing complaints about failings in public service, and to make it easier for people to see and understand the close connections between them.



There has been some welcome evidence that the Principles trilogy continues to be recognised and applied externally. HM Treasury include reference to the Ombudsman's Principles in *Managing Public Money*, its main body of guidance for central government Accounting Officers and the Department of Health also reference the Principles in the NHS Finance Manual. There were a number of further developments in this area in 2008-09:

- the Public Administration Select Committee cited the Principles in the Issues and Questions document for their inquiry on *Good Government* and their subsequent report;
- the Department for Work and Pensions has continued to provide a test bed for the application of the Principles in a pilot scheme in the Pension, Disability and Carers Service and in the review of its *Financial Redress for Maladministration* guide;
- the Handbook to the NHS Constitution, published in January 2009, endorsed the Principles in the context of the Constitution's pledges in relation to complaint and redress; and
- the Ministry of Justice's Green Paper, *Rights and Responsibilities: Developing our Constitutional Framework*, published in March 2009, referenced the Principles in the context of the proposal that there should be a right to good administration.

Finally, PHSO published *Six lives: the provision of public services to people with learning disabilities* in March 2009. This report looked at complaints made by Mencap on behalf of the families of six people with learning disabilities, all of whom had died while in NHS or local authority care. Our investigations found significant and distressing failures in services across both health and social care, leading to situations in which people with learning disabilities experienced prolonged suffering and inappropriate care.

The investigations were particularly revealing in that, not only did they find maladministration, service failure and unremedied injustice in relation to a number (but not all) of the 20 NHS bodies and local councils involved, but also in some instances we concluded that there had been maladministration and service failure for disability-related reasons.

We also found in some cases that the public bodies concerned had failed to live up to human rights principles, especially those of dignity and equality. These reports strongly suggested that people with learning disabilities comprise a group especially poorly served by healthcare services. We have already received feedback in response to these reports which indicates that some healthcare bodies are keen to use them and their distressing findings as a learning tool for their own services.

#### Helping ourselves to learn

We recognise that it would not be appropriate for us to set principles for public bodies to follow if we did not follow them ourselves. That is why we have put a very significant amount of effort this year into improving the quality of our own complaint handling. We have in particular developed comprehensive casework policy and guidance for our staff which explains clearly how to deal with a wide range of casework and casework-related issues.

We have also developed a Casework Quality Framework, which clarifies both for our staff and for our external stakeholders (principally complainants and the public bodies within our jurisdiction) what we mean by quality in the service we provide. The Framework demonstrates for staff how we apply our trilogy of Principles in our casework, and in particular how the *Principles of Good Administration* underpins high quality complaint handling and provides the high level benchmark against which we should assess our casework. The framework ensures that we have the systems in place to control, assure and improve the quality of our casework.

We also take the lessons from complaints we receive about our service, as well as feedback from surveys, very seriously. We use that learning both for individual training and wider benefit (through news bulletins and conferences) to develop and improve the service we provide.

In PHSO's most recent surveys, respondents told us that if we are to be exemplary complaint handlers, then there must not be delays in our cases being assigned for assessment or allocated for investigation, and our investigations should not take so long to complete. These are, therefore, both areas that we will be focusing on in 2009-10.

**“Hampshire Primary Care Trust welcomes the publication of the Principles of Good Complaint Handling as a framework that we believe will improve our complaints procedure.”**

*Hampshire Primary Care Trust*



## 4

## Local resolution matters – The new health complaints system

The change to the NHS complaints system from 1 April 2009 involved a move from a three-stage to a two-stage complaint handling system, wherein the complaint will either be resolved at a local level or can be brought to PHSO. The change removes the need for people to complain to the Healthcare Commission before coming to PHSO and thereby streamlines the way complaints are handled. At the same time, the Healthcare Commission's regulatory functions have been absorbed by the new Care Quality Commission, which takes on the role of integrated regulator for health and social care. The Healthcare Commission closed on 31 March 2009.

Preparing for the introduction of the new NHS complaints system from 1 April 2009 was a major programme of work throughout 2008–09 involving the whole of PHSO.

This involved the following key steps:

- Assessing the likely resources that would be required to deal with the additional complaints about the NHS which would be received by PHSO. Details of HM Treasury sanctioned and parliamentary approved changes to PHSO's funding can be found in the 2008–09 Resource Accounts which can be downloaded from PHSO's website ([www.ombudsman.org.uk](http://www.ombudsman.org.uk)).
- Securing and fitting out a second site in Manchester, the Exchange, in time for the influx of the first new recruits in January 2009.
- Undertaking a major exercise to recruit over 100 new staff and then providing induction, training and mentoring to these recruits.
- Working together with the Healthcare Commission to ensure the smoothest possible transition for complainants and bodies in jurisdiction with just under 1,100 complaints transited from the Healthcare Commission

to PHSO in February and March leaving the Healthcare Commission with no cases in hand when they closed for business on 31 March 2009.

- Supporting the Department of Health in its work on the 'Early Adopter' pilot, which involved health bodies accepting the new complaints system ahead of its introduction to identify early learning.
- Developing relationships with key stakeholders, including the Independent Complaints Advocacy Service, and beginning a dialogue with the Care Quality Commission.

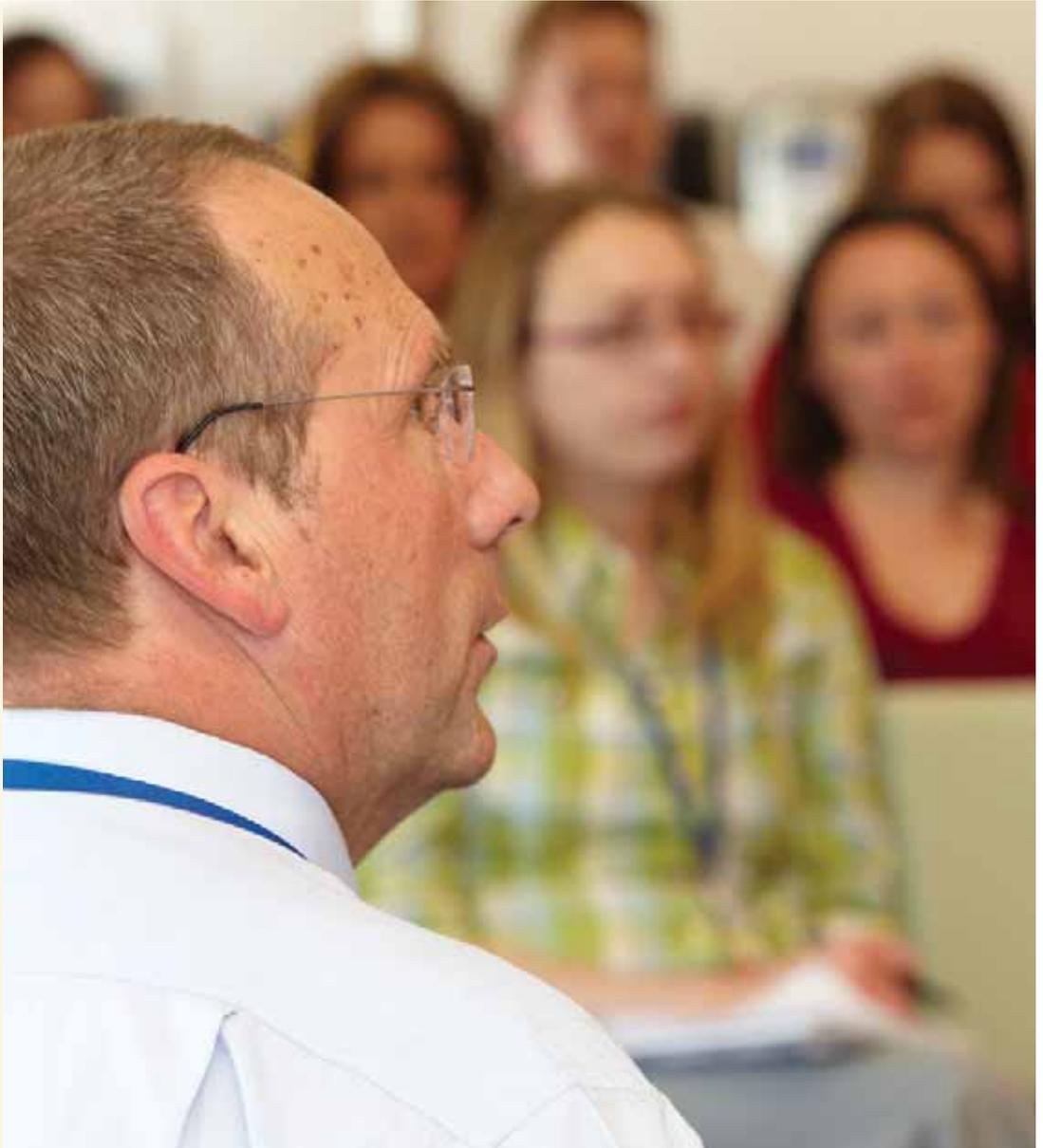
The smooth transition was overseen by the NHS Complaints Transition Board which was chaired by the Ombudsman and comprised representatives of PHSO, the Department of Health and the Healthcare Commission and which also helped ensure coherent, consistent and co-ordinated messages to customers and stakeholders including the NHS.

We are pleased to be able to report that this programme was delivered on time, well within budget and with all the key objectives met. A lot of the work undertaken in 2008–09 also involved preparations for the year ahead, with a major impact of the new health complaints system being PHSO's move to examining the substance of the case as opposed to examining how the Healthcare Commission handled health complaints. While this enables us to engage directly with the NHS to support it in learning from complaints, it also has the effect of increasing the complexity of our investigative work in health and increasing the average time for a health complaint to be investigated. Managing this workload, along with finalising outstanding complaints about how the Healthcare Commission itself dealt with the complaint, will be a key focus of the organisation in 2009–10.



**“I am without a doubt, elated with the result of the attached final report and can only commend you personally on your diligence and professionalism in this long and difficult case...Your continued updates gave me hope of a correct outcome...”**

*Complainant*



# 5

## Improving performance

Being accountable for our performance against the plans and targets we have set ourselves remains important to us. We continued to make big strides against our priorities, delivering a significant programme of change in readiness for the new NHS complaints system whilst at the same time managing our workload to meet five out of the six operational targets set out in our 2008–09 Corporate Business Plan.

However, we know that our customers and their advocates find our work frustratingly slow – and we want to improve significantly our customer service in that respect.

At the beginning of this business year, many of those coming to us had to wait some time for work on their complaint to begin. During the year we have caught up with the incoming work, so that now work on every new case that is brought to us is commenced without delay.

Reducing the time it takes to carry out investigations remains a major challenge. This will involve significant changes to the way we work – which are already underway so that we can reduce the throughput time at the same time as maintaining or improving the quality of our investigations. Maintaining and increasing quality is essential if we are to keep the high levels of compliance with our recommendations, now at over 99 per cent, another key desire of our customers.

The PHSO Corporate Business Plan 2008–09 identified a number of key corporate priorities and activities for the year. These were grouped into five areas as follows:

- deliver an independent, high quality and accessible complaint handling service;
- capture and share the evidence from our casework and on our performance, and use our expertise to drive improvements in public services and to inform public policy;
- plan, deliver and manage change to achieve continuous improvement;
- attract, positively engage and develop our people so that they drive the achievement of our objectives; and
- use our systems and resources to effectively support and manage the service that PHSO provides to the public.

This section of the Annual Report looks at our performance in each of these areas.



Figure 3.

**Top 5 government departments by number of complaints received**

In 2008-09 we received 7,608 enquiries related to 7,990 complaints about government departments, agencies and public bodies (excluding health). There was an increase of 8.8 per cent in the number of complaints<sup>3</sup>. The top 5 departments complained about remain unchanged.

The most significant increases are in complaints about the Home Office (up 61.3 per cent) and the Ministry of Justice (up 35.3 per cent). The number of complaints about HM Revenue & Customs fell in 2008-09 by 7.8 per cent.

**Department for Work and Pensions**

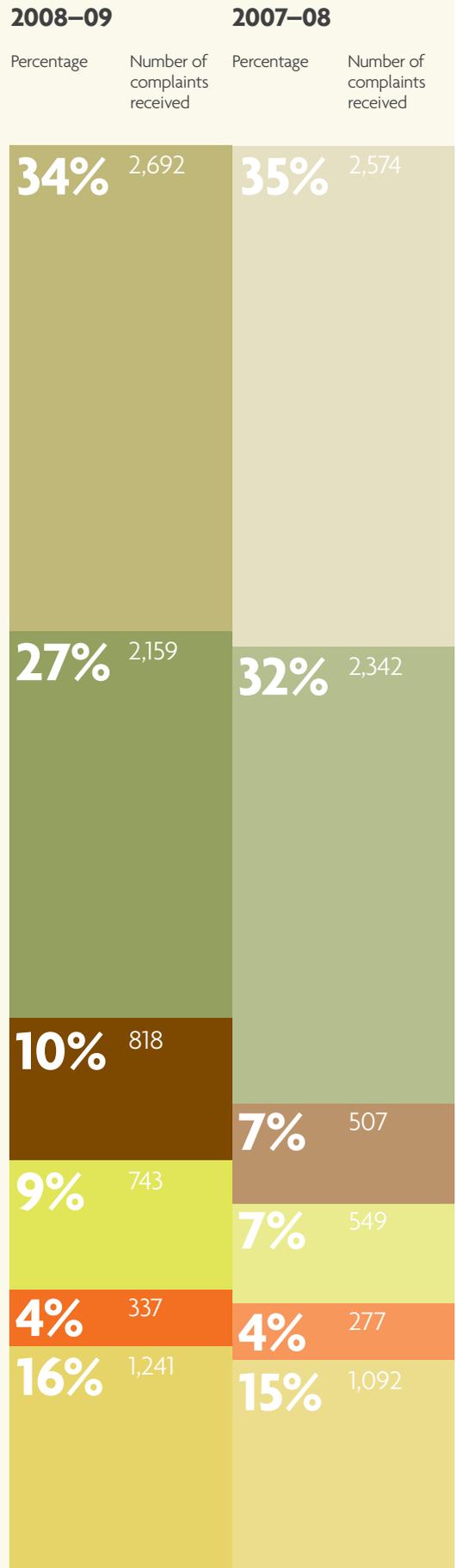
**HM Revenue & Customs**

**Home Office**

**Ministry of Justice**

**Department for Transport**

**Other**



A breakdown of these departments by body is given in Appendix Figure 12.

<sup>3</sup> Enquiries and investigations can contain more than one complaint.

**“Thanks to the intervention of your Assessor we have, finally, a most satisfactory result...” Complainant**

**Deliver an independent, high quality and accessible complaint handling service**

**Enquiries**

During the year PHSO received 16,317 enquiries against a planning assumption of 14,000<sup>4</sup>.

Both PHSO service standards for acknowledging email and written enquiries (100 per cent in 1 day and 2 days respectively) were met.

Of the enquiries received, 7,608 related to parliamentary bodies, 6,229 were about health bodies and 2,480 were about bodies outside our jurisdiction.

The top five parliamentary departments complained about are detailed in Figure 3.

The types of health body or practitioners complained about are detailed in Figure 4.

<sup>4</sup> Our planning assumptions for 2008–09 did not include additional enquiries due to the transition arrangements.

Figure 4.

**Health complaints received by type of body**

In 2008–09 we received 6,229 enquiries related to 6,780 complaints about the NHS. This represents a significant 59.3 per cent increase in 2008–09 in the number of complaints received. This was mainly due to a sharp increase in Quarter 4 as the transition arrangements took effect. It is noticeable that whilst the overall number increased by nearly 60 per cent, the number of complaints about the Healthcare Commission fell by 7.4 per cent. All other categories showed increases during the year.

**NHS Hospital, Specialist and Teaching Trusts (Acute)\***

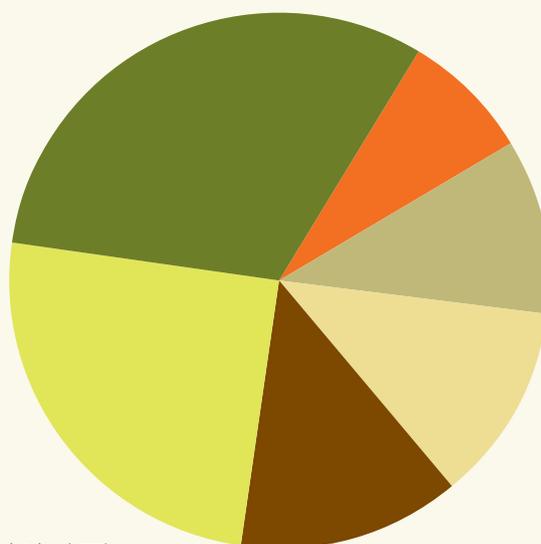
**2,142**

**Healthcare Commission**

**1,696**

**General Practitioner**

**891**



**Mental Health, Social Care, Learning Disability NHS Trusts\*\***

**510**

**Other**

**731**

**Primary Care Trusts**

**810**

Strategic Health Authority	321
General Dental Practitioners	276
Ambulance Trust	64
Special Health Authority	37
Optician	15
Care Trust	12
Pharmacy	6

\* Total of Foundation Trust (813) and Other (1,329).

\*\* Total of Foundation Trust (232) and Other (278).

Full data for complaints received by category is shown in Appendix Figure 13.



Figure 5.

### Enquiries received, closed and in hand

Figure 5 shows the number of enquires received and closed in the year and in hand at 31 March 2009.



During the year, we:

- achieved our operational target of closing 80 per cent of enquiries within 40 days (achieved 80 per cent, 76 per cent in 2007–08);
- closed 15,639 enquiries against a planning assumption of at or around 14,000 (11,698 in 2007–08), of which 108 were resolved through intervention short of an investigation (47 in 2007–08); and
- ended the year with 2,175 enquiries in hand against a forecast aim of at or around 1,350 (1,497 at 31 March 2008<sup>5</sup>).

As part of the transition arrangements for the new NHS complaints system we received 1,042 enquiries that were forwarded to PHSO directly by the Healthcare Commission during the fourth quarter of the year and 961 of these were in hand at the year end. If these 961 transited cases are excluded from the total of 2,175 enquiries in hand at the year end, this leaves a total of 1,214 enquiries in hand, that is, below the forecast of 1,350 in our 2008–09 *Corporate Business Plan*.

Overall, 79 per cent of enquiries were either not properly made (that is, cases which have not been put to PHSO in writing or, in parliamentary cases, have not been referred by an MP), or were premature or about a body or matter that was outside PHSO's jurisdiction. This remains a cause of continuing concern for us as we aim to ensure that people know whether PHSO is the right place for them to bring their complaints, and, if it is, the right time to do so. Figure 2 on page 9 shows a breakdown of how PHSO closed enquiries in 2008–09.

PHSO has always sought to intervene where possible to put things right at the point of enquiry and before an investigation is required. PHSO will be increasing its focus on this approach, which should lead to a further reduction in the number of investigations reported on, as more cases are resolved at the enquiry stage.

### Investigations

During the year we:

- concluded 72 per cent of our investigations within 12 months against our operational target of 80 per cent (87 per cent achieved in 2007–08); and
- accepted 401 cases for investigation against a planning assumption of approximately 750 (951 in 2007–08).

The top five parliamentary departments by number of complaints accepted for investigation are detailed in Figure 6. The types of health body or practitioner by number of complaints accepted for investigation are detailed in Figure 7. Appendix Figure 14 contains details of all parliamentary bodies and Appendix Figure 15 contains details of health cases by Strategic Health Authority.

The top five parliamentary departments by number of investigations reported on are detailed in Figure 9. The types of health body or individual by number of complaints reported on are detailed in Figure 10. Appendix Figure 14 contains details of all parliamentary bodies and Appendix Figure 15 contains details of health cases by Strategic Health Authority.

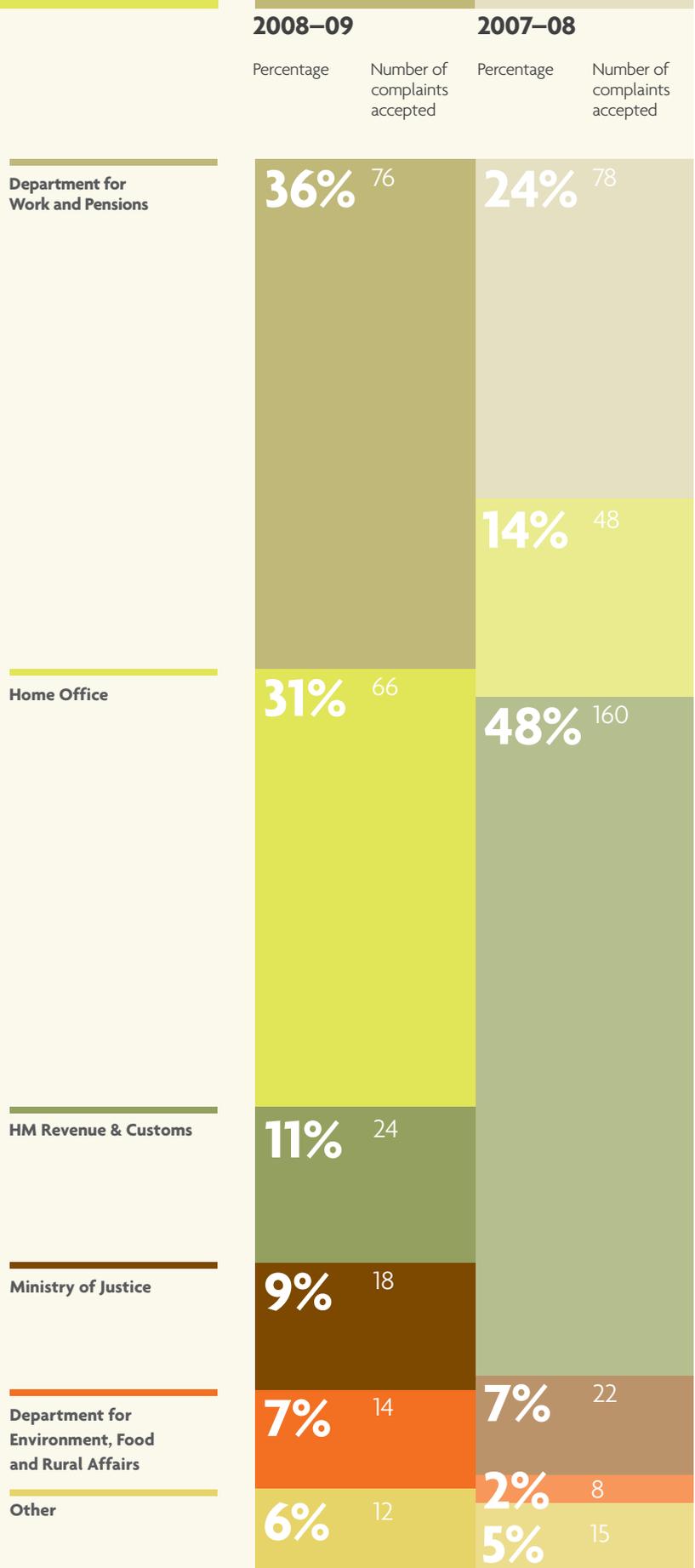
<sup>5</sup> This figure has been adjusted from 1,316 following a policy change. PHSO's published work in hand figures now include cases referred back to complainants for them to make properly. There has also been a net adjustment of 10 cases due to a small number of data errors.

Figure 6.

**Top 5 government departments by number of complaints accepted**

The number of parliamentary complaints accepted for investigation fell in 2008–09 by 36.6 per cent. The top 5 departments remain unchanged although there has been significant change within that list.

In 2007–08 HM Revenue & Customs accounted for 48.3 per cent of all parliamentary complaints accepted for investigation, but in 2008–09 this had fallen to 11.4 per cent. In contrast to this, the Department for Work and Pensions accounted for 23.6 per cent of all parliamentary complaints accepted for investigation, but in 2008–09 this had increased to 36.2 per cent. The Home Office increased from 14.5 per cent to 31.4 per cent and the Department for Environment, Food and Rural Affairs (Defra) increased from 2.4 per cent to 6.7 per cent.



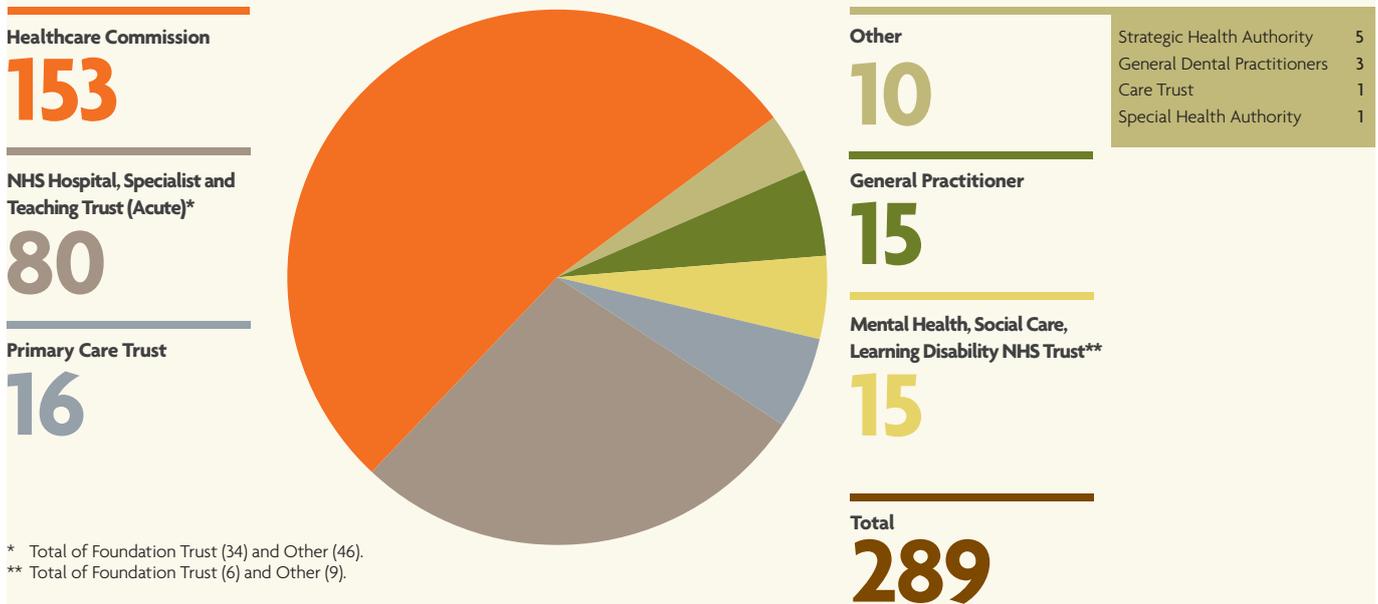
Appendix Figure 14 contains details of complaints about all parliamentary bodies.



Figure 7.

### Health complaints accepted by type of body

The number of Health complaints accepted for investigation fell in 2008–09 by 60.8 per cent. The number of complaints accepted by category reflects the transition arrangements: we stopped accepting complaints against the Healthcare Commission on 1 October 2008 and moved to accepting against the original NHS body or practitioner. This is reflected in the sharper 75.5 per cent decline in the number of complaints accepted for investigation about the Healthcare Commission whilst all other categories showed increases during the year apart from complaints against Strategic Health Authorities. The decline in the number of complaints accepted for investigation about Strategic Health Authorities shows the declining number of retrospective continuing care cases that we are taking on for investigation.



\* Total of Foundation Trust (34) and Other (46).

\*\* Total of Foundation Trust (6) and Other (9).

Appendix Figure 15 contains details of all health cases accepted by Strategic Health Authority.



**“... the finding were everything that I could have hoped for and was evidence of your rigorous and extensive investigation...”**  
*Complainant*

Figure 8.

### Investigations accepted, concluded and in hand

	Parliamentary	Health	Total
In hand at 01/04/08	<b>195</b>	<b>423</b>	<b>618</b>
Net adjustment	<b>2</b>	<b>0</b>	<b>2</b>
Accepted in the year	<b>162</b>	<b>239</b>	<b>401</b>
Discontinued	<b>2</b>	<b>17</b>	<b>19</b>
Reported on in the year	<b>187</b>	<b>507</b>	<b>694</b>
In hand at 31/03/09	<b>170</b>	<b>138</b>	<b>308</b>

We also:

- concluded 713 investigations against a planning assumption of at or around 750 (959 in 2007–08).
- ended the year with 308 investigations in hand at 31 March 2009 against a forecast aim of at or around 620 (620 at 31 March 2008, this is a restatement from 618 due to the reopening in the year of two cases following complaints about our decision); and
- had 50 cases over 12 months old at 31 March 2009 against a target of no more than 60 (73 at 31 March 2008).

**“I am particularly impressed that you have given me your name as a direct contact. It can be very daunting when a member of the public has to engage with a large corporation be it public or private. It is reassuring that I have you to turn to if necessary.”**

*Complainant*





Figure 9.

**Top 5 government departments by number of investigations reported on**

The number of parliamentary investigations reported on fell in 2008–09 by 25.7 per cent. The top 5 departments remain unchanged although there has been significant change within that list.

In 2007–08 HM Revenue & Customs accounted for 26.9 per cent of all parliamentary investigations reported on but in 2008–09 this had increased to 44.0 per cent. In contrast to this, the Department for Work and Pensions accounted for 34.1 per cent of all parliamentary investigations reported on but in 2008–09 this had fallen to 31.1 per cent and the Home Office fell from 19.4 per cent to 9.7 per cent.

Overall 60 per cent of parliamentary investigations reported on in 2008–09 were fully or partly upheld, down from 67 per cent in 2007–08. However, the uphold rates increased for the Department for Work and Pensions (71 per cent to 75 per cent), the Home Office (84 per cent to 96 per cent) and Defra (50 per cent to 57 per cent).

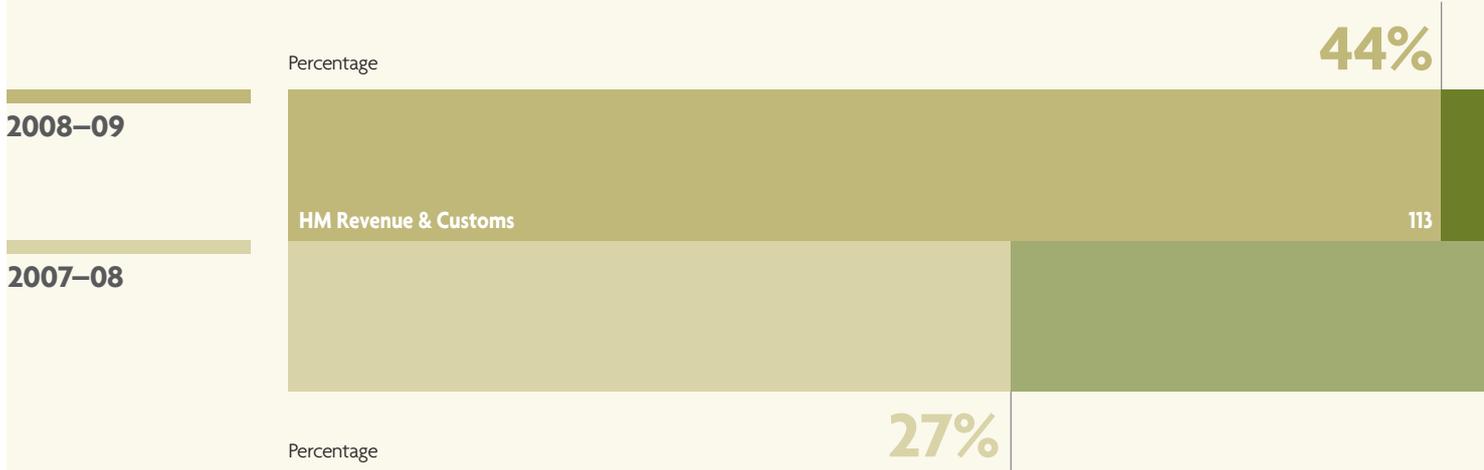
Appendix Figure 14 contains details of all parliamentary bodies reported on.

**HM Revenue & Customs**

Reported on	<b>113</b>
Fully upheld	20%
Partly upheld	20%
Not upheld	59%

**Department for Work and Pensions**

Reported on	<b>80</b>
Fully upheld	41%
Partly upheld	34%
Not upheld	25%





**“I am very pleased that you have upheld fully my complaint against the Agency. I feel that your report and comments vindicate me...”**

*Complainant*



Home Office	Ministry of Justice	Department for Environment, Food, and Rural Affairs	Other	Total
Reported on <b>25</b>	Reported on <b>19</b>	Reported on <b>7</b>	Reported on <b>13</b>	<b>257</b>
Fully upheld 56%	Fully upheld 11%	Fully upheld 14%	Fully upheld 23%	30%
Partly upheld 40%	Partly upheld 53%	Partly upheld 43%	Partly upheld 38%	30%
Not upheld 4%	Not upheld 37%	Not upheld 43%	Not upheld 38%	40%

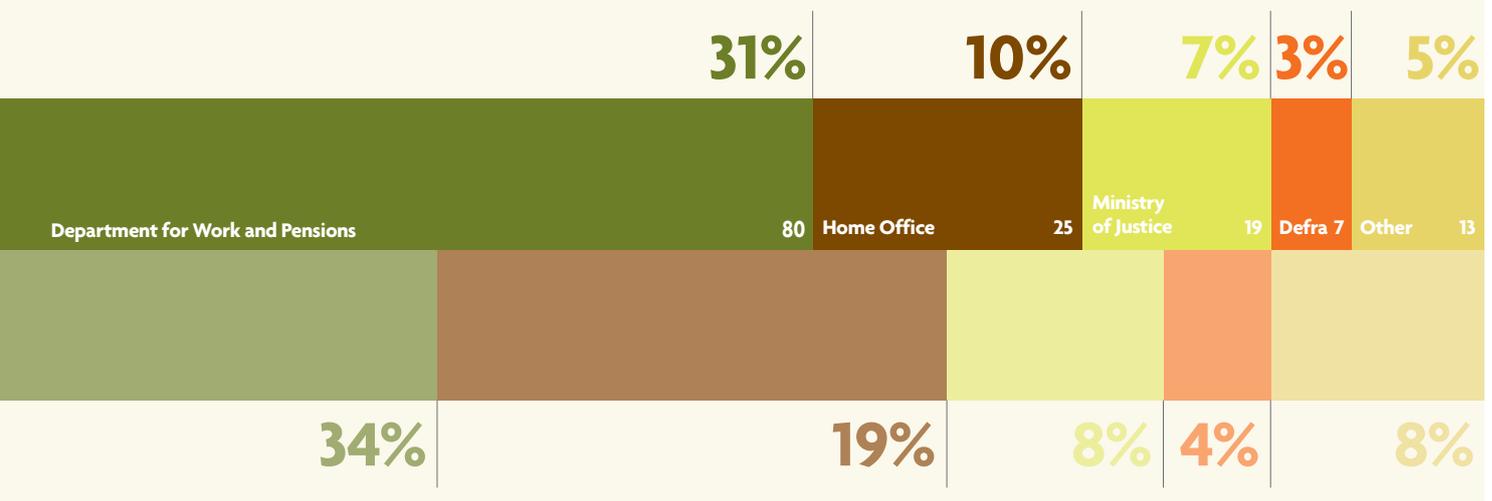


Figure 10.

**Health Service complaints reported on by type of body**

The number of health complaints reported on fell in 2008–09 by 20.1 per cent.

In 2008–09 the health complaints reported on were again dominated by complaints about the Healthcare Commission (79.8 per cent) followed by complaints about Strategic Health Authorities (9.5 per cent).

Total reported on	Reported on: fully upheld	Reported on: partly upheld	Reported on: not upheld
<b>Healthcare Commission</b> <b>438</b>	<b>37%</b>	<b>6%</b>	<b>56%</b>
<b>Strategic Health Authority</b> <b>52</b>	<b>65%</b>	<b>10%</b>	<b>25%</b>
<b>NHS Hospital, Specialist and Teaching Trust (Acute)*</b> <b>28</b>	<b>46%</b>	<b>18%</b>	<b>36%</b>
<b>Primary Care Trust</b> <b>14</b>	<b>50%</b>	<b>14%</b>	<b>36%</b>
<b>General Practitioner</b> <b>10</b>	<b>10%</b>	<b>0%</b>	<b>90%</b>
<b>Mental Health, Social Care, Learning Disability, NHS Trusts</b> <b>5</b>	<b>40%</b>	<b>20%</b>	<b>40%</b>
<b>General Dental Practitioners</b> <b>2</b>	<b>0%</b>	<b>50%</b>	<b>50%</b>
<b>Total</b> <b>549</b>	<b>40%</b>	<b>8%</b>	<b>52%</b>

Appendix Figure 15 contains details of all health cases reported on by Strategic Health Authority.

\* Total of Foundation Trust and others.

**“I want to thank you personally in writing for the help you gave me...The help you gave me was the best I’ve ever had from any organisation, I thought it was tremendous...”**  
*Complainant*





The lower number of concluded investigations reflects the change in the nature of health investigations in the second half of the year, when we extended the scope of a number of investigations about poor complaint handling by the Healthcare Commission to include the underlying initial complaint about the NHS body concerned, rather than refer the case back to the Healthcare Commission for further work, as we would have done previously. As well as reducing the number of investigations we were able to conclude in the year, this also increased the length of time that these investigations needed to take.

Whilst the failure to achieve our 80 per cent throughput target for investigations was primarily a result of the changes to the system for handling NHS complaints, we remain concerned about the length of time that many of our investigations take to conclude. We plan to review our investigation processes in 2009–10 with the aim of reducing investigation throughput times in future years.

#### **Outcomes of our investigations**

Overall, during the year we fully upheld 37 per cent of complaints investigated (37 per cent in 2007–08); partly upheld 15 per cent (18 per cent in 2007–08); and did not uphold the remaining 48 per cent (45 per cent in 2007–08). We upheld the complaint in full or in part in 60 per cent of parliamentary investigations (68 per cent in 2007–08). In health investigations we upheld the complaint in full or in part in 48 per cent of cases (49 per cent in 2007–08).

Appendix Figure 14 contains details of the uphold rate for all parliamentary bodies and Appendix Figure 15 contains details for health cases by Strategic Health Authority.

#### **Compliance with recommendations**

Despite the high profile government rejection of PHSO's recommendations on *Equitable Life* over 99 per cent of the recommendations PHSO made during the year have been accepted or are currently being considered by the body or practitioner complained about (99 per cent in 2007–08).

The majority of recommendations in PHSO's parliamentary investigations were for financial compensation for inconvenience or distress, underlining an apology. Others included financial compensation for loss, or some action to remedy the failure identified.

The majority of recommendations in our health investigations focused on an apology or reconsideration of the decision, usually by the Healthcare Commission. Others included action to remedy the failure identified, or some action to prevent a recurrence (for example, a review of or changes to procedures, or staff training). Financial remedies have also featured, for example, as compensation for direct financial loss or in recognition of the distress and inconvenience caused by poor complaint handling.

### Freedom of information and data protection

In 2008–09 we received 217 requests for information under the *Freedom of Information Act 2000* and *Data Protection Act 1998* of which we resolved 214 within the year. Of those, 84 per cent were resolved within the statutory timescales, compared with 52 per cent in the previous year. We will aim to continue to build on that improvement in the coming year.

### Complaints about us

As a measure of the performance of PHSO's service, over the year we:

- received 910 complaints about us (773 in 2007–08);
- resolved 768 (964 in 2007–08); and
- ended the year with 238 in hand (96 at 31 March 2008, restated from 99 due to a small number of data errors).

PHSO provided a substantive response on 91 per cent of these within 16 weeks, exceeding our customer service standard and operational target of 90 per cent (58 per cent in 2007–08).

Of the complaints we received about PHSO:

- 732 were about our handling of enquiries (431 in 2007–08);
- 122 were about health investigations (137 in 2007–08);
- 38 were about parliamentary investigations (190 in 2007–08); and
- 18 were about requests for information under the *Freedom of Information Act 2000/Data Protection Act 1998* (15 in 2007–08).

Of the total number of complaints about us 103 (13 per cent) were fully or partly upheld.

- 74 were complaints about our service;
- 18 were about enquiry decisions;
- 5 were about health investigation decisions;
- 3 were about parliamentary investigation decisions; and
- 3 were about decisions relating to requests for information under the *Freedom of Information Act 2000/Data Protection Act 1998*.

### Judicial reviews of our decisions and actions

During 2008–09, seven judicial reviews were issued against PHSO; six were refused permission to proceed and one was still awaiting a decision at the year end.

Two matters, which had obtained permission to proceed in earlier years, were heard during the year. In one case, which dealt with our powers to share information obtained in the course of an investigation, the court found in our favour and usefully clarified the extent of our statutory bar on the disclosure of such information. In the other, which addressed our findings in a health report, the court found partly in our favour and partly in favour of the claimant; this case also usefully clarified – and approved – PHSO's general approach to determining the test to be applied when assessing whether to uphold health complaints.

**Joint working**

During the year a shared approach to conducting joint investigations was agreed with the Local Government Ombudsmen and we reported on four joint working investigations in 2008–09, including three of the cases that were included in our report *Six lives: the provision of public services to people with learning difficulties*.

Figure 11 shows joint investigations conducted in 2008–09.

Figure 11.

<b>Joint investigations with other ombudsmen</b>				
	<b>Health Service Ombudsman and Local Government Ombudsman for England</b>	<b>UK Parliamentary Ombudsman and Local Government Ombudsman for England</b>	<b>Health Service Ombudsman and Public Services Ombudsman for Wales</b>	<b>Total</b>
<b>In hand at 01/04/08</b>	<b>8</b>	<b>1</b>	<b>1</b>	<b>10</b>
<b>Net adjustment</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Accepted in the year</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>9</b>
<b>Discontinued</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Reported on in the year</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>4</b>
<b>In hand at 31/03/09</b>	<b>13</b>	<b>1</b>	<b>1</b>	<b>15</b>

**Capture and share the evidence from our casework and on our performance, and use our expertise to drive improvements in public services and to inform public policy.**

HM Treasury has now included reference to the Ombudsman's Principles in *Managing Public Money*, its main body of guidance for central government Accounting Officers. The NHS has also referenced the *Principles for Remedy* in the *NHS Finance Manual*. The Public Administration Select Committee referred to them in the issues and questions document as part of their inquiry on better government. The Department for Work and Pensions has continued to provide a test bed for the Ombudsman's Principles in a pilot scheme run by the Pension, Disability and Carers Service.

The following reports to Parliament were published in 2008–09:

- *Remedy in the NHS* (June 2008).
- *Equitable Life: a decade of regulatory failure* (July 2008).
- *Improving public service: a matter of principle* (December 2008).
- *Six lives: the provision of public services to people with learning disabilities* (March 2009)
- *Putting things right: complaints and learning from DWP* (March 2009).

*Equitable Life* and *Six lives* (a joint report with the Local Government Ombudsman) are reports of major investigations; the remaining reports are collections of case summaries which PHSO use to share the learning from our casework and to promote the use of the *Ombudsman's Principles*.

The Ombudsman's investigation into the prudential regulation of the Equitable Life Assurance Society was announced in July 2004. The total cost of the investigation was £3.743 million.

**Plan, deliver and manage change to achieve continuous improvement**

The Making Our Expertise Count (MOEC) programme was established early in 2008–09 to address the transitional and ongoing changes that would affect PHSO following the abolition of the Healthcare Commission on 31 March 2009 and the move to the new, two-stage system which PHSO has supported.

By 31 March 2009 the MOEC programme had reached a successful conclusion, having achieved the project objectives of being on time and well within budget. PHSO had secured a second site in Manchester, the Exchange, fitted it out and equipped for opening from January 2009. In addition, PHSO had recruited almost all the staff required, prepared and implemented casework guidance, induction and training, and secured Parliamentary funding for 2008–9 and 2009–10. Finally, a smooth transition resulted in the Healthcare Commission having no complaints in hand when it closed for business on 31 March 2009.

Getting the most from the extensive knowledge and information held both by the organisation and staff is essential to improving the effectiveness of PHSO. To facilitate this PHSO have put in place a major development and change programme, the Knowledge and Information Management (KIM) programme. This programme will take a number of years to implement fully.



### **Attract, positively engage and develop our people so that they drive the achievement of our objectives**

We have also developed a People Strategy through a participative method which included significant input from staff. The Strategy will be implemented during 2009–10. PHSO's approach to performance management continues to improve as a result of investment in our mandatory Management Development Programme which focuses on providing core skills and knowledge to all managers in the organisation.

PHSO set itself a target for the proportion of black and minority ethnic staff in post of 20 per cent by March 2010 in our Workforce Strategy and despite a large recruitment exercise we have not made the progress we wanted to see. Progress towards the target is being reviewed with a report to senior management expected early in 2009–10.

This year PHSO invested nearly £300,000 in the learning and development of our staff over the year, supported by a dedicated team. There was continued emphasis on management training through our Management Development and Aspiring to Management programmes.

### **Use our systems and resources to effectively support and manage the service that is provided to the public**

#### **Financial resources**

PHSO's summary financial results are included in this report. Performance against the financial targets in our 2008–09 Corporate Business Plan was as follows:

- our net resource underspend of £2.219 million was outside our target limit for underspending of less than £0.5 million. Of this, £2.237 million related to surplus ring-fenced resources for the costs of the transition to the new NHS complaints system;
- our total capital underspend of £0.762 million was outside our target limit for underspending of £0.1 million due to a decision to defer significant capital spending other than on the costs of fitting out the new accommodation in Manchester required for the new NHS complaints system;
- we recovered 100 per cent of income due in the year, with excess income recovered within the £0.040 million target we set ourselves;
- we remained within the Net Cash Requirement sanctioned by Parliament;
- we paid 99.0 per cent (in 2007–08: 99.2 per cent) of supplier invoices within our target of 30 days;
- our resource budgets were managed to within 2.3 per cent of tolerances set, slightly exceeding our target of limiting variance to no more than 2 per cent; but capital budgets were outside the 5 per cent tolerance at 68.1 per cent due to the deferral of significant capital spending mentioned above; and
- our depreciation charges for the year of £1.365 million were within our target of being no more than £200,000 more than our capital investment of £1.358 million (actual variance £7,000) which evidences the maintenance of our capital base.



### Staffing

Over the year PHSO staffing numbers increased by 123.9 full-time equivalents (fte) from 266.9 to 390.8, mainly as a result of recruitment arising from the transition to the new NHS complaints system, where 119 new members of staff had joined or were set to join PHSO to address this requirement as at 31 March 2009. Full-year turnover was significant at 16 per cent but lower than the 25 per cent rate in 2007–08. A substantial amount of resource was invested in 59 recruitment exercises, 15 of which were internal. 228 of the 252 positions advertised were filled.

Average sick absence in 2008–09 for PHSO employees was 5.6 days per fte, which was well within our target of being no more than 6.0 days per fte. This was also significantly lower than the public sector average (9.8 days per fte<sup>6</sup>) and also below the private sector average (7.2 days per fte).

### Risk management

During 2008–09 PHSO's strategic risks were managed and remained within the control of the organisation. PHSO has developed a new strategic risk model which will be implemented in 2009–10. It identifies key risk areas and is designed to work dynamically in recognising and addressing risks changing or emerging through the year. Key strategic areas are:

- overarching risks to PHSO's reputation and credibility in providing an effective Ombudsman service which delivers on its objectives;
- risks to effective governance and leadership required to manage PHSO's business effectively; and
- risks at operational infrastructure and project levels critical to the delivery of our business.

<sup>6</sup> Source: CIPD Survey 2008 (latest available published figures).



**PHSO also maintained regular dialogue with its colleagues domestically and was an active member in the British and Irish Ombudsman Association.**

## 6

## The external perspective

Much of our external focus this year has been on the Department of Health and the NHS in preparing for the 1 April 2009 changes. This will remain a focus throughout 2009–10, as will building strategic alliances with key players such as the new Care Quality Commission, Monitor and the Equality and Human Rights Commission. Such alliances have considerable potential to improve the standard of complaint handling in the NHS, and to provide the regulators with information which will help drive improvements in the quality of health care for all service users.

At the same time, work continues with PHSO's major parliamentary customers: the Department for Work and Pensions, HM Revenue & Customs and the UK Border Agency. There have been a number of meetings at a senior level to reinforce the messages about the devastating impact that poor complaint handling can have on individuals and the importance of learning from complaints. In particular, HM Revenue & Customs has consulted with PHSO on its own Customer Charter and we have provided feedback on several UK Border Agency initiatives including changes to complaint handling models.

PHSO's key accountability is to the Public Administration Select Committee (the Committee), which Parliament has chosen, through its standing orders, to be its principal liaison mechanism with the Ombudsman. During 2008–09, the Ombudsman appeared before the Committee to give evidence on her Annual Report for 2007–08. She also gave oral evidence alongside officers from the National Audit Office and the Audit Commission in relation to the Committee's Inquiry into Good Government.

The Ombudsman's report, *Equitable Life: a decade of regulatory failure*, was of particular interest to the Committee. The Committee undertook a review of this report and, in doing so, held six evidence sessions. The Ombudsman provided both oral and written evidence as part of this review. The Committee proceeded to publish two reports, both in strong support of the Ombudsman's report: *Justice delayed: The Ombudsman's report on Equitable Life* in December 2008 and *Justice denied? The Government's response to the Ombudsman's report on Equitable Life* in March 2009. The Ombudsman was further called on to present written and oral evidence about her report at the European Parliament Petitions Committee in December 2008.

PHSO also responded to eighteen consultations over the past year. Some of these were consultations on very specific matters, such as the Department of Health's proposed Framework for the Registration of Health and Adult Social Care Providers, the National Audit Office's briefing for government departments on Time-limited Compensation Schemes and HM Revenue & Customs' discussion paper on improving delivery and choice in relation to tax credits. Others were consultations on broader issues such as the Law Commission's consultation on Administrative Redress: Public Bodies and the Citizen, the National Archives' consultation on a Code of Practice on Records Management and the Department of Health's consultation on the draft NHS Constitution.

The Ombudsman had a number of speaking engagements in 2008–09 including a speech on *Good Administration: why we need it more than ever* at UCL's Constitution Unit; on *The Ombudsman and Government* at Brasenose College, Oxford, as part of their Lessons in Government Series; and on *Multiple Jeopardy or Multiple Benefit* at a joint conference of the Royal College of Physicians and the Faculty of Forensic and Legal Medicine.

Human rights have again featured strongly in PHSO's work over the past year. We contributed to the development of the Ministry of Justice's Human Rights Framework as a Tool for Regulators and Inspectors and the Ombudsman gave evidence to the Equality and Human Rights Commission's Inquiry into how public authorities are responding to the Human Rights Act. PHSO was also represented at a roundtable event in Dublin organised by the Council of Europe's Human Rights Commissioner.

PHSO maintained regular dialogue and collaboration with public sector Ombudsmen colleagues in the UK and Ireland and was an active member in the British and Irish Ombudsman Association.

PHSO continued to develop its international contacts. We welcomed visits from other Ombudsman's Offices including the Netherlands, Sweden and the Russian Federation, these provided an opportunity to share learning, knowledge and experience. The Ombudsman also gave a presentation at the Caribbean Ombudsman Association 5th Biennial Conference in April 2008, entitled *Principles of Good Administration: Humanising the State bureaucracy*.



**PHSO's key accountability is to the Public Administration Select Committee, which is responsible for scrutinising our work.**

## 7

## Managing resources

**The Parliamentary and Health Service Ombudsman's full Resource Accounts 2008–09 will be laid before Parliament on 15 July 2009 and will be available on our website at [www.ombudsman.org.uk](http://www.ombudsman.org.uk) or from The Stationery Office.**

**Summary Financial Statements for the year ended 31 March 2009**

**Statement of the Parliamentary and Health Service Ombudsman**

The following Financial Statements are a summary of information extracted from PHSO's full annual accounts for 2008–09, which were signed by the Ombudsman on 25 June 2009. While the summary below does not contain sufficient detail to allow for a full understanding of the financial affairs of PHSO, they are consistent with the full annual accounts and auditor's report, which should be consulted for further information.

The Comptroller and Auditor General, who has been appointed by the Parliamentary and Health Service Ombudsman as auditor, has given an unqualified audit opinion on PHSO's Resource Accounts.

**Ann Abraham**

Parliamentary and Health Service Ombudsman  
30 June 2009

**Statement of the Comptroller and Auditor General to the House of Commons**

I have examined the Summary Financial Statement of the Parliamentary and Health Service Ombudsman comprising a summary financial review, resource outturn, operating cost and cash flow statements for the year ended 31 March 2009 and a summary balance sheet as at that date.

The Ombudsman is responsible for preparing the Summary Financial Statement. My responsibility is to report to you my opinion on its preparation and consistency with the full Resource Accounts.

I have conducted my work in accordance with Audit Bulletin 1999–2006, *The auditors' statement on the summary financial statement* issued by the Auditing Practices Board. My certificate on the full accounts of the Parliamentary and Health Service Ombudsman describes the basis of my opinion on these accounts. I have also read the other information contained in the Annual Report to the accounts and considered the implications for my opinion if I become aware of any apparent mis-statements or material inconsistencies with the Summary Financial Statement.

In my opinion the Summary Financial Statement is consistent with the full Resource Accounts of the Parliamentary and Health Service Ombudsman for the year ended 31 March 2009.

**Amyas C E Morse**

Comptroller and Auditor General  
30 June 2009

### Financial review

PHSO's net operating cost for 2008–09 was £26.095 million. Excluding £0.012 million of income that must be surrendered to the Exchequer and £0.190 million funding from the Consolidated Fund for the salary and on-costs of the Ombudsman, PHSO's net total resource requirement for the year was £25.917 million, which was an underspend of £2.219 million (7.9 per cent) of PHSO's 2008–09 funding as approved by Parliament. This underspend was outside our internal targets of not exceeding our total net resource expenditure sanctioned by Parliament and limiting any underspend to less than £0.500 million.

The *Health and Social Care Act 2008*, which was passed into law on 21 July 2008, had a significant impact on PHSO's financial management in the year. Following enactment, the Ombudsman wrote to HM Treasury Ministers in July 2008 requesting provisional sanction for additional funding for costs arising as a consequence of the provisions of the Act. This included funding to cover the costs of providing for a smooth transition from a three-stage system for handling NHS complaints to a two-stage system from 1 April 2009, following the abolition of the Healthcare Commission. At that time a number of costs were unclear or unknown and it was proposed that provisional sanction would provide room for planning and commencement of work pending more robust cost estimates that would be established in the latter months of 2008 and which could be used to support a taut and realistic Supplementary Estimate.

The provisional sanction requested by the Ombudsman was not received. Instead, on 30 September 2008 Treasury Ministers formally sanctioned additional, ring-fenced funding of £4.110 million resource and £0.520 million capital for 2008–09. This additional, sanctioned funding was formally approved by Parliament in the 2008–09 Winter Supplementary Estimate round and is reflected in the provision shown in these accounts.

Detailed analysis of costs, undertaken in the autumn with more information on accommodation and recruitment requirements, revealed that forecast spending would result in a significant surplus of resources and a deficit in capital. A request to vire £0.500 million from resource to capital and to surrender £1.150 million in surplus resource was formally notified to Treasury Ministers on 6 January 2009. However, the Estimate process does not allow for a reduction in funding provision other than for Machinery of Government changes so no Spring Supplementary Estimate was possible. As a result, PHSO had a significant surplus of resource at 31 March 2009.

Our capital underspend of £0.762 million was outside our target limit for underspending of £0.100 million due to a decision to defer significant capital spending other than on the costs of fitting out the new accommodation in Manchester.

## Summary of Resource Outturn 2008–09

	2008–09						Net total outturn compared to estimate: saving/ (excess)	2007–08
	Estimate			Outturn				Outturn
	Gross expenditure	A in A	Net total	Gross expenditure	A in A	Net total		
£000	£000	£000	£000	£000	£000	£000	£000	
Request for resources	28,556	420	28,136	26,337	420	25,917	2,219	24,252
<b>Total resources</b>	<b>28,556</b>	<b>420</b>	<b>28,136</b>	<b>26,337</b>	<b>420</b>	<b>25,917</b>	<b>2,219</b>	<b>24,252</b>
Non operating cost A in A	–	–	–	–	–	–	–	–

PHSO's net cash requirement for the year of £25,248,000 was within our cash financing limit of £28,756,000 as approved by Parliament.

### Operating Cost Statement for the year ended 31 March 2009

	2008-09	2007-08
	£000	£000
Administration costs:		
Staff costs	14,741	12,777
Other admin costs	11,786	12,008
<b>Gross administration costs</b>	<b>26,527</b>	<b>24,785</b>
Operating income	(432)	(440)
<b>Net administration costs</b>	<b>26,095</b>	<b>24,345</b>
<b>Net operating costs</b>	<b>26,095</b>	<b>24,345</b>
<b>Net resource outturn</b>	<b>25,917</b>	<b>24,252</b>

**Balance Sheet as at 31 March 2009**

	31 March 2009		31 March 2008	
	£000	£000	£000	£000
<b>Fixed assets</b>				
Tangible assets	6,595		6,443	
Intangible assets	306		519	
		6,901		6,962
<b>Current assets</b>				
Debtors	1,281		1,300	
Cash at bank and in hand	144		122	
	1,425		1,422	
Creditors (amounts falling due within one year)	(1,791)		(1,445)	
Net current liabilities		(366)		(23)
<b>Total assets less current liabilities</b>		<b>6,535</b>		<b>6,939</b>
Creditors (amounts falling due after more than one year)	(617)		(688)	
Provisions for liabilities and charges	(1,195)		(1,145)	
		(1,812)		(1,833)
		<b>4,723</b>		<b>5,106</b>
<b>Taxpayers' equity</b>				
General Fund		4,245		4,660
Revaluation Reserve		478		446
		<b>4,723</b>		<b>5,106</b>

**Cash Flow Statement for the year ended 31 March 2009**

	<b>2008–09</b>	<b>2007–08</b>
	£000	£000
Net cash outflow from operating activities	(23,896)	(22,679)
Capital Expenditure and financial investment	(1,449)	(1,461)
Payments of amounts due to the Consolidated Fund	(93)	(5)
Financing	25,460	23,876
<b>Increase/(decrease) in cash in the period</b>	<b>22</b>	<b>(269)</b>

## 8

## Governance

**Governance**

The post of Parliamentary and Health Service Ombudsman combines the two statutory roles of Parliamentary Commissioner for Administration and Health Service Commissioner for England. The Ombudsman is solely responsible and accountable for the conduct and administration of all work carried out by the Office of the Parliamentary and Health Service Ombudsman and for the decisions made in each case.

**The Advisory Board**

To enhance the governance of PHSO, improve the transparency with which it operates and bolster the independence of the role, the Ombudsman appointed a non-statutory Advisory Board in 2004. This comprises the Ombudsman herself (as Chair and Chief Executive in line with her statutory accountability) and four non-executive members who bring an external perspective to PHSO's work. With the exception of the Chairman of the Commission for Local Administration in England, who joined the Board at the Ombudsman's invitation, all the Advisory Board members were appointed through a process of fair and open competition.

The role of the Advisory Board is to act as a 'critical friend', providing support and advice to the Ombudsman in her leadership of PHSO, and to bring an external perspective to assist her in the development of policy and practice.

The Advisory Board provides specific advice and support on:

- Purpose, vision and values.
- Strategic direction and planning.
- Accountability to stakeholders, including stewardship of public funds.
- Internal control and risk management arrangements.

The Advisory Board has no role in casework processes or decisions. The Advisory Board has two formal sub-committees which have key roles in supporting the effective governance of PHSO:

- An Audit Committee which is responsible for providing advice and assurance to the Ombudsman as Accounting Officer, and to the Executive Board on the adequacy and effectiveness of internal control and risk management. It also oversees internal and external audit arrangements which cover all areas of PHSO's work, including both financial and non-financial systems. The Committee has four members: an external Chair appointed by the Ombudsman through a process of fair and open competition; the Ombudsman herself; and two further external members.
- A Pay Committee which is responsible for providing advice on pay arrangements in PHSO, and specifically for determining the pay of senior staff (except the Ombudsman herself, which is set separately under statutory arrangements). Its membership is the Ombudsman (as Chair) and any two of the external members of the Advisory Board.

**The Executive Board**

An Executive Board, chaired by the Ombudsman and comprising the Deputy Ombudsman, the Deputy Chief Executive and the Director of Communications, exercises management of PHSO’s functions and activities. The Executive Board is responsible for the delivery of PHSO’s strategic vision, policies and services to the public and other stakeholders.

The Executive Board meets regularly and is responsible for co-ordinating activity across the organisation. It is the primary forum for making executive decisions about operational, resource, communications and other administrative matters in order to deliver PHSO’s Three Year Strategic Plan and annual Corporate Business Plan, and for monitoring performance. The role of the Executive Board in decision making carries a recognition that on occasion there will be some issues for which the decision maker is the Ombudsman alone.



## Board members at 31 March 2009

### Executive Board

**Ann Abraham**  
Parliamentary and  
Health Service  
Ombudsman



**Kathryn Hudson**  
Deputy Ombudsman

**Bill Richardson**  
Deputy Chief Executive



**James Odling-Smee**  
Director of  
Communications

### Advisory Board

**Paula Carter**  
Advisory Board Member



**Linda Charlton**  
Advisory Board Member

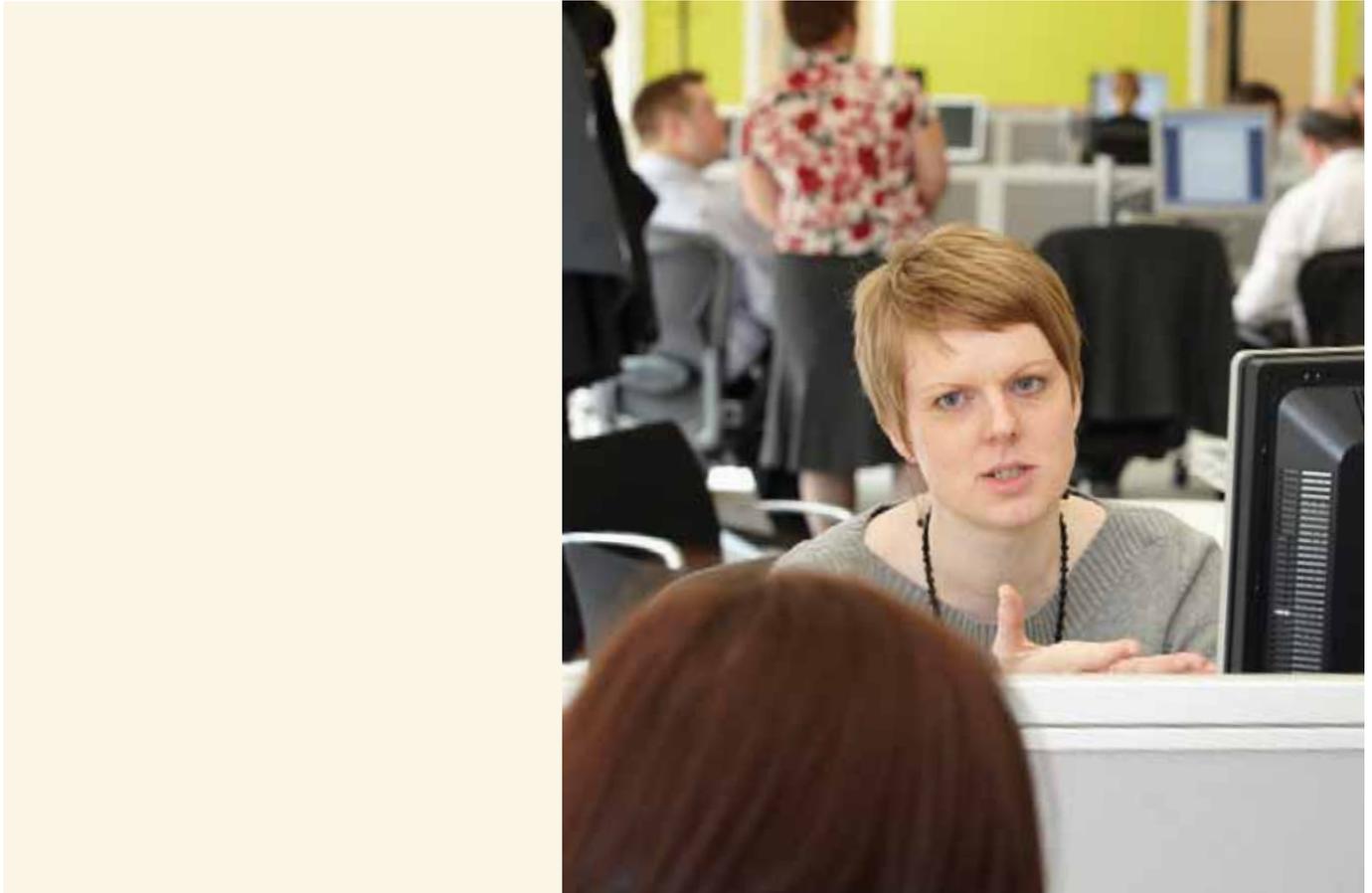
**Tony Redmond**  
Advisory Board Member



**Cecilia Wells OBE**  
Advisory Board Member

**Andrew Puddephatt  
OBE**  
Audit Committee Chair





**Every complaint matters.**

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## Appendix

### Detailed statistical information

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## Appendix

Figure 12.

### Top 5 government departments by number of complaints received

<b>Department for Work and Pensions</b>	
Jobcentre Plus	1,019
Child Support Agency	901
The Pension, Disability and Carers Service	377
Independent Case Examiner	230
Department for Work and Pensions	66
Health and Safety Executive	25
Debt Management Unit	23
Pensions Ombudsman	21
The Pensions Regulator	12
Medical Services ATOS Healthcare	9
Rent Service	6
Independent Living Funds	3
<b>Department for Work and Pensions Total</b>	<b>2,692</b>
<b>HM Revenue &amp; Customs</b>	
HM Revenue & Customs	1,822
The Adjudicator's Office	284
National Insurance Contributions Office	38
Child Benefit Office	15
<b>HM Revenue &amp; Customs Total</b>	<b>2,159</b>
<b>Home Office</b>	
UK Border Agency	517
Security Industry Authority	118
Criminal Records Bureau	58
Identity and Passport Service	46
Criminal Injuries Compensation Authority	41
Home Office	31
Office of the Immigration Services Commissioner	3
Criminal Injuries Compensation Appeals Panel	2
Independent Complaints Mediator (Criminal Records Bureau)	1
Parole Board	1
<b>Home Office Total</b>	<b>818</b>

Figure 12 continued.

<b>Ministry of Justice</b>	
HM Courts Service	229
Legal Services Commission	125
Information Commissioner	80
Tribunal Service	52
Land Registry	43
The Office of the Public Guardian	42
HM Prison Service	37
Ministry of Justice	29
Employment Tribunals Service	17
Independent Complaints Reviewer (Land Registry)	17
Employment Appeal Tribunal	15
Prisons and Probation Ombudsman	13
Asylum and Immigration Tribunal	8
Adjudicator to HM Land Registry	7
Official Solicitor	6
Office of Social Security and Child Support Commissioners	4
Legal Complaints Service	3
Boundary Commission for England	2
Court Funds Office	2
HMP Rye Hill	2
National Archives	2
HMP Brixton	1
HMP Hollesley Bay	1
HMP Peterborough	1
HMP The Mount	1
HMP Wakefield	1
Mental Health Review Tribunal	1
Unknown Prison	1
Youth Justice Board for England and Wales	1
<b>Ministry of Justice Total</b>	<b>743</b>

Figure 12 continued.

<b>Department for Transport</b>	
Driver & Vehicle Licensing Agency	215
Driving Standards Agency	40
Highways Agency	27
Vehicle and Operator Service Agency	27
Department for Transport	15
Maritime and Coastguard Agency	8
Independent Complaints Assessor (Driving Standards Agency)	2
Independent Complaints Reviewer (Driver & Vehicle Licensing Agency)	1
Rail Accident Investigation Branch	1
Rail Passengers' Council	1
<b>Department for Transport Total</b>	<b>337</b>

Figure 13.

**Health complaints received by type of body**

<b>Health categories</b>	<b>Received</b>
NHS Hospital, Specialist and Teaching Trusts (Acute)	2,142
Healthcare Commission	1,696
General Practitioner	891
Primary Care Trusts	810
Mental Health, Social Care, Learning Disability NHS Trusts	510
Strategic Health Authority	321
General Dental Practice	276
Ambulance Trust	64
Special Health Authority	37
Optician	15
Care Trust	12
Pharmacy	6
<b>Total</b>	<b>6,780</b>

Figure 14 Please see inside fold.

Figure 14.

**Complaints about all parliamentary bodies**

	Restated in hand at 01/04/08	Accepted for investigation in the year
Charity Commission	1	0
Department for Business, Enterprise and Regulatory Reform – Coal Authority	1	0
Department for Children, Schools and Families – Children and Family Court Advisory and Support Service	0	1
Department for Communities and Local Government – Planning Inspectorate	0	1
Department for Energy and Climate Change	0	1
Department for Environment, Food and Rural Affairs	3	2
Department for Environment, Food and Rural Affairs – Environment Agency	2	0
Department for Environment, Food and Rural Affairs – Rural Payments Agency	4	12
Department for Innovation, Universities and Skills – UK Intellectual Property Office	0	1
Department for Transport – Driver & Vehicle Licensing Agency	3	2
Department for Transport – Driving Standards Agency	0	1
Department for Transport – Highways Agency	1	0
Department for Work and Pensions	0	1
Department for Work and Pensions – Child Support Agency	21	21
Department for Work and Pensions – Debt Management Unit	6	4
Department for Work and Pensions – Independent Case Examiner	10	32
Department for Work and Pensions – Jobcentre Plus	39	12
Department for Work and Pensions – Medical Services ATOS Healthcare	0	1
Department for Work and Pensions – Pensions Regulator	1	0
Department for Work and Pensions – Rent Service	0	1
Department for Work and Pensions – The Pension, Disability and Carers Service	7	4
Department of Health – Postgraduate Medical Education and Training Board	0	1

Discontinued in the year	Reported on	Reported on: fully upheld %	Reported on: partly upheld %	Reported on: not upheld %	In hand at 31/03/09
0	1	0%	100%	0%	0
0	1	0%	0%	100%	0
0	0	N/A	N/A	N/A	1
0	0	N/A	N/A	N/A	1
0	0	N/A	N/A	N/A	1
0	3	33%	33%	33%	2
0	1	0%	100%	0%	1
0	3	0%	33%	67%	13
0	1	0%	0%	100%	0
0	3	0%	67%	33%	2
0	0	N/A	N/A	N/A	1
0	0	N/A	N/A	N/A	1
0	0	N/A	N/A	N/A	1
0	20	50%	45%	5%	22
0	8	50%	13%	38%	2
0	10	0%	0%	100%	32
0	35	46%	43%	11%	16
0	0	N/A	N/A	N/A	1
0	0	N/A	N/A	N/A	1
0	0	N/A	N/A	N/A	1
0	7	43%	29%	29%	4
0	0	N/A	N/A	N/A	1

Figure 14 continued.

**Complaints about all parliamentary bodies**

	Restated in hand at 01/04/08	Accepted for investigation in the year	Dis
HM Revenue & Customs	66	14	
HM Revenue & Customs – Child Benefit Office	2	0	
HM Revenue & Customs – National Insurance Contributions Office	3	1	
HM Revenue & Customs – The Adjudicator's Office	47	9	
HM Treasury	2	0	
HM Treasury – Valuation Office Agency	1	0	
Home Office	1	0	
Home Office – Criminal Injuries Compensation Authority	1	7	
Home Office – Identity and Passport Service	0	1	
Home Office – Security Industry Authority	0	3	
Home Office – UK Border Agency	19	55	
Ministry of Defence – Service Personnel and Veterans Agency	2	3	
Ministry of Justice	2	0	
Ministry of Justice – Asylum and Immigration Tribunal	0	2	
Ministry of Justice – HM Courts Service	5	7	
Ministry of Justice – HM Prison Service	8	1	
Ministry of Justice – Information Commissioner	0	1	
Ministry of Justice – Legal Services Commission	7	6	
Ministry of Justice – National Probation Service*	2	0	
Ministry of Justice – Official Solicitor	1	0	
Ministry of Justice – Tribunal Service	1	1	
Northern Ireland Court Service	1	0	
Northern Ireland Office – Northern Ireland Legal Services Commission	0	1	
Office of the Director General of Water Services (OFWAT)	1	0	
<b>Total</b>	<b>271</b>	<b>210</b>	

\* National Probation Service refers to complaints made under the Victim's Code.

Continued in the year	Reported on	Reported on: fully upheld %	Reported on: partly upheld %	Reported on: not upheld %	In hand at 31/03/09
0	62	27%	35%	37%	18
0	2	100%	0%	0%	0
0	3	33%	33%	33%	1
0	46	7%	0%	93%	10
0	2	0%	50%	50%	0
0	0	N/A	N/A	N/A	1
0	0	N/A	N/A	N/A	1
0	2	100%	0%	0%	6
0	0	N/A	N/A	N/A	1
0	0	N/A	N/A	N/A	3
2	23	52%	43%	4%	49
0	2	100%	0%	0%	3
0	1	0%	0%	100%	1
0	0	N/A	N/A	N/A	2
0	5	0%	80%	20%	7
0	4	25%	25%	50%	5
0	0	N/A	N/A	N/A	1
0	8	0%	63%	38%	5
0	0	N/A	N/A	N/A	2
0	0	N/A	N/A	N/A	1
0	1	100%	0%	0%	1
0	1	0%	100%	0%	0
0	1	100%	0%	0%	0
0	1	0%	0%	100%	0
<b>2</b>	<b>257</b>	<b>30%</b>	<b>30%</b>	<b>40%</b>	<b>222</b>

Figure 15.

**Distribution of health cases by Strategic Health Authority**

Strategic Health Authorities	Restated in hand at 01/04/08	Accepted for investigation in the year	Discontinued in the year	Reported on	Reported on: fully upheld %	Reported on: partly upheld %	Reported on: not upheld %	In hand at 31/03/09
East Midlands Strategic Health Authority	2	6	1	3	67%	0%	33%	4
East of England Strategic Health Authority	2	8	1	4	50%	0%	50%	5
London Strategic Health Authority	11	15	0	10	70%	10%	20%	16
North East Strategic Health Authority	4	3	0	2	0%	50%	50%	5
North West Strategic Health Authority	15	22	1	15	60%	7%	33%	21
South Central Strategic Health Authority	8	7	0	6	67%	17%	17%	9
South East Coast Strategic Health Authority	6	6	0	7	57%	29%	14%	5
South West Strategic Health Authority	7	6	0	7	43%	29%	29%	6
West Midlands Strategic Health Authority	3	4	0	5	20%	20%	60%	2
Yorkshire and The Humber Strategic Health Authority	6	9	0	8	50%	0%	50%	7
Healthcare Commission	359	153	14	440	36%	8%	56%	58
<b>Total</b>	<b>423</b>	<b>239</b>	<b>17</b>	<b>507</b>	<b>38%</b>	<b>9%</b>	<b>53%</b>	<b>138</b>

Figure 16.

**Distribution of continuing care health cases by Strategic Health Authority**

Strategic Health Authorities – Continuing Care	Restated In hand at 01/04/08	Accepted for investigation in the year	Discontinued in the year	Reported on	Reported on: fully upheld %	Reported on: partly upheld %	Reported on: not upheld %	In hand at 31/03/09
East Midlands Strategic Health Authority	1	1	0	2	100%	0%	0%	0
East of England Strategic Health Authority	2	1	0	3	67%	0%	33%	0
London Strategic Health Authority	7	0	0	7	86%	0%	14%	0
North East Strategic Health Authority	1	1	0	1	0%	0%	100%	1
North West Strategic Health Authority	13	3	0	14	64%	7%	29%	2
South Central Strategic Health Authority	5	1	0	5	80%	20%	0%	1
South East Coast Strategic Health Authority	5	0	0	5	60%	20%	20%	0
South West Strategic Health Authority	6	1	0	7	43%	29%	29%	0
West Midlands Strategic Health Authority	3	0	0	3	33%	33%	33%	0
Yorkshire and The Humber Strategic Health Authority	6	0	0	6	67%	0%	33%	0
<b>Total</b>	<b>49</b>	<b>8</b>	<b>0</b>	<b>53</b>	<b>64%</b>	<b>11%</b>	<b>25%</b>	<b>4</b>

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