

2012-13 QUARTER 1 FREEDOM OF INFORMATION/ DATA PROTECTION REPORT

Paper by Luke Whiting, Head of Freedom of Information/Data Protection

1. Executive summary

- 1.1 This paper provides the Executive Board (EB) with information about the Freedom of Information and Data Protection Team's performance during Quarter 1 of 2012/13. It also provides an update on information issues more widely.
- 1.2 The format of the performance figures is the same as in recent quarters. This information is at Annex 1.
- 1.3 For EB's information, the figures for our performance during the entirety of 2011-2012 are enclosed at Annex 2.

2. Action required

- 2.1 EB is asked to note the contents of the report.

3. Overview of performance in Quarter 1

- 3.1 To recap first: during Quarter 4 of 2011-12, 100% of the requests that were resolved under the Freedom of Information Act and the Data Protection Act were resolved within the statutory time limit. Taking the year overall, the team responded to 100% of the requests within the relevant statutory time limit. The number of cases 'in hand' at the end of 2011/12 was 33.
- 3.2 I turn now to Quarter 1 of 2012-13. The team's yearly target is to ensure that at least 90% of statutory information requests are met within the relevant timescales.
- 3.3 As set out in Annex 1, the percentage of requests which have been resolved within the statutory time limit under the Freedom of Information Act is 98%. (This figure incorporates the FOI element of the category of requests which cover both FOI and DP, and requests which relate purely to FOI).
- 3.4 The percentage of requests which have been resolved within the statutory time limit under the Data Protection Act is 97%. (This figure incorporates the DP element of the category of requests which cover both FOI and DP, and requests which relate purely to DP).
- 3.5 The team were without a manager for a short period at the start of the quarter and despite this instability and the high number of

requests we have continued to receive, the team are on track to meet the yearly target of 90%.

4. Information about the requests we have received in Quarter 1

- 4.1 The number of requests for information we have received in Quarter 1 is consistent with the number we received during Quarter 4 of 2011-12. While there has been no increase in the number of requests we have received this quarter, the number remains high when we compare it with Quarter 1 of 2011/12 (52 requests).
- 4.2 EB asked to know more about the trends we are seeing in the requests we were receiving. However, there are no real trends in the types of FOI requests we received this quarter. We have though looked closely at who made requests this quarter; the number of requests they have made in total; the number of cases they have with the Office; and how likely they are to have had a review. For EB's information, a more detailed analysis is set out in Annex 3.
- 4.3 What emerges is a profile that includes people with a significant amount of contact with not only the FOI/DP team but CS&A and the Review Team. It is interesting to note, for example, that in this quarter, one person was responsible for 6% of all the information requests we received and eight people were responsible for 21% of all requests. More broadly, the 70 recorded as complainants who made requests this quarter have in total 410 FOI/DP requests, cases, complaints about cases, and complaints about FOI/DP; an average of six each.
- 4.4 As is usually the case, the majority of the information requests received in Quarter 1 have been related to our casework, with individuals seeking various documentation held on their case file, rather than requests made under the Freedom of Information Act for publicly accessible information.
- 4.5 The casework related requests we have received were generally in relation to complaints about the NHS that we had declined to investigate. The information requested from the case files fall broadly into the following categories: requests for everything held on the complaint file; correspondence between PHSO and the body complained about; requests for the information obtained from the body complained about; and requests for the information on which our decisions are based, for example, for the clinical advice obtained as part of the assessment process.
- 4.6 During this quarter, the number of non case related requests made under the Freedom of Information Act (as opposed to requests related to our casework) fell slightly. These types of requests continued to be a smaller proportion of the information requests we

received; as set out above, the majority of requests are currently for information held on our case files.

- 4.7 For EB's information, the types of Freedom of Information requests we received include: the numbers of complaints we received about specific organisations over a period of time; requests for internal policies and guidance to caseworkers; information about who is in the Review Team and the line management arrangements; information about our responsibilities under the Equalities Act; information about how and when we award compensation.
- 4.8 There were two FOI requests of note that I wanted to make EB aware of.
- 4.9 The first was an FOI request from an MP's office. They requested information about the number of complaints we had received about HS2 and the exceptional hardship payments scheme set up to compensate people affected by the proposed high speed line. They also wanted to know more about what triggers an investigation by the Ombudsman and a report to Parliament. We followed up our response with a discussion on the broader issues with the MP's office who wanted to know more about how we might be able to help local people affected and support MPs in making the case to Parliament. It is possible that we will receive many more complaints about this issue.
- 4.10 The other request to note was from someone who had had an investigation conducted by the SPSO on which we provided the clinical advice. Legal advice was that the request should be handled by the SPSO and not by PHSO. However, the complainant was not happy with this arrangement and was quite challenging. This might be an ongoing issue in respect of the provision of clinical advice to other Ombudsmen.

5. Issues for the FOI/DP team in the immediate future

- 5.1 The current complement of staff (three full time Freedom of Information Act/Data Protection Officers at D2 level and a full time Business Support Officer) is working well and the team has responded well to stay on top of the high numbers of cases we have received. Because several of the requests this quarter have been both high risk and for everything held on what were very large cases it has been challenging to meet the statutory deadlines. If the numbers of requests we receive starts to rise again then there is a risk that we may begin to miss the statutory deadlines more frequently.
- 5.2 One of the Freedom of Information Act/Data Protection Officers currently working in the team was appointed on a year contract as maternity cover. However, the permanent member of staff has decided to take a career break at the end of her maternity leave (due

to end in September) and therefore, we are currently recruiting internally for a permanent replacement. We aim to have someone confirmed and in place by September.

6. Update on our ongoing dialogue with the Information Commissioner's Office (ICO)

6.1 As EB will remember, in July 2010, Ann Abraham and the Information Commissioner agreed a set of principles in relation to PHSO's approach to handling information requests for information held on our case files. These principles followed the difference in opinion between PHSO and the ICO as to when the exemption at section 31(4) of the Data Protection Act 1998 should be applied. This had been a great source of tension for both Offices.

6.2 We continue to work within the framework of the principles and the ICO are broadly happy as long as we do. There continues to be individual cases where the ICO wishes to explore with us in more detail how and why we have applied the exemption at section 31(4) but so far they have been satisfied with the explanations we have given them.

7. Reviews

7.1 We have received eight review requests this quarter. Although this is an increase on previous quarters, five of these requests for review came from the same person. None have been upheld/partially upheld this quarter.

Annex 1 page 1 - Request level data

FOI/DP PERFORMANCE DATA

2012/13

Information requests received	Q1	Q2	Q3	Q4	YTD
Case related	79				79
Non case related	17				17
Total	96				96

Who made the request	Q1	Q2	Q3	Q4	YTD
Complainant	77				77
Representative	3				3
Other	9				9
MP	1				1
Body complained about	6				6
Total	96				96

Cases in hand	Q1	Q2	Q3	Q4	
Case related	22				
Non case related	4				
Total	26				

Requests resolved	Q1	Q2	Q3	Q4	YTD
Case related	81				81
Non case related	18				18
Total	99				99

How requests resolved	Q1	Q2	Q3	Q4	YTD
Information released in full	47				47
Information released in part	41				41
All information withheld	7				7
Information not held by PHSO	4				4
Information in public domain	0				0
Request withdrawn	0				0
Total	99				99

Annex 1 page 2 – FOI/DP level data

FOIA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	80				80
Outside relevant time limit	2				2
Total	82				82
% Within relevant time limit	98%				98%

DPA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	72				72
Outside relevant time limit	2				2
Total	74				74
% Within relevant time limit	97%				97%

Reviews	Q1	Q2	Q3	Q4	YTD
Reviews received	8				8
Reviews fully upheld	0				0
Reviews partly upheld	0				0
Reviews not upheld	3				3

Annex 2 page 1 - Request level data

FOI/DP PERFORMANCE DATA

2011/12

Information requests received	Q1	Q2	Q3	Q4	YTD
Case related	42	42	54	79	217
Non case related	10	14	22	21	67
Total	52	56	76	100	284

Who made the request	Q1	Q2	Q3	Q4	YTD
Complainant	43	44	62	81	230
Representative	2	1	4	4	11
Other	6	11	10	14	41
MP	0	0	0	0	0
Body complained about	1	0	0	1	2
Total	52	56	76	100	284

Cases in hand	Q1	Q2	Q3	Q4	
Case related	13	6	17	28	
Non case related	0	4	1	5	
Total	13	10	18	33	

Requests resolved	Q1	Q2	Q3	Q4	YTD
Case related	39	49	43	68	199
Non case related	10	10	25	17	62
Total	49	59	68	85	261

How requests resolved	Q1	Q2	Q3	Q4	YTD
Information released in full	13	25	31	48	117
Information released in part	30	20	25	29	104
All information withheld	3	10	4	6	23
Information not held by PHSO	3	4	8	2	17
Information in public domain	0	0	0	0	0
Request withdrawn	0	0	0	0	0
Total	49	59	68	85	261

Annex 2 page 2 – FOI/DP level data

FOIA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	45	56	63	73	237
Outside relevant time limit	1	0	0	0	1
Total	46	56	63	73	238
% Within relevant time limit	98%	100%	100%	100%	100% (99.6%)

DPA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	33	34	38	61	166
Outside relevant time limit	0	0	0	0	0
Total	33	34	38	61	166
% Within relevant time limit	100%	100%	100%	100%	100%

Reviews	Q1	Q2	Q3	Q4	YTD
Reviews received	10	10	4	3	27
Reviews fully upheld	0	0	0	0	0
Reviews partly upheld	2	0	1	1	4
Reviews not upheld	11	8	6	2	27

Annex 3 page 1

In Quarter 1 2012/13 we received 96 requests but these only came from 84 people/organisations. 76 people/organisations made one request only but seven people/organisations made two and one made six. This means that one person was responsible for 6% of all requests and eight people were responsible for 21% of all requests.

Looking at the same 84 people/organisations, the table below is the breakdown of how many requests they have made in total:

Requests person	per	Frequency
1		53
2		20
3		3
4		1
5		1
7		3
8		1
10		1
14		1

These 84 people/organisations have made a total of 164 requests, an average of two each. What you can see from the table is that 53 out of 84 (63%) requestors have only made one request but 10% of requestors have made three or more requests and these eight people have made 62 requests between them.

The 84 requestors include 70 categorised as complainants. Looking at how many cases each of them have, we get the following:

Cases per person	Frequency
1	15
2	18
3	16
4	12
5	4
6	5

These 70 complainants have a total of 197 cases. Only 15 out of 70 complainants have a single case.

Annex 3 page 2

Looking at how likely these people are to have complained about their case (excluding FOI complaints) we get the following:

Reviews person	per	Frequency
0		29
1		29
2		6
3		4
4		1
5		1

This shows that 41 out of 70 have also made a complaint about a case as well as making an FOI request. In total these 70 have made 62 complaints about us (excluding complaints about FOI). 12 of them are responsible for 33 complaints about us.

It is also noticeable that 3 out of the 70 have made complaints about FOI. Two of those had not made a complaint about their case but have made three and four complaints respectively about FOI. The third person has made 1 FOI complaint along with three complaints about their case.

Adding all of this together, what you get is a profile of people which includes people with a significant amount of contact with us. The following shows the total of FOI requests, cases, complaints about cases and complaints about FOI for these 70 people (the minimum would be two - a case and an FOI request):

All person	per	Frequency
2		6
3		6
4		21
5		11
6		5
7		8
8		3
10		3
11		2
13		1
14		1
15		1
17		1
20		1

This shows that only six out 70 have just a case and an FOI request. Everyone else has more than that. In total these 70 people have 410 'cases' with us, an average of six each.

2012-13 QUARTER 2 FREEDOM OF INFORMATION/ DATA PROTECTION REPORT

Paper by Luke Whiting, Head of Freedom of Information/Data Protection

1. Executive summary

- 1.1 This paper provides the Executive Board (EB) with information about the Freedom of Information and Data Protection Team's performance during Quarter 2 of 2012/13. It also provides an update on information issues more widely.
- 1.2 The format of the performance figures is the same as in recent quarters. This information is at Annex 1.
- 1.3 For EB's information, the figures for our performance during the entirety of 2011-2012 are enclosed at Annex 2.

2. Action required

- 2.1 EB is asked to note the contents of the report.

3. Overview of performance in Quarter 2

- 3.1 To recap first: during Quarter 1 of 2012-13, 97% of the requests that were resolved under the Freedom of Information Act and 97% of the requests that were resolved under the Data Protection Act were resolved within the statutory time limit. The number of cases 'in hand' at the end of Quarter 1 2012/13 was 26.
- 3.2 I turn now to Quarter 2 of 2012-13. The team's yearly target is to ensure that at least 90% of statutory information requests are met within the relevant timescales.
- 3.3 As set out in Annex 1, the percentage of requests which have been resolved in Quarter 2 2012-13 within the statutory time limit under the Freedom of Information Act is 99%. (This figure incorporates the FOI element of the category of requests which cover both FOI and DP, and requests which relate purely to FOI.)
- 3.4 The percentage of requests in Quarter 2 2012-13 which have been resolved within the statutory time limit under the Data Protection Act is 100%. (This figure incorporates the DP element of the category of requests which cover both FOI and DP, and requests which relate purely to DP.)
- 3.5 Overall, the percentage of Freedom of Information requests resolved within the statutory time limit is 98%. The percentage of requests for

information under the Data Protection Act resolved within the statutory time limit stands at 99%. We remain on track to meet and exceed the yearly target of 90%.

4. Information about the requests we have received in Quarter 2

- 4.1 The number of information requests received this quarter (118) went up by 19% on the last quarter (96). The number of cases in hand (25) remained consistent with previous quarters while the number of requests closed matched the number of requests we received (118). Overall, I am pleased with the way the team has responded to the increase in information requests.
- 4.2 As the majority of the information requests we receive are case related it is possible that the increase in requests is linked to the increase in complaints received during the last quarter by the office as a whole. Certainly most case related information requests we received were made directly after the substantive case was closed as complainants sought to better understand and/or challenge the decision we reached. Consequently, we have begun to work more closely with the Review Team to ensure that complainants have the information material to our decision to help them frame their requests for review.
- 4.3 As I have indicated above, the casework related requests we have received were generally in relation to complaints about the NHS that we had declined to investigate. The information requested from the case files falls broadly into the following categories: requests for everything held on the complaint file; correspondence between PHSO and the body complained about; requests for the information obtained from the body complained about; and requests for the information on which our decisions are based, for example, for the clinical advice obtained as part of the assessment process.
- 4.4 There has, however, been a noticeable change in the tone of some of the requests for information we have received about our clinical advisers. Not only have more people specifically asked for the name and contact details of our clinical advisers than is usual but they have made it clear in doing so that they want this information so that they can challenge our decision with the clinical adviser directly.
- 4.5 Having discussed this with Gavin McBurnie I understand that CSA's audit of decision letters has highlighted that in some cases the letters may have over emphasised the role the clinical adviser played in the decision taken on the case. I also understand that CSA will be taking steps to address this issue.
- 4.6 The numbers of requests made under the Freedom of Information Act rose significantly this quarter. 31 of the 118 information requests received were Freedom of Information requests, an increase of 81%

on the number received last quarter (17). Although many of these requests were for non case related information, many of them have been from people who have previously complained to PHSO.

- 4.7 For example, a complainant who is unhappy with the decision we have reached on their substantive complaint may, in the first instance, ask to see what we hold on their case file. Once they have received this information they may then seek additional information under the Freedom of Information Act. They might, for example request the number of complaints we have received over a period of time about a particular body or about a particular issue. Or they might ask for some of our policies and procedures for staff.
- 4.8 The increase in Freedom of Information requests aside, there were no trends as such to be drawn the requests themselves. For EB's information, in Quarter 2 these included: the numbers of complaints we received about specific organisations over a period of time; requests for internal policies and guidance to caseworkers; information about our pay grading structure; information about how we comply with the Equalities Act; information about *'our policy on dealing with people with disabilities'*; a request to know the gender profile of our staff; and a request for information about how we define 'injustice';

5. Update on our ongoing dialogue with the Information Commissioner's Office (ICO)

- 5.1 There continues to be individual cases where the ICO wishes to explore with us in more detail how and why we have applied the exemption at section 31(4) of the DPA. There were three cases this quarter where the ICO, having received a complaint, asked for more information about what we had withheld from the complainant and why we had applied section 31(4).
- 5.2 Although the ICO were satisfied with the arguments we set out in two cases, the third complaint about us was upheld and we were asked to release a letter we had withheld. I have provided more detail about the case at Annex 3 for information. Although the case was upheld the discussion with the ICO about our statutory bar and section 31 (4) DPA was useful and worthwhile. I should add that the decision in this case is not likely to impact on the way we work or our relationship with the ICO at present.

6. Reviews

- 6.1 We have received fourteen review requests this quarter. One was partially upheld. This was because an annex to a document was initially omitted in error from the information we released.

Annex 1 page 1 - Request level data

FOI/DP PERFORMANCE DATA

2012/13

Information requests received	Q1	Q2	Q3	Q4	YTD
Case related	79	87			166
Non case related	17	31			48
Total	96	118			214

Who made the request	Q1	Q2	Q3	Q4	YTD
Complainant	77	92			169
Representative	3	1			4
Other	9	21			30
MP	1	0			1
Body complained about	6	4			10
Total	96	118			214

Cases in hand	Q1	Q2	Q3	Q4	
Case related	22	23			
Non case related	3	2			
Total	25	25			

Requests resolved	Q1	Q2	Q3	Q4	YTD
Case related	78	86			164
Non case related	18	32			50
Total	96	118			214

How requests resolved	Q1	Q2	Q3	Q4	YTD
Information released in full	45	47			92
Information released in part	40	54			94
All information withheld	7	10			17
Information not held by PHSO	4	6			10
Information in public domain	0	0			0
Request withdrawn	0	1			1
Total	96	118			214

Annex 1 page 2 – FOI/DP level data

FOIA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	77	97			174
Outside relevant time limit	2	1			3
Total	79	98			177
% Within relevant time limit	97%	99%			98%

DPA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	70	78			148
Outside relevant time limit	2	0			2
Total	72	78			150
% Within relevant time limit	97%	100%			99%

Reviews	Q1	Q2	Q3	Q4	YTD
Reviews received	8	14			22
Reviews fully upheld	0	0			0
Reviews partly upheld	0	1			1
Reviews not upheld	3	10			13

Annex 2 page 1 - Request level data

FOI/DP PERFORMANCE DATA

2011/12

Information requests received	Q1	Q2	Q3	Q4	YTD
Case related	42	42	54	79	217
Non case related	10	14	22	21	67
Total	52	56	76	100	284

Who made the request	Q1	Q2	Q3	Q4	YTD
Complainant	43	44	62	81	230
Representative	2	1	4	4	11
Other	6	11	10	14	41
MP	0	0	0	0	0
Body complained about	1	0	0	1	2
Total	52	56	76	100	284

Cases in hand	Q1	Q2	Q3	Q4	
Case related	13	6	17	28	
Non case related	0	4	1	5	
Total	13	10	18	33	

Requests resolved	Q1	Q2	Q3	Q4	YTD
Case related	39	49	43	68	199
Non case related	10	10	25	17	62
Total	49	59	68	85	261

How requests resolved	Q1	Q2	Q3	Q4	YTD
Information released in full	13	25	31	48	117
Information released in part	30	20	25	29	104
All information withheld	3	10	4	6	23
Information not held by PHSO	3	4	8	2	17
Information in public domain	0	0	0	0	0
Request withdrawn	0	0	0	0	0
Total	49	59	68	85	261

Annex 2 page 2 – FOI/DP level data

FOIA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	45	56	63	73	237
Outside relevant time limit	1	0	0	0	1
Total	46	56	63	73	238
% Within relevant time limit	98%	100%	100%	100%	100% (99.6%)

DPA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	33	34	38	61	166
Outside relevant time limit	0	0	0	0	0
Total	33	34	38	61	166
% Within relevant time limit	100%	100%	100%	100%	100%

Reviews	Q1	Q2	Q3	Q4	YTD
Reviews received	10	10	4	3	27
Reviews fully upheld	0	0	0	0	0
Reviews partly upheld	2	0	1	1	4
Reviews not upheld	11	8	6	2	27

Annex 3 - Case details about the upheld ICO complaint

Information removed - s40(2) FOIA

2012-13 QUARTER 3 FREEDOM OF INFORMATION/ DATA PROTECTION REPORT

Paper by Luke Whiting, Head of Freedom of Information/Data Protection

1. Executive summary

- 1.1 This paper provides information about the Freedom of Information and Data Protection Team's performance during Quarter 3 of 2012/13. It also provides an update on information issues more widely.
- 1.2 The format of the performance figures is the same as in recent quarters. This information is at Annex 1.
- 1.3 For information, the figures for our performance during the entirety of 2011-2012 are enclosed at Annex 2.

2. Overview of performance in Quarter 3

- 2.1 You will recall that at the end of Q2 the percentage of Freedom of Information requests resolved within the statutory time limit was 98%. The percentage of requests for information under the Data Protection Act resolved within the statutory time limit stood at 99%. At the end of Q2 we also had 25 cases in hand.
- 2.2 Turning to Quarter 3 of 2012-13, the team's yearly target is to ensure that at least 90% of statutory information requests are met within the relevant timescales.
- 2.3 As set out in Annex 1, the percentage of requests which have been resolved in Quarter 3 2012-13 within the statutory time limit under the Freedom of Information Act remained high at 97%. (This figure incorporates the FOI element of the category of requests which cover both FOI and DP, and requests which relate purely to FOI.)
- 2.4 In Quarter 3 2012-13 we resolved 100% of requests within the statutory time limit under the Data Protection Act (This figure incorporates the DP element of the category of requests which cover both FOI and DP, and requests which relate purely to DP).

3. Information about the requests we have received in Quarter 3

- 3.1 During Quarter 3 the number of information requests we received fell by 18% from 118 to 99. However, this fall was largely due to receiving few requests over Christmas and New Year and is unlikely, to be the start of a general decline in the numbers of requests we receive.

- 3.2 In any event, the fall in the number of requests received this quarter has enabled us to resolve 12 more requests than we received and we ended the quarter with the lowest number of cases in hand (13) we have had this business year.
- 3.3 Although the number of cases received fell during Quarter 3, we have now passed the total number of requests received during the whole of the last business year (At the end of Quarter 3 we had received 313 information requests against a total of 284 for the year 2011/12). We have also resolved more requests (329) than we resolved in the last business year (261).
- 3.4 As is usually the case, the majority of the information requests received in Quarter 3 have been related to our casework, with individuals seeking various documentation held on their case file, rather than requests made under the Freedom of Information Act for publicly accessible information.
- 3.5 The casework related requests we have received were generally in relation to complaints about the NHS that we had declined to investigate. The information requested from the case files fall broadly into the following categories: requests for everything held on the complaint file; correspondence between PHSO and the body complained about; requests for the information obtained from the body complained about; and requests for the information on which our decisions are based, for example, for the clinical advice obtained as part of the assessment process.
- 3.6 During this quarter, the number of requests made under the Freedom of Information Act (as opposed to requests directly related to our casework) fell slightly. The majority of the FOI requests we received still though related to our casework in some way. These requests included requests for more information about the people involved in their case e.g. the clinician or the legal team; our casework policy and guidance; the numbers of complaints we received about organisations or a particular drug over a period of time.

4. Issues for the FOI/DP team

- 4.1 The current complement of staff (full time Freedom of Information Act/Data Protection Officers at D2 level and a full time Business Support Officer) has done well so far this year to manage the challenges posed by the high numbers of requests we have received.
- 4.2 The team is, however, working near its full capacity and if the numbers of requests we receive continues to rise or circumstances change in the team then statutory deadlines may begin to be missed.

5. Update on our ongoing dialogue with the Information Commissioner's Office (ICO)

- 5.1 I am happy to report that during Quarter 3 the Information Commissioner did not contact us about any of our decisions.

6. Reviews

- 6.1 We received 11 requests for a review during Quarter 3. Three reviews were partly upheld. The decisions in these cases were finely balanced and provided useful learning to the caseworkers and the team as a whole.

Annex 1 page 1 - Request level data

FOI/DP PERFORMANCE DATA

2012/13

Information requests received	Q1	Q2	Q3	Q4	YTD
Case related	80	87	70		236
Non case related	16	31	29		77
Total	96	118	99		313

Who made the request	Q1	Q2	Q3	Q4	YTD
Complainant	77	92	81		169
Representative	3	1	0		4
Other	9	21	17		30
MP	1	0	0		1
Body complained about	6	4	1		10
Total	96	118	99		313

Cases in hand	Q1	Q2	Q3	Q4	
Case related	22	23	8		
Non case related	3	2	5		
Total	25	25	13		

Requests resolved	Q1	Q2	Q3	Q4	YTD
Case related	82	86	85		253
Non case related	18	32	26		76
Total	100	118	111		329

How requests resolved	Q1	Q2	Q3	Q4	YTD
Information released in full	47	47	53		145
Information released in part	42	54	48		142
All information withheld	7	10	6		23
Information not held by PHSO	4	6	4		14
Information in public domain	0	0	0		0
Request withdrawn	0	1	0		1
Total	100	118	111		329

Annex 1 page 2 – FOI/DP level data

FOIA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	81	97	80		254
Outside relevant time limit	2	1	2		5
Total	83	98	82		259
% Within relevant time limit	97%	99%	97%		98%

DPA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	73	78	74		222
Outside relevant time limit	2	0	0		2
Total	75	78	74		224
% Within relevant time limit	97%	100%	100%		99%

Reviews	Q1	Q2	Q3	Q4	YTD
Reviews received	8	14	11		33
Reviews fully upheld	0	0	0		0
Reviews partly upheld	0	1	3		4
Reviews not upheld	3	10	10		3

Annex 2 page 1 - Request level data

FOI/DP PERFORMANCE DATA

2011/12

Information requests received	Q1	Q2	Q3	Q4	YTD
Case related	42	42	54	79	217
Non case related	10	14	22	21	67
Total	52	56	76	100	284

Who made the request	Q1	Q2	Q3	Q4	YTD
Complainant	43	44	62	81	230
Representative	2	1	4	4	11
Other	6	11	10	14	41
MP	0	0	0	0	0
Body complained about	1	0	0	1	2
Total	52	56	76	100	284

Cases in hand	Q1	Q2	Q3	Q4	
Case related	13	6	17	28	
Non case related	0	4	1	5	
Total	13	10	18	33	

Requests resolved	Q1	Q2	Q3	Q4	YTD
Case related	39	49	43	68	199
Non case related	10	10	25	17	62
Total	49	59	68	85	261

How requests resolved	Q1	Q2	Q3	Q4	YTD
Information released in full	13	25	31	48	117
Information released in part	30	20	25	29	104
All information withheld	3	10	4	6	23
Information not held by PHSO	3	4	8	2	17
Information in public domain	0	0	0	0	0
Request withdrawn	0	0	0	0	0
Total	49	59	68	85	261

Annex 2 page 2 – FOI/DP level data

FOIA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	45	56	63	73	237
Outside relevant time limit	1	0	0	0	1
Total	46	56	63	73	238
% Within relevant time limit	98%	100%	100%	100%	100% (99.6%)

DPA information requests resolved in total	Q1	Q2	Q3	Q4	YTD
Within relevant time limit	33	34	38	61	166
Outside relevant time limit	0	0	0	0	0
Total	33	34	38	61	166
% Within relevant time limit	100%	100%	100%	100%	100%

Reviews	Q1	Q2	Q3	Q4	YTD
Reviews received	10	10	4	3	27
Reviews fully upheld	0	0	0	0	0
Reviews partly upheld	2	0	1	1	4
Reviews not upheld	11	8	6	2	27

Information Governance Compliance Programme Report - 2013-2014 Quarter 1
Katharine Stevenson, Information and Records Manager and Luke Whiting, Head of
FOI/DP
Cleared by Mike Procter and Anne Harding

1 Executive summary

- 1.1 This paper reports the 2013-2014 Quarter 1 findings from the Information Governance compliance programme. This includes compliance with the access to information provisions under the Freedom of Information (FOI) and Data Protection (DPA) legislation, and compliance with Information Security requirements, including under DPA.

2 Action required

- 2.1 Leadership Team is asked to:
- **review** this paper
 - **accept** the findings in sections 4 and 5
 - **approve** the recommendations in section 6
 - **note** the risks and next steps outlined in sections 7 and 8
 - **feedback** whether the information contained is too much/too little

3. Background

- 3.1 Last week, Leadership Team approved PHSO's Information Governance compliance programme. This report is the first to be submitted under that programme. We welcome feedback on the length and content of this report to help with future reports.
- 3.2 PHSO is required by law to comply with the Freedom of Information (FOI) Data Protection (DPA), Health Service Commissioner (HSCA) and Parliamentary Commissioner (PCA) legislation in terms of providing appropriate access to information by members of the public, and the appropriate protection of personal data. This report includes PHSO's activity and compliance with these Acts during the first quarter of 2013-2014.
- 3.3 Due to the high level of impact to PHSO's reputation, business continuity and compliance with the Information Assurance Maturity Model which PHSO is currently working towards, this report also includes PHSO's activity and compliance with internal information security requirements for the first quarter of 2013-2014.
- 3.4 The purpose of this report is to provide findings and make recommendations for further improvement and learning.

4. Findings - Public Access to Information (FOI/DPA/HSCA/PCA)

4.1 Overview

- 4.1.1 At a time when public bodies are being criticised for their lack of transparency, our approach to processing information requests demonstrates PHSO's commitment to openness.

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- 4.1.2 In Q1 2013-14 we partly or fully released the information requested in 96 (or 83%) of the 115 information requests we resolved.
- 4.1.3 In Q1 2013-14, we received 5 requests for review of our decisions. All of these reviews have been completed. None were upheld and none resulted in additional information being released.

4.2 Information requests- Non case related (FOIA)

- 4.2.1 In Q1 of 2013-14 we received 52 non case related requests for information under the Freedom of Information Act 2000. This is a significant increase on Q1 2012-13 when we received 16 FOI requests and a 15% increase on Q4 2012-13 (45 requests). However, the figure for Q1 2013-14 is distorted slightly by the fact that one person made 12 FOI requests.
- 4.2.2 In Q1 2013-14 99% of FOI requests (46 of 47) were closed within the statutory deadline. We are on track to meet and exceed our corporate service standard of responding to 90% of FOI requests within 20 working days.
- 4.2.3 There are issues arising in Q1 that might impact on how we process FOI requests going forward. In Q1 2013-14 there has been a notable change in how FOI requests have been made to us. This quarter, 20 FOI requests (38% of the requests received) were made via the 'What do they know' website. This compares to 2 in Q4 2012-13. This charity-run website is a forum through which people can make information requests to public bodies under the Freedom of Information Act 2000. Requests are made through the website and posted online. Any response by the public authority is then also automatically published online.
- 4.2.5 Several people who have previously complained to PHSO and who remain unhappy with the decision on their case follow the responses on the website and blog one another. The website is one of the top search results if you search for PHSO in Google and has in Q1 been a focal point for people who are seeking information they might use to challenge our decisions and/or take their dissatisfaction with our office to PASC.
- 4.2.6 The risks associated with putting information in this forum have been mitigated by involving the press/external affairs team as appropriate in drafting the responses. Either way, the Executive Director of External Affairs and Strategy has seen and approved each of the responses before they have been posted on 'What do they know'.
- 4.2.7 This arrangement is working well; it mitigates the reputational risks and is not currently impacting on our ability to meet the statutory deadlines. However, these requests and the people making them are challenging to manage and each request usually leads to follow up correspondence or further requests.
- 4.2.8 As will be clear, the requests made via this website are more time consuming than the FOI requests we receive in writing. Consequently, if the number of requests received through 'What do they know' continues to rise it may begin to impact on our throughput and output. It may also begin to impact on the work of External Affairs. We will, of course, monitor this situation and update the Leadership Team in the Q2.

4.3 Information requests- Case-related (FOIA/HSCA/PCA/DPA)

- 4.3.1 As is usually the case, the majority of the information requests received in Q1 2013-14 have been related to our casework, with individuals seeking various documentation held on their case file, rather than requests made under the Freedom of Information Act for publicly held information.
- 4.3.2 In Q1 2013-14 we received 75 case related information requests which is broadly consistent with previous quarters (Q4 2012-13 = 76, Q3 2012-13 = 70). 100% of these cases were resolved within the statutory time limits and we are firmly on track to meet our corporate service standard of responding to 90% of DPA requests within 40 days.
- 4.3.3 The casework related requests we have received were generally in relation to complaints about the NHS that we had declined to investigate. The information requested from the case files fell broadly into the following categories: requests for everything held on the complaint file; correspondence between PHSO and the body complained about; requests for the information obtained from the body complained about; and requests for the information on which our decisions are based, for example, for the clinical advice obtained as part of the assessment process.

4.4 Complaints to the ICO

- 4.4.1 We continue to work within the framework of the principles agreed by Ann Abraham and Christopher Graham and the ICO appear broadly happy as long as we do so. These principles were agreed to establish a mutual understanding about when the exemption at section 31(4) of the DPA 1998 (whether release of personal information is prejudicial to our function) should be applied.
- 4.4.2 In Q1 2013-14 the ICO asked us to comment on four complaints in total, three about our responses to information requests and one about how PHSO processed case related data. These complaints will not impact on how we respond to information requests in the future.
- 4.4.3 Although one of these complaints was upheld, the ICO concluded that while it appeared PHSO had breached the DPA, they were satisfied appropriate action had been taken in response. This was an unusual case and not one that related to how we had processed an information request.
- 4.4.4 *Information removed - s40(2) FOIA*
- 4.4.5 *Information removed - s40(2) FOIA*
- 4.4.6 On two other cases, the ICO accepted the explanations we gave for how we had processed the information requests and the complaints were not upheld. Only one of these cases was directly about our application of section 31 (4) DPA and no concerns were raised about this by the ICO. The final case received in Q1 2013-14 remains open and we are expecting the ICO to reach a decision shortly.

4.5 Internal Audit

- 4.5.1 An audit by Grant Thornton of how PHSO processes information requests is underway. When this is complete, a report will be produced with recommendations to the SIRO for future improvements. I will be able to provide more details about the outcome of this audit in the Q2 report.

5. Findings - Information Security (including Data Protection)

Information removed - out of scope

6. Recommendations

- 6.1 FOI/DP team to continue to monitor how they process requests submitted via 'What do they know' website.

Information removed - out of scope

7. Risk Assessment

- 7.1 Only one FOI request was not responded to within the statutory time period during Q1, meaning that PHSO is largely complying with the FOI and DPA statutory response time limit requirements while exceeding our Corporate Service Standards. Corporate Service standards are set at 90% and these were met and exceeded during Q1 for both FOI and DPA. The Head of FOI/DP notes a change in how FOI requests currently being submitted to us, with a sharp increase on the number submitted via 'What do they know'. The risks associated with applications made through this method were explained in section 4.2 and will be monitored during Q2. The risks associated with complaints to the ICO about individual cases are explained in 4.4.5 and will be monitored during Q2.

Information removed - out of scope

8. Next steps

- 8.1 In terms of providing public access to information, the FOI/DP team will continue to process requests in line with statutory requirements. The FOI/DP team will review the recommendations from the internal audit, and continue to monitor the way we process requests via 'What do they know'.

Information removed - out of scope

2013-2014 QUARTER 2 - INFORMATION GOVERNANCE COMPLIANCE PROGRAMME REPORT

Paper by Katharine Stevenson, Head of Information and Records Management and Luke Whiting, Head of Freedom of Information/Data Protection
Cleared by Mike Bird and Anne Harding

1 Executive summary

- 1.1 This paper reports the 2013-2014 Quarter 2 findings from the Information Governance compliance programme. This includes compliance with the access to information provisions under the Freedom of Information (FOI) and Data Protection (DPA) legislation, compliance with Information Security requirements, including under DPA, and compliance with general records management practice in PHSO systems.

2 Action required

- 2.1 Leadership Team is asked to:
- **review** this paper
 - **accept** the findings and recommendations in sections 4, 5 and 6
 - **note** the risks and next steps outlined in sections 7 and 8
 - **submit** report to next Audit Committee for consideration

3. Background

- 3.1 PHSO is required by law to comply with the Freedom of Information (FOI) Data Protection (DPA), Health Service Commissioner (HSCA) and Parliamentary Commissioner (PCA) legislation in terms of providing appropriate access to information by members of the public, and the appropriate protection of personal data. This report includes PHSO's activity and compliance with these Acts during the second quarter of 2013-2014.
- 3.2 Due to the high level of impact to PHSO's reputation, business continuity and compliance with the Information Assurance Maturity Model which PHSO is currently working towards, this report also includes PHSO's activity and compliance with internal information security requirements for the second quarter of 2013-2014.
- 3.3 Compliance with records management best practice is included in this quarter's report. As agreed in the Information Governance Compliance programme, records management will feature twice a year in Q2 and Q4 to enable proportionate focus to be placed on our legal requirements of FOI and DPA.
- 3.4 The purpose of this report is to provide findings and make recommendations for further improvement and learning.

4 Findings and Recommendations - Public Access to Information (FOI/DPA/HSCA/PCA)

4.1 Overview

- 4.1.1 This has been a challenging quarter. A hostile external environment led to a sharp increase in information requests received, many from our most challenging and high

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profile complainants and critics. I detail below how the increased risks associated with these challenges have been effectively managed and how the FOI/DP team have ensured that PHSO continues to meet its statutory obligations under the relevant legislation.

4.1.2 In Q2 2013-14 we received 164 information requests up 29% on Q1 2012-13 (127). All but one of the requests we resolved (156) were responded to within the statutory deadlines. We remain on track to meet and exceed our corporate service standard of responding to 90% of FOI and DP requests within the statutory deadlines.

4.1.3 In Q2 2013-14, we received 14 requests for review of our decisions.¹ Nine reviews have been completed. None of these were upheld or resulted in additional information being released.

4.2 Information requests - Non case related (FOIA)

4.2.1 In Q2 of 2013-14 we received 82 non case related requests for information under the Freedom of Information Act 2000. This is an increase of 30 requests (57%) on Q1 2013-14 (52) and an 82% increase on Q4 2012-13 (45 requests).

4.2.2 In Q2 2013-14 100% of FOI requests (82 of 82) were closed within the statutory deadline. We are on track to meet and exceed our corporate service standard of responding to 90% of FOI requests within 20 working days (99% at the end of Q2).

4.2.3 In my report to the leadership team at the end of Q1 2013-14 I noted that there had been a change in how FOI requests were being made to us. I highlighted that in Q1 20 FOI requests (38% of the requests received) had been made via the 'whatdotheyknow' website.²

4.2.4 In Q2 2013-14 this trend continued and 35 of the 82 (42%) of the FOI requests we received were sent to us via 'whatdotheyknow'. During Q2, the website became a focal point for people seeking information with which to challenge a casework decision and/or discredit us publically. Fuelled in part by the public criticisms of Morecombe Bay, the CQC, and the NHS complaints process as a whole, several of these same requesters formed a campaign group and launched the website PHSOthefacts.com.³

4.2.5 In Q2 2013-14, we received information requests about a number of high profile topics. These included Morecombe Bay, Mid Staffs, the Liverpool Care Pathway, the Fritchie Review, the Grant Thornton investigation into the CQC, the Hays Consulting report into PHSO pay, more investigations for more people and PHSO's new strategy, the number of cases/letters Julie personally signed last business year, her involvement in casework more generally and Julie's media and Parliamentary diaries. We have also responded to two consultations from the CQC about the information requests they had received involving information originating from PHSO in relation to the Grant Thornton report.

¹ Please note that under information law you have to undertake a review of an information decision if requested. We cannot decline to review a case as we do under our casework review process.

² This charity-run website is a forum through which people can make information requests to public bodies under the Freedom of Information Act 2000. Requests are made through the website and posted online. Any response by the public authority is then also automatically published online.

³ These requesters are submitting evidence to the PASC inquiry and some are due to take part in the private hearing. I am meeting with Phillip Mende to feed what the FOI/DP team knows about these requesters and their cases into the preparation and briefing for Julie ahead of her appearance before the committee.

- 4.2.6 The risks associated with responding to these requests have been mitigated by involving our external affairs team and other current and former senior members of staff as appropriate in the decision making which informed our responses. Generally, any response going on the 'whatdotheyknow' website or any private response about a high risk or potentially controversial subject has been seen and had input from (as a minimum) either Sacha Deshmukh or Mike Browne. Overall, the leadership team should be assured that risks are being identified at an early stage and appropriately escalated.
- 4.2.7 Beyond the requests themselves, the 'whatdotheyknow' website has also posed other challenges that we have had to address this quarter. Like many websites, it allows its users to post comments, enabling users of the website to comment on the requests and the responses posted. Unfortunately, several of our regular requesters have used this facility not only to comment unkindly on the responses to the requests, but more generally on the work of the office. They also began to discuss their own cases and direct people towards their campaign.
- 4.2.8 In response, we sought the assistance of the website's administrators, highlighting the requests and comments that appeared not to adhere to their code of conduct. Following this intervention a number of the comments were deleted by the website and some information requests that disclosed personal information were subsequently restricted. I also understand the website warned the people involved about their future conduct. We will continue to monitor the situation and we may need to intervene in this way again in future.

4.3 Information requests - Case-related (FOIA/HSCA/PCA/DPA)

- 4.3.1 82 of the 164 information requests received in Q2 2013-14 have been related to our casework, with individuals seeking various documentation held on their case file, rather than requests made under the Freedom of Information Act for non-personal information. This compares to the 75 requests we received in Q1 and remains broadly consistent with previous quarters (Q4 2012-13 = 76, Q3 2012-13 = 70).
- 4.3.2 99% of the case-related requests we resolved (80) in Q2 2013-14 were resolved within the statutory time limits. We are firmly on track (99% for the year to date) to meet our corporate service standard of responding to 90% of DPA requests within 40 days.
- 4.3.3 The casework related requests we have received were generally in relation to complaints about the NHS that we had declined to investigate. The information requested from the case files fell broadly into the following categories: requests for everything held on the complaint file; correspondence between PHSO and the body complained about; requests for the information obtained from the body complained about; and requests for the information on which our decisions are based, for example, for the clinical advice obtained as part of the investigation process.

4.4 Complaints to the ICO

- 4.4.1 We continue to work within the framework of the principles agreed by Ann Abraham and Christopher Graham and the ICO appear broadly happy as long as we do so. These principles were agreed to establish a mutual understanding about when the

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exemption at section 31(4) of the DPA 1998 (whether the release of information PHSO has obtained is prejudicial to PHSO's function) should be applied.

- 4.4.2 In Q2 2013-14 the ICO asked us to comment on five complaints in total (including one case ongoing from Q1), about how PHSO processed case related personal data and applied section 31 (4) DPA. Four of these cases have been completed by the ICO. Two of them were upheld on technical breaches of the DPA. These complaints will not impact on how we respond to information requests in the future. There is some learning for PHSO here as I explain below.
- 4.4.3 Both of the upheld cases were complex and detailed cases from challenging complainants who appeared to be using the ICO to challenge the basis for PHSO's decision on their cases. There was scope here for the ICO to overstep their remit and reopen PHSO's historical dispute with them about the application of section 31 (4) DPA.
- 4.4.4 In the first case the statutory deadline was missed by one day. While I am pleased that our arguments in respect of our application of the legislation were accepted by the ICO here, it is frustrating to report that we could/should have avoided missing the statutory deadline in this case. PHSO was attempting to restrict the complainant's contact with the office under the unreasonable behaviour policy (a prolific writer and faxer of letters). But letters clearly marked as information requests were not identified expediently by the caseworker. When the complainant subsequently requested information from the FOI team directly we did not spot the earlier requests were on file in time to prevent the deadline from being missed. The learning from this case will be fed back to the casework teams shortly.
- 4.4.5 The second ICO case upheld in Q2 2013-14 was similarly complex with an arguably more challenging complainant. This case required quite lengthy dialogue with the ICO to ensure that they understood that while the complainant had been given the information material to the decision that was reached, he was complaining he hadn't been given the information that was material to the decision he felt we should have reached i.e. he was asking us to interpret the information we held in a way that undermined our original decision.
- 4.4.6 Though we successfully argued that we had not withheld information that the complainant was entitled to, the ICO upheld a minor aspect of the case. They concluded PHSO did not process the complainant's data fairly when we shared a copy of our final decision letter with the LGO because we did not advise them that the complainant disagreed with the accuracy of the report and our decision. I have subsequently asked the ICO to review their findings here because of its potential to impact on our joint working and report sharing more widely. I will update the leadership team on the outcome of this in the next quarterly report.
- 4.5 Other issues
 - 4.5.1 The audit by Grant Thornton of how PHSO processes information requests is complete and a draft report has been shared. The report provides substantial assurance but also makes several recommendations. Our responses to these recommendations and the report itself will be referred to the SIRO (Helen Hughes) for consideration shortly.
 - 4.5.2 Finally, as will be clear, the work of the FOI/DP team continues to grow and change and as it does so the resources we have available to meet the challenges we face

become more stretched. While this is not currently affecting our compliance with the statutory deadlines, it may do so in future if the number of requests we receive continues to rise or if the composition of the team changes.

- 4.5.3 Discussions about providing the FOI/DP team with additional support going forward have featured in the work being done to finalise the structure of the Legal Services Group under the BTP project.

5. Findings and Recommendations - Information Security (including Data Protection)

Information removed - out of scope

7. Risk Assessment

- 7.1 PHSO is largely complying with the FOI and DPA statutory response time limit requirements while exceeding our Corporate Service Standards. Corporate Service standards are set at 90% and these were met and exceeded during Q2 for both FOI and DPA. The risks associated with applications made through the 'whatdotheyknow' website were explained in section 4.2 and will continue to be monitored and managed. The risks associated with complaints to the ICO about individual cases are explained in 4.4 and will be monitored during Q3.

Information removed - out of scope

8. Next steps

Information removed - out of scope

2013-2014 QUARTER 3 - INFORMATION GOVERNANCE COMPLIANCE PROGRAMME REPORT

Paper by Katharine Stevenson, Head of Information and Records Management and Luke Whiting, Head of Freedom of Information/Data Protection
Cleared by Mick Martin and Anne Harding

1 Executive summary

- 1.1 This paper reports the 2013-2014 Quarter 3 findings from the Information Governance compliance programme. This includes compliance with the access to information provisions under the Freedom of Information (FOI) and Data Protection (DPA) legislation, and compliance with Information Security requirements, including under DPA.

2 Action required

- 2.1 Leadership Team is asked to:
- **review** this paper
 - **accept** the findings and recommendations in sections 4 and 5
 - **note** the risks and next steps outlined in sections 6 and 7
 - **approve** submission of report to next Audit Committee.

3. Background

- 3.1 PHSO is required by law to comply with the Freedom of Information (FOI) Data Protection (DPA), Health Service Commissioner (HSCA) and Parliamentary Commissioner (PCA) legislation in terms of providing appropriate access to information by members of the public, and the appropriate protection of personal data. This report includes PHSO's activity and compliance with these Acts during the third quarter of 2013-2014.
- 3.2 Due to the high level of impact to PHSO's reputation, business continuity and compliance with the Information Assurance Maturity Model which PHSO is currently working towards, this report also includes PHSO's activity and compliance with internal information security requirements for the third quarter of 2013-2014.
- 3.3 Compliance with records management best practice is *not* included in this quarter's report. As agreed in the Information Governance Compliance programme, records management will feature twice a year in Q2 and Q4 to enable proportionate focus to be placed on our legal requirements of FOI and DPA.
- 3.4 The purpose of this report is to provide findings and make recommendations for further improvement and learning.

4 Findings and Recommendations - Public Access to Information (FOI/DPA/HSCA/PCA)

4.1 Overview

- 4.1.1 The pressures felt by the FOI/DP team in Q2 continued to build in Q3. The volume of requests received remained high as did the level of hostility encountered from our most frequent requesters (now organised into the pressure group 'PHSO the facts').

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As the profile of the work of the team increased (particularly in the build up to PASC) so did the risks. Though at points during Q3 it was difficult to keep pace with the requests we received, we managed to do so. I detail below some of the difficulties we have faced and how we have managed them to ensure that PHSO continues to meet its statutory obligations under the relevant legislation.

4.1.2 In Q3 2013-14 we received 163 information compared to 164 in Q2 and 127 in Q1. All but six of the requests we resolved (156) were responded to within the statutory deadlines. We remain on track to meet and exceed our corporate service standard of responding to 90% of FOI and DP requests within the statutory deadlines.

4.1.3 In Q3 2013-14, we logged 15 requests for review of our decisions spanning 22 cases.¹ Eight reviews spanning 15 cases have been completed. None of these were upheld or resulted in additional information being released.

4.2 Information requests - Non case related (FOIA)

4.2.1 In Q3 of 2013-14 we received 105 non case related requests for information under the Freedom of Information Act 2000. This compares to 51 in Q1 and 82 in Q2. It is a 262% increase on Q3 2012/13 (29 requests) and is a historical high for PHSO.

4.2.2 In Q3 2013-14 96% of FOI requests (103 of 107) were closed within the statutory deadline. We are on track to meet and exceed our corporate service standard of responding to 90% of FOI requests within 20 working days (98% at the end of Q3).

4.2.3 43% of FOI requests received in Q3 (46) have been made by the four people who have more recently organised themselves into the pressure group 'PHSOthefacts'. All but one of these 46 requests was made via the 'whatdotheyknow' website.² In all, in Q3 61% (64) of the total FOI requests we received were made through 'whatdotheyknow'.

4.2.4 Many of the requests received through this website have been hostile in tone and content which has made them more difficult to respond to and resolve. While we continue to be as helpful as possible in our explanations, some of the requests we have received have required a more robust response and for the first time for several years, we have applied section 14 (covering vexatious requests) to two requests. These were requests for the names and telephone numbers of all PHSO staff and for Dame Julie's last ten emails. It is likely that we are going to have to apply this exemption more frequently going forward. However, given the nature of exemption we will continue to seek director level approval before doing so.

4.2.5 Beyond the requests themselves, the 'whatdotheyknow' website has also posed other challenges that we have had to monitor and address this quarter. Like many websites, it allows its users to post comments, enabling users of the website to comment on the requests and the responses posted. Unfortunately, several of our regular requesters have used this facility not only to comment unkindly on the responses to the requests, but on individual staff members and more generally on the work of the office.

¹ Please note that under information law you have to undertake a review of an FOI decision if requested. We cannot decline to review a case as we do under our casework review process.

² This charity-run website is a forum through which people can make information requests to public bodies under the Freedom of Information Act 2000. Requests are made through the website and posted online. Any response by the public authority is then also automatically published online.

- 4.2.6 Where appropriate, we have continued to seek the assistance of the website's administrators, highlighting the requests and comments that appeared not to adhere to their code of conduct. Following this intervention a number of the comments were deleted by the website and some information requests that disclosed personal information were subsequently restricted. We will continue to monitor the situation and expect to have to intervene in this way again in future.
- 4.2.7 In Q3 2013-14, we received FOI requests about a number of high profile topics. These included Morecombe Bay, Mid Staffs, the Liverpool Care Pathway, the Grant Thornton investigation into the CQC, the staff survey, more investigations for more people and PHSO's new strategy. The requests from the 'PHSOthefacts' group have mainly focused on our processes (particularly around review), our governance, and what we spend our money on.
- 4.2.8 We have also received seven FOI requests from PHSO staff. Four were for the Hays consulting report on PHSO pay and remuneration. One of these was from the PCS Branch Chair. One request related to the average age of caseworkers at different points in the D2 pay band. Another related to consultancy spend. The final one received related to the contract for board support and development. This was also from the PCS Branch Chair.
- 4.2.9 The risks associated with responding to the topics described above have been mitigated by involving our external affairs team and other current and former senior members of staff as appropriate in the decision making which informed our responses. Generally, any response going on the 'whatdotheyknow' website or any private response about a high risk or potentially controversial subject has been seen and had input from (as a minimum) Sally Sykes and in some cases, Helen Hughes, and Dame Julie.
- 4.3 Information requests - Case-related (FOIA/HSCA/PCA/DPA)**
- 4.3.1 58 of the 163 information requests received in Q3 2013-14 have been related to our casework, with individuals seeking various documentation held on their case file, rather than requests made under the Freedom of Information Act for non-personal information. This is quite a significant fall (-29%) from Q2 and earlier quarters (Q2 2013-14 = 82, Q1 2013-14 = 75, Q4 2012-13 = 76, Q3 2012-13 = 70).
- 4.3.2 97% of the case-related requests we resolved (64) in Q3 2013-14 were resolved within the statutory time limits. We are firmly on track (98% for the year to date) to meet our corporate service standard of responding to 90% of DPA requests within 40 days.
- 4.3.3 The casework related requests we have received were generally in relation to complaints about the NHS that we had declined to investigate. The information requested from the case files fell broadly into the following categories: requests for everything held on the complaint file; correspondence between PHSO and the body complained about; requests for the information obtained from the body complained about; and requests for the information on which our decisions are based, for example, for the clinical advice obtained as part of the investigation process.

4.4 Complaints to the ICO

- 4.4.1 We continue to work within the framework of the principles agreed by Ann Abraham and Christopher Graham and the ICO appear broadly happy as long as we do so. These principles were agreed to establish a mutual understanding about when the exemption at section 31(4) of the DPA 1998 (whether the release of information PHSO has obtained is prejudicial to PHSO's function) should be applied.
- 4.4.2 In Q3 2013-14 the ICO asked us to comment on six complaints in total relating to how PHSO had processed information requests and/or processed case related personal data and applied section 31 (4) DPA. Four of these cases have been completed by the ICO. None were upheld.
- 4.4.3 In two of these cases the ICO accepted that we had provided all of the information the requester was entitled to and that we had appropriately applied section 31 (4). In the other two cases, both made by the same requester, the ICO concluded we had processed their request in line with the statutory deadlines. None of these cases will impact on the work of the team or the wider work of the office.
- 4.4.4 However, one of the open and ongoing ICO cases has the potential to inform PHSO's thinking in relation to the release of the names of our clinical advisers.
Information removed - s40(2) FOIA
We have set out the reasons for doing to the ICO and we are expecting to hear back from them shortly. I will of course let Gavin McBurnie know the outcome and update the Leadership Team in the next quarterly report.

4.5 Other issues

- 4.5.1 *Information removed - s40(2) FOIA*

4.6 Staffing in the FOI/DP Team

- 4.6.1 Two of the three FOI/DP Officers we have are due to leave the team shortly.
Information removed - s40(2) FOIA We are due to start recruiting their replacements shortly. We have also asked for permission to recruit an additional FOI/DP Officer to the team on a 6 month fixed term contract.
- 4.6.2 In the short term, these changes are likely to impact on the throughput and output of the team. Though we will endeavour to keep disruption to a minimum, it is likely that while new staff are brought online and up to speed we will see statutory deadlines being missed more frequently than we are used to. However, it is difficult to say at this stage the extent to which this will impact on the corporate service standards.

5. Findings and Recommendations - Information Security (including Data Protection)

Information removed - out of scope

6. Risk Assessment

- 6.1 PHSO is largely complying with the FOI and DPA statutory response time limit requirements while exceeding our Corporate Service Standards. Corporate Service standards are set at 90% and these were met and exceeded during Q2 for both FOI and DPA. The risks associated with applications made through the 'whatdotheyknow'

website were explained in section 4.2 and will continue to be monitored and managed. The risks associated with complaints to the ICO about individual cases are explained in 4.4 and will be monitored during Q4.

6.2 *Information removed - out of scope*

7 Next steps

7.1 In terms of providing public access to information, the FOI/DP team will continue to process requests in line with statutory requirements and continue to monitor the way we process requests via 'What do they know'.

7.2 *Information removed - out of scope*

2013-2014 QUARTER 4 - INFORMATION GOVERNANCE COMPLIANCE PROGRAMME REPORT

Paper by Katharine Stevenson, Head of Information and Records Management and Luke Whiting, Head of Freedom of Information/Data Protection

1 Executive summary

- 1.1 This paper reports the 2013-2014 Quarter 4 summary findings from the Information Governance compliance programme. This includes compliance with the access to information provisions under the Freedom of Information (FOI) and Data Protection (DPA) legislation, and compliance with Information Security requirements, including under DPA and compliance with general records management practice in PHSO systems.

2 Action required

- 2.1 Leadership Team is asked to:
- **review** this paper
 - **accept** the findings and recommendations in sections 4, 5 and 6
 - **note** the risks and next steps outlined in sections 7 and 8
 - **approve** submission of report to next Audit Committee.

3. Background

- 3.1 PHSO is required by law to comply with the Freedom of Information (FOIA) Data Protection (DPA), Health Service Commissioner (HSCA) and Parliamentary Commissioner (PCA) legislation in terms of providing appropriate access to information by members of the public, and the appropriate protection of personal data. This report includes PHSO's activity and compliance with these Acts during the third quarter of 2013-2014.
- 3.2 Due to the high level of impact to PHSO's reputation, business continuity and compliance with the Information Assurance Maturity Model which PHSO is currently working towards, this report also includes PHSO's activity and compliance with internal information security requirements for the fourth quarter of 2013-2014.
- 3.3 Compliance with records management best practice is included in this quarter's report. As agreed in the Information Governance Compliance programme, records management will feature twice a year in Q2 and Q4 to enable proportionate focus to be placed on our legal requirements of FOIA and DPA.
- 3.4 The purpose of this report is to provide findings and make recommendations for further improvement and learning.

4 Findings and Recommendations - Public Access to Information (FOI/DPA/HSCA/PCA)

4.1 Overview

- 4.1.1 Despite a relatively steady start to Quarter 4, the volume of requests received increased sharply in February and remained high overall. In Q4 we continued to field a high volume of requests from relatively few requesters, many of whom are

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affiliated with the pressure group 'PHSO the facts'. In addition, after a dip in Q3, the volume of case related requests rose again as the bulge in casework began to translate into completed investigations. That we met these challenges is all the more impressive given we recruited and inducted three new members of staff this quarter.

- 4.1.2 In Q4 2013-14 we received 185 information requests compared to 163 in Q3, 164 in Q2 and 127 in Q1. All but eight of the requests we resolved (164) were responded to within the statutory deadlines.
- 4.1.3 In Q4 2013-14, we logged 17 requests for review of our decisions spanning 21 cases.¹ 17 reviews spanning 23 cases have been completed. Two complaints from PCS union members about the decision not to release a pay report were upheld after the report was released following further discussion with the Union. Though the original decision was correct when it was made, the visualfiles closure codes available at the review stage were too narrow to capture what had happened. We will explore creating some additional closure codes to ensure more flexibility in the future. Finally, in Q4 one further case was partly upheld on the basis of delay.
- 4.1.4 Over the full business year we received a total of 636 information requests. This is an increase of 46% on the 2012-13 business year in which 434 requests were received. It is a 123% increase on the business year 2011-12 in which 285 requests were received.
- 4.1.5 At the end of the business year 2013-14 we exceeded our corporate service standard of responding to 90% of FOI and DP requests within the statutory deadlines, achieving 98% for both. Given the challenges we have faced this year, this is a considerable achievement.
- 4.2 Information requests - Non case related (FOIA)**
 - 4.2.1 In Q4 of 2013-14 we received 98 non case related requests for information under the Freedom of Information Act 2000. This compares to 105 in Q3, 82 in Q2, and 51 in Q1.
 - 4.2.2 In Q4 2013-14 93% of FOI requests (91 of 98) were closed within the statutory deadline. At the end of the 2013-14 business year we exceeded our corporate service standard of responding to 90% of FOI requests within 20 working days (98% at the end of Q4).
 - 4.2.3 Two requesters made 37% of the FOI requests received in Q4 (36). 60% (59) of requests have been made by five people in Q4. All of them are former and current complainants who are linked to the pressure group 'PHSOthefacts'. The vast majority of FOI requests received were made via the 'whatdotheyknow' website.²
 - 4.2.4 The requests received have remained hostile in tone and content which has made them more difficult to respond to and resolve. Most requests lead to follow up correspondence and challenge. Though we continue to be as helpful as possible in

¹ Please note that under information law you have to undertake a review of an FOI decision if requested. We cannot decline to review a case as we do under our casework review process.

² This charity-run website is a forum through which people can make information requests to public bodies under the Freedom of Information Act 2000. Requests are made through the website and posted online. Any response by the public authority is then also automatically published online.

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our explanations, we increasingly find ourselves considering the application of section 14 (covering vexatious and/or repeat requests). However, given the nature of exemption we continue to seek director level approval before doing so.

- 4.2.5 Where appropriate, we have continued to seek the assistance of the 'whatdotheyknow' website's administrators, highlighting the requests and annotations that appeared not to adhere to their code of conduct. Following this intervention a number of comments about our staff and/or individual cases have been deleted by the website. We will continue to monitor the situation and expect to have to intervene in this way again in future.
- 4.2.6 In Q4 2013-14, we received FOI requests about topics like Morecombe Bay, the award of the board development contract, and Dame Julie's diary. The 'PHSOthefacts' group have mainly focused on our processes (particularly around review), temporary staff, our governance, and what we spend our money on.
- 4.2.7 The risks associated with responding to the topics described above have been mitigated by involving our external affairs team and other senior members of staff as appropriate in the decision making which informed our responses. Generally, any response going on the 'whatdotheyknow' website or any private response about a high risk or potentially controversial subject has been seen and has as a minimum had input from Sally Sykes and, in some cases, Dame Julie.

4.3 Information requests - Case-related (FOIA/HSCA/PCA/DPA)

- 4.3.1 87 of the 185 information requests received in Q4 2013-14 have been related to our casework, with individuals seeking various documentation held on their case file, rather than requests made under the Freedom of Information Act for non-personal information. This is quite a significant increase from Q3 (+50%) but is more in line with earlier quarters (Q2 2013-14 = 82, Q1 2013-14 = 75, Q4 2012-13 = 76, Q3 2012-13 = 70).
- 4.3.2 99% of the case-related requests we resolved (73) in Q4 2013-14 were resolved within the statutory time limits. Over the course of the business year 2013-14 we exceeded (98%) our corporate service standard of responding to 90% of DPA requests within 40 days.
- 4.3.3 The casework related requests we have received were generally in relation to complaints about the NHS that we had declined to investigate. The information requested from the case files fell broadly into the following categories: requests for everything held on the complaint file; correspondence between PHSO and the body complained about; requests for the information obtained from the body complained about; and requests for the information on which our decisions are based, for example, for the clinical advice obtained as part of the investigation process.

4.4 Complaints to the ICO

- 4.4.1 The high volume of information requests received along with the nature of the requesters has begun to translate into a higher volume of complaints to the Information Commissioner. Unusually, six of the eight complaints referred to the Information Commissioner in Q4 were about decisions we had taken in respect of FOI requests rather than decisions to withhold information from our case files. None of the 6 ICO cases closed this quarter were upheld.

4.4.2 In my Q3 report I highlighted one open case of note relating to a request for the names and qualifications of our paediatrician advisers. The ICO have since accepted our arguments for withholding the information which sets a useful precedent for other similar cases coming through the system.

4.4.3 Finally, in my Q2 report, I said that the ICO had upheld a data protection complaint relating in part to PHSO sharing a decision letter with the LGO. The ICO had concluded that it was unfair for us not to have told the LGO that the complainant did not agree with the decision. Having gone back strongly to the ICO on this issue, explaining the legality of our actions, the ICO recently retracted this finding and issued an amended decision notice. This is a relief as the ICO's initial findings could have had considerable impact on our ways of working.

4.5 Other issues - Section 36

4.5.1 By way of background Section 36 is applied to information which if released would 'prejudice the effective conduct of public affairs'. Only a person certified/recognised as 'the qualified person' by the MOJ and FOIA can take the decision to apply Section 36. Within FOIA it is recognised that the 'qualified person' is the minister in charge of the department (or in our case the Ombudsman). Though the 'qualified person' cannot themselves delegate this responsibility, an application can be made to the MOJ for certification of other people to act as the 'qualified person' for the purposes of Section 36.

4.5.2 In Q3 we applied this exemption for the first time in some years and as we anticipated we may need to apply it again more regularly going forward, it led to discussion about whether the accountable officer to the Ombudsman should also be named as the 'qualified person'.

4.5.3 Following discussions with the MOJ and the Cabinet Office, a submission has been put to the Minister for the Cabinet Office, the Rt Hon Francis Maude MP, asking that he not only confirm the Ombudsman as the 'qualified person' but also certify the SIRO as the 'qualified person' for the purposes of FOIA. We hope to have this confirmed shortly and this should ensure we have some additional flexibility in terms of decision making should we need to apply Section 36 again.

4.6 Staffing in the FOI/DP Team

4.6.1 As I flagged in my Q3 report, two of the three FOI/DP Officers in the team left at the start of Q4. We recruited replacements and an additional D2 resource in February. Our Business Support Officer has since left the team and we are currently recruiting a replacement.

4.6.2 The new members of the team are bedding in well and we have managed to keep disruptions to the throughput and output of the team to a minimum. That said, this is the second year in a row where we have experienced almost 50% increase in our workload. Given the risks associated with our work, we need to look at increasing the staff complement in the team on a permanent basis. This will not only ensure we keep up with the work coming in but will provide capacity to undertake other work such as revising the publication scheme. I will put forward a business case for this shortly.

5. Findings and Recommendations - Information Security (including Data Protection)

Information removed - out of scope

7. Risk Assessment

- 7.1 PHSO is largely complying with the FOI and DPA statutory response time limit requirements while exceeding our Corporate Service Standards. Corporate Service standards are set at 90% and these were met and exceeded during Q4 for both FOI and DPA. The risks associated with applications made through the 'whatdotheyknow' website were explained in section 4.2 and will continue to be monitored and managed. The risks associated with complaints to the ICO about individual cases are explained in 4.4 and will be monitored during Q1 of 2014-15.

Information removed - out of scope

8 Next steps

- 8.1 In terms of providing public access to information, the FOI/DP team will continue to process requests in line with statutory requirements and continue to monitor the way we process requests via 'What do they know'.

Information removed - out of scope

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6 MONTHLY REVIEW TEAM MANAGEMENT INFORMATION REPORT: 1 January 2012 to 30 June 2012

Paper by Suzannah Beazley, Head of Review Team

1 Executive summary

- 1.1 This paper provides EB with an update on the Review Team's management information, covering the period between 1 January 2012 and 30 June 2012 (6 months). The report is looking at quarterly, rather than monthly trends.
- 1.2 The paper sets out what the Office is doing differently because of the learning we have gained from complaints about us, and identifies the new themes that are emerging.
- 1.3 The office resolved 12,825 complaints (enquiries and investigations) between 1 January 2012 and 30 June 2012. In the same period, we received 554 complaints about us. The complaint rate is 4 % (number of complaints received compared to the number of decisions made).

2 Proposals

- to use the information contained in this report is to inform the PASC seminar and strategic planning
 - to develop criteria for time limiting requests for review
- 2.1 Because of the timing of this report, it has not been possible to obtain comparative data about how other Ombudsmen deal with internal complaints. Once we have this information, it will be reported separately to EB.

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3 Overview of complaints about us between 1 January 2012 and 30 June 2012

Overview	Overall	Enquiry	Investigation	Service
Decisions	12,825	12,621	204	2028 in hand
*CAU Received	554	524	23	101
CAU Resolved	601	561	26	87
** Complaint Rate	4%	4%	11%	5%
Fully Upheld (% of cases)	0.2% (25)	0.2% (25)	0% (0)	0.5% (10)
Fully Upheld (% of reviews)	4% (25)	5% (25)	0% (0)	11% (10)
*** Partly Upheld (% of cases)	0.4% (49)	0.3% (31)	1% (2)	1% (14)
Partly Upheld (% of reviews)	8% (49)	6% (31)	9% (2)	16% (14)
Reasons for Upholding/Partly Upholding		1. Poor explanation in decision letter 2. Scope of investigation flawed 3. Decision not to investigate flawed	1. Reported on matters not complained about	1. Delays 2. Inadequate communication

* More than one complaint may be made against each case.

** The complaint rate is the number of complaints compared to the number of decisions made in the reporting period. There is often a time lag between the decision and the review request. Therefore, the complaint rate does not always correlate with the reporting period. However, there are no significant variances between the overall complaint rates for each reporting period. The complaint rate for service complaints is the number of complaints made about our service compared to the number of complaints in hand (a service complaint can be made whilst a complaint is still open). It is not possible to report on the exact stage a service complaint is made within our process.

*** Complaints are partly upheld when there is more than one aspect to the complaint, but not all aspects are upheld.

3.1 The table above shows that the overall percentage of complaints about us that we uphold/partly uphold is low against the number of enquiry/investigations decisions taken. However, for those individuals behind the upheld complaints, the review has a significant purpose.

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- 3.2 The average number of complaints about us received per quarter over the past three years is 300. The majority of complaints about us are made about decisions not to investigate. The numbers may decrease when, as part of our overall strategic plan, we improve the information people receive on first contact about the office's role, and if we change our processes to accept more cases for investigation.
- 3.3 The reasons for upholding enquiry complaints fall under three categories: poor explanation in the decision letter; scope of investigation flawed; decision not to investigate flawed (for full breakdown see section 5). The following initiatives include the response to feedback:
- The Language, Letters and Report Project - aimed at improving the way Operations staff write decision letters;
 - Workshops for all caseworkers on how and when to apply the statutory time limits.
- 3.4 Over the reporting period, two complaints about investigations were partly upheld. Further details are at section 5. Due to the small numbers of complaints about investigations, it takes only a couple of extra complaints to change significantly the percentage of upholds.
- 3.5 Compared to previous reporting periods, the number of upheld service complaints is declining. The reason for the decline is that we have improved our throughput times. However, the information contained in section 7 of this report, shows that the number of people complaining about our service is increasing. We do not currently have any information available to indicate why there has been an increase, but ODM will explore this further.

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4 Breakdown of complaints about enquiry decisions

Enquiry Decision	2011/12 Q1	2011/12 Q2	2011/12 Q3	2011/12 Q4	2012/13 Q1
CS&A Decisions	5570	5782	5827	6710	5911
CAU's Received	248 (4%)	293 (5%)	266 (5%)	275 (4%)	249 (4%)
CAU's Resolved	175	259	292	342	219
Fully Upheld	5 (3%)	16 (6%)	8 (3%)	14 (4%)	11 (5%)
Partly Upheld	10 (6%)	10 (4%)	17 (6%)	14 (4%)	17 (8%)
Not Upheld	158 (90%)	231 (89%)	262 (90%)	310 (91%)	181 (83%)
Withdrawn	2 (1%)	2 (1%)	5 (2%)	4 (1%)	10 (5%)

- 4.1 Over this reporting period (quarter 4 of 2011/12 and quarter 1 of 2012/13) the number of complaints made about our enquiry decisions has decreased compared to the previous reporting period (quarter 2 and 3 of 2011/12). However, the number of complaints received quarter 1 of 2012/13 is similar to the same quarter 2011/12. This demonstrates that there is not necessarily a downward trend in the number of people complaining about our decisions. If, as in the previous year, there is an increase in the number of complaints received in quarter 2, we could conclude that that is because of increased output in further assessments in quarter 4. We resolve most complaints about our decisions two quarters after further assessments issue their decision. If performance in Customer Services and Assessment did not peak at the end of March, there would be fewer fluctuations in the number of complaints received about us. To date however, those fluctuations have not been so significant that they have put at risk our ability to meet our service standards.

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5. Analysis of upheld complaints about enquiry decisions (includes partly upheld complaints) - the figures in brackets are the numbers from the previous reporting period

Q4 2011/12 to Q1 2012/13	Number of Upheld Enquiry Complaints	Reason	Outcome
	12 (14)	Poor explanation in the decision letter	Further explanation and apologies provided.
	1 (1)	Scope of investigation flawed	Scope widened
	44 (34)	Decision not to investigate was flawed	22 referred back to CS&A for re-assessment following review (of those 2 were accepted for investigation; 6 were declined; 13 are still being assessed); 5 were re-assessed as part of the review; 17 were offered a further explanation and an apology in the review response.
<u>Total</u>	56 (46)		

- 5.1 Typically, the reasons for flawed decisions are because they were not evidenced based, or we failed to address every aspect of the complaint. Section 16 of this report outlines what we are doing to address this.
- 5.2 Because of the delay between upholding a complaint about us and concluding the re-assessment, it may be helpful to report on the outcome of those complaints that we were re-assessing at the end of the previous reporting period. Of the 13 re-assessments, nine resulted in an investigation. Of those nine, we upheld three. The other six are still under investigation. This shows that the proportion of serious mistakes is minimal, but for those individuals behind the upheld complaints, the review had a significant purpose.

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6. Overview of complaints about investigation decisions

Investigation Decision	2011/12 Q1	2011/12 Q2	2011/12 Q3	2011/12 Q4	2012/13 Q1
Investigation resolved	49	110	107	144	60
Received	16 (32%)	9 (8%)	18 (16%)	14 (10%)	9 (15%)
Resolved	9	14	14	17	9
Fully Upheld	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
Partly Upheld	0 (0%)	1 (7%)	0 (0%)	2 (12%)	0 (0%)
Not Upheld	8 (89%)	12 (86%)	14 (100%)	13 (76%)	9 (100%)
Withdrawn	1 (11%)	1 (7%)	0 (0%)	2 (12%)	0 (0%)

- 6.1 Over this reporting period, we have received fewer complaints about investigation decisions than we did in the previous reporting period. However, due to the small numbers of complaints about investigations, it takes only a couple of extra complaints to change significantly the percentage of upholds.
- 6.2 We partly upheld two cases that covered one complaint about a health investigation finding because we reported on a point of complaint that the complainant had not complained about. We apologised in the review response.

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7. Overview of complaints made specifically about our service

Service	2011/12 Q1	2011/12 Q2	2011/12 Q3	2011/12 Q4	2012/13 Q1
Received	29	28	39	53	48
Resolved	17	39	36	38	49
Fully Upheld	1 (6%)	9 (23%)	8 (22%)	6 (16%)	4 (8%)
Partly Upheld	7 (41%)	5 (13%)	10 (28%)	5 (13%)	9 (18%)
Not Upheld	9 (53%)	22 (56%)	18 (50%)	26 (68%)	30 (61%)
Withdrawn	0 (0%)	3 (8%)	0 (0%)	1 (3%)	6 (12%)

- 7.1 To avoid receiving complaints about the service received at review stage, we prioritise the review of service complaints. The number of complaints we have received about our service is increasing, but the upheld rate continues to decrease. We do not yet know the reasons behind the increase, but ODM will explore this further. Table 8 shows the reasons why we are upholding complaints about our service.

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8. Analysis of upheld/partly upheld service complaints

Q2 2011-12 to Q3 2011-12	Number of Upheld Service Complaints	Reason	Outcome
Health Investigations	1 (1)	Delay progressing investigation	£300
Parliamentary Investigations	1 (0)	Inadequate communication between Office and complainant	Apology
Further Assessment	2 (5)	Delays at assessment stage	Apology
	14 (15)	Inadequate communication between Office and complainant	Apology
Customer Services	2 (2)	Inadequate communication between Office and complainant	Apology
	1 (2)	Delay at Customer Service stage	Apology
Review Team	1 (3)	Delay	Apology
Legal	1	Inadequate communication between Office and complainant	Apology
Total	23 (28)		

- 8.1 Though we are analysing low numbers of complaints about our service, the table above demonstrates that the service we provide at assessment stage is continuing to improve in most areas. (The figures in brackets depict the numbers from the previous

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reporting period). We do receive complaints about the telephone manner of staff, but none of those has been upheld. Communication issues encompass:

- failing to clarify the complaint with the complainant;
- failing to respond to communication requests, and;
- failing to address in letters the complainant by the correct name/title.

8.2 The majority of communication issues arose within Customer Services and Assessment. This information is being fed back to the Directorate so that they can decide whether they need to take action to improve. Encouragingly, the number of upheld complaints about delay has continued to decline since the last reporting period. This is because delay was, until 18 months ago, a significant issue for the Office. We are aware however, that recently a backlog of cases has built up in Customer Services and Assessment. They are mitigating the risk of receiving complaints about this by updating regularly those complainants caught in the backlog, and providing apologies when appropriate.

9. Overview of complaints about FOI/DP

FOI Complaints	Q1 2011/12	Q2 2011/12	Q3 2011/12	Q4 2011/12	Q1 2012/13
FOI requests	53	56	76	100	96
FOI Received	10 (18%)	10 (17%)	4 (5%)	3 (3%)	8 (8%)
FOI Resolved	13	8	7	3	3
Fully upheld	0	0	0	0	0
Partly upheld	2 (3%)	0	1 (2%)	1 (1%)	0

9.1 The number of complaints received about FOI /DP decision between this reporting period and the previous has decreased. The number of complaints we have upheld remains the same. The one case that we partly upheld was because we should not have withheld the information that was requested.

10. Overview of corporate complaints that have been received and resolved in the last two quarters

10.1 We have not received any corporate complaints over the reporting period.

11. Service standards

11.1 The service standards for the Review Team are:

- 95% of complaints about us acknowledged within 5 working days of receipt, and;
- 90% of complaints about us to receive a response within 16 working weeks of acknowledgement.

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The current position is:

	End of 2010/11	YTD 2011/2012
Acknowledgements	96%	99%
Substantive	99%	97%

- 11.2 We are comfortably meeting our service standards. Depending on the outcome of Refresh 2012, we may revise the standards for 2013/14.

12. Handling lessons arising from complaints about us

	London	Manchester
Failure to address every aspect of complaint	9 (14)	15 (19)
Decision expressed unclearly in decision letter	9 (8)	39 (15)
Spelling/typographical/factual errors in decision letter	12 (13)	16 (17)
Tone of decision letters lacking empathy	1 (2)	1 (5)
No contact with complainant made	8 (7)	7 (10)
Poor audit trails on VF	10 (5)	13 (16)
Interim case file structure not adhered to	8 (7)	8 (3)
Incorrect interpretation/application of the time limit	13 (1)	19 (4)
Misinterpreted evidence	10	9
Failed to understand complaint	9	0
Failed to co-ordinate with other bodies	8	15
Failed to follow guidance	11	10
Delay	5	10
Failed to make adjustments	4	2

- 12.1 The table above shows the more commonly reported on handling lessons over the reporting period, using key descriptive terms. The figures in brackets are the numbers

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from the previous reporting period against each handling lesson. Please note that we can identify handling lessons on any review, whether we uphold the complaint about us or not. This is the only table in this report that has separated the London and Manchester office. This is because it appears that there may be some issues arising from the different offices.

- 12.2 Of note, there are higher incidences this reporting period of handling lessons around accessibility of our decision letters. It may be that since they attended a workshop on letter writing, the Reviewers are more aware of this as an issue and are therefore highlighting it more. Interestingly though, there are low numbers of handling lessons about empathy in letters, despite this being an issue the office is attempting to tackle. This could be because all of Operations, including the Review Team still have some way to go in further developing their skills in this area. This will be included in the Letters, Language and Reports Project.
- 12.3 Other handling lessons of note are our interpretation and application of the time limit, and in the way we are co-ordinating with other bodies involved in complaints. This latter point relates to us not always setting deadlines for bodies to comply with recommendations that come from our interventions.
- 12.4 Section 16 of this report outlines what the Office is doing differently as part of the feedback from reviews.

13. Thank you letters from complainants

- 13.1 We have received 64 thank you letters/emails/cards over the reporting period. Please find below some extracts from them.

Information removed - s40(2)

14. Staffing for the Review Team

Current complement

Job title	Grade	Complement	Filled	Vacant
Head of Review Team	E1	1	1	0
Reviewer	D2	9	8.24	0.76
Reviewer	D1	1	1	0
Review Team Support Manager	D1	1	0	1
Business Support Officer	C	2	2 1 temp	0
Business Support Assistant	B	1	1 (temp)	1

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- 14.1 We have not been successful in recruiting to the Review Team Business Support vacancy. We are in the process of deciding how to fill the vacancy.
- 14.2 We currently have a vacancy for a Reviewer, which we will need to consider backfilling in the next quarter so that we do not put our service standards at risk.
- 15. Work carried out by External Reviewers**
- 15.1 Our External Reviewers carried out 144 reviews over the reporting period. There are five External Reviewers.
- 16. What PHSO is doing differently as a result of the learning we take from review work**
- 16.1 The Review Team feedback to the relevant Directorates, the handling lessons that we identify as part of the review process. The following initiatives include the response to feedback:
- The Language, Letters and Reports Project - aimed at improving the way Operation's staff write decision letters;
 - Workshops for all caseworkers on how and when to apply the statutory time limits;
 - The casefile structure project - aimed at producing definitive guidance on how we should order our casefiles.
- 17. Internal Audit of the Review Team**
- 17.1 The 2010/11 Internal Audit found that although there are effective methods in place for communicating handling lessons across the organisation, there are no defined ways to identify if this activity improves effectiveness or changes behaviour. The audit recommended that we identify ways to measure this. ODM have subsequently agreed that this report should identify the broad themes arising from reviews, which they will then provide feedback on. This is the first occasion we have done this and feedback on this set of issues will be included in the next report. The broad themes for feedback are:
- Issues around providing compliance deadlines for bodies that we achieve an intervention;
 - Issues around providing clarity when writing to explain the decision on a case;
 - Issues around applying the time limit correctly;
 - Issues around quality assurance, and in particular, misrepresenting evidence, not assessing every aspect of the complaint and typographical errors in decision letters.

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- 17.2 Approximately one third of review requests are declined per quarter. In line with Casework Policy and Guidance, we will not normally consider complaints where a person simply says that they are unhappy with or disagree with what we have done. We expect the person to tell us why they are unhappy (for example, what we have done wrong or what aspect of their complaint they feel we have not fully considered). The recent audit review of how we reach the decision to accept or decline a request for review concluded that 100% of decisions not to accept were reasonable, and 83% of those we accepted were reasonable. The review recommended areas for improvement, which we are currently considering.
- 17.3 We do not have a published time limit for allowing requests for review. However, we do tell our customers that we will not normally be able to review their complaint if we have destroyed the file. Under our file retention and disposal policy, this is 14 months after the last substantive action. That policy is currently on hold. In light of that, we are proposing to develop criteria for introducing a time limit. This would not have a significant effect on the number of reviews we process. However, it will safeguard us from reviewing cases where the events that gave rise to the original complaint occurred a significant time ago.
- 17.5 We will be reviewing our customer service standards in the light of refresh 2012 outcome and propose revised standards.
- 18. Other work**
- 18.1 We are developing a process for managing complaints about joint working cases. This will be agreed by the relevant ombudsmen.
- 18.2 The results from the 2011/12 Customer Satisfaction survey showed us that there is growing satisfaction with the service people receive from the Review Team. However, there is still a significant number of people that report dissatisfaction. We are currently undergoing some work with Corporate Performance to establish whether there is a link between customer satisfaction and complaint outcome. If there is, we will feed our findings into Refresh 2012 so that the information can inform our process review.
- 19. Risk context**
- 19.1 There is a risk to our reputation if we cannot meet our service standards because we do not backfill the staffing complement.
- 20. Resource implications**
- 20.1 No resource implications.
- 21. Equality and Diversity**
- 21.1 Some of the information in this report provides evidence that supports the work we are doing on making our letters more accessible and our wider Refresh 2012 project.

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22. Next steps and communication

- 22.1 It is proposed that the report is shared with staff through the intranet. To inform our overall strategy we will share it with the Refresh 2012 project. It will also inform the preparation for the October 2012 PASC seminar.

CASEWORK QUALITY REPORT: 1 APRIL 2012 - 30 SEPTEMBER 2012

Paper by Carole Auchterlonie, Director of Outcomes and Learning and
Neil Armstrong, Casework Policy and Guidance Manager

1. Executive summary

1.1 This is the fifth report on casework quality in PHSO, covering the first two quarters of 2012/13¹.

1.2 The report sets out:

- a summary of our performance against key measures over the last six months; and
- a summary of measures taken to improve quality during the same period.

2. Action required

2.1 Leadership Team is asked to:

- ***note*** and ***comment*** on the reported casework quality information
- ***agree*** any immediate actions needed in light of reported performance and in light of the key issues
- ***consider*** messages for the next Cascade in light of the report.

3. Internal Consultation and Review

3.1 This paper incorporates comments from ODM, the Head of Learning & Development and the Head of Information and Records Management.

4. Assessment of quality

Assessment of quality

4.1 Annex A explains the source of the measures used in this report. We have included an additional measure of casework information security in this report for the first time.

¹ Complaints about us data is the exception as it covers Q4 of 2011/12 and Q1 of 2012/13.

- 4.2 The overall rating of casework quality remains **amber**. According to the rating methodology agreed in previous reports, we need $\frac{3}{4}$ of the measures to be green (6 out of 8) and no red ratings to secure a green rating overall. However, we have 5 measures rated as green (2 in the last report) and can see progress within other measures that are still rated as amber. The 8 individual measures used to determine that overall rating are summarised in the table below with a RAG (red, amber, green) rating given for each.

Measure	Rating
Customer service standards	Green
Customer satisfaction survey	Green
Complaints about us	Amber
Speed and outcome of compliance following investigations and interventions	Amber
Judicial Reviews	Green
Internal casework audits	Green
Casework Quality Framework reviews	Green
Casework information security	Amber

- 4.3 The following text explains the rating for each individual measure.

Customer service standards

- 4.4 PHSO met 6 out of 6 of its customer service standards in the first half of 2012-13.
- 4.5 Performance against this measure is rated as green.

Customer satisfaction survey

- **Service**

- 4.6 Levels of satisfaction with service have increased for enquirers and increased significantly for complainants. The enquirer and complainant satisfaction ratings are at their highest since the survey began. These rises could be linked to increased satisfaction with outcome.
- 76% of **enquirers** were either very or fairly satisfied with our service (+5% on 2011-12).
 - 95% of **complainants** were either very or fairly satisfied with our service (+13% on 2011-12).
 - 31% of **review** customers were either very or fairly satisfied with our service (-1% on 2011-12).

- 4.7 Satisfaction with service is most likely to stem from our information/advice being good (enquirers), our staff being professional (complainants) and being kept informed/good communication (review customers).
- 4.8 Enquirers are most likely to be dissatisfied because they haven't had any help or support. Review customers are most likely to be dissatisfied because they are unhappy with our report/findings.
- **Outcome**
- 4.9 Levels of satisfaction with case outcome have risen for enquirers and risen significantly for complainants. The sample for the customer survey showed an increase in those whose cases had been accepted for investigation and in those whose cases had been fully upheld. This may be a factor in increased satisfaction with outcome.
- 43% of enquirers were either very or fairly satisfied with the outcome (+5% on 2011-12).
 - 78% of complainants were either very or fairly satisfied with the outcome (+15% on 2011-12).
 - 3% of review customers were either very or fairly satisfied with the outcome (+1% on 2011-12).
- 4.10 Enquirers and complainants are most likely to be satisfied when they feel that their problem/query has been dealt with.
- 4.11 Dissatisfaction with outcome is most likely to stem from complaints not being upheld/accepted/resolved (enquirers), not getting what they were looking for/wanted (complainants) and not having a proper investigation (review customers).
- 4.12 In terms of weighing up the rating for this measure, satisfaction with service is at an all time high for both enquirers and complainants and satisfaction with outcome is good for complainants (and has increased). Satisfaction with review outcome is very low. However, this is never likely to be a high scoring area. If it was that would raise serious questions about the quality of our work. So we should not give undue weight to this low score.
- 4.13 The two areas that are most difficult to assess are satisfaction with service for review customers and with outcome for enquirers. The service review score comes entirely from respondents who are dissatisfied with PHSO in some way. It may be difficult for them to separate out the way we did their review from our decision on their case, the service which led them to complain about us or the outcome of the review. The score in this area dipped in 2010-11, but has risen over the last two years (although not back to 2009-10 levels).
- 4.14 The enquiry outcome score comes mainly from customers who have had their case declined for investigation. Even if we take into account those who might

be satisfied when a case is declined either because of the specific outcome² or because we have explained the decision well, that still leaves significant potential for dissatisfaction because we have not investigated.

- 4.15 On balance, high complainant and enquirer satisfaction scores for service and complainant satisfaction with outcome outweighs the low review scores and lower enquiry satisfaction with outcome score. We have therefore rated this measure as green.
- 4.16 However, we should still aim to improve the review service and enquiry outcome scores.

Complaints about us

- 4.17 From 1 January - 30 June 2012, PHSO issued 12,825 enquiry and investigation decisions. In that same period, we received 554 complaints about us and resolved 601 complaints about us:

- 561 about enquiry decisions
- 26 about investigation decisions
- 87 about service

Of those 601 complaints, we fully upheld 4% and partly upheld 8%.

- **Enquiry decisions**

- 4.18 The number of complaints about enquiry decisions rose (from the Quarter 3 level of 266) to 275 in Quarter 4 but then fell to 249 in Quarter 1. The complaint rate was stable at 4% across both quarters.
- 4.19 The rate of complaints that we either fully or partly upheld fell (from 9% in Quarter 3) to 8% in Quarter 4, but then rose to 13% in Quarter 1. The figure for Quarter 1 is significantly higher than for the same period in the previous year and any quarter since.
- 4.20 The 56 upheld or partly upheld enquiry review cases represented less than 0.5% of all investigation and enquiry decisions made in this period. Of these 56 cases, 'decision not to investigate was flawed' was the largest category (as it was in the previous 6 months) with 44 cases. Of those cases, 27 needed reassessment (21 were declined, 2 were accepted for investigation, 1 was withdrawn and 3 are still under assessment) and the rest had apologies and explanations given in the review response. The other categories were 'poor explanation in the decision letter' and 'scope of investigation flawed' (the latter being only one case).

² For example, if a case is resolved through intervention or if the complainant is able to bring the case back later if it is currently premature

- **Investigation decisions**

- 4.21 The number of complaints about investigation decisions is low and the numbers received fell (from 18 in Quarter 3) to 14 in Quarter 4 and then to 9 in Quarter 1.
- 4.22 The complaint rate fell (from 16% in Quarter 3) to 10% in Quarter 4, but rose to 15% in Quarter 1. The Quarter 4 complaint rate was 4% higher than in 2010-11, but the Quarter 1 rate was 17% lower than for the same period in the previous year.
- 4.23 2 reviews (both about the same combined investigation of two separate complaints) were partly upheld in Quarter 4 because we reported on an element that the complainant had not complained about.

- **Service complaints**

- 4.24 Complaints about service increased (from 39 in Quarter 3) to 53 in Quarter 4 and then fell to 48 in Quarter 1. These figures are both higher (by 29 and 19 cases respectively) than for the same point in the previous year. This may be explained by the higher in-hand case figure which made complaints about delay more likely.
- 4.25 The rate of complaints that we either fully or partly upheld fell (from 50% in Quarter 3 of 2011-12) to 29% in Quarter 4 and then to 26% in Quarter 1.
- 4.26 We upheld or partly upheld 24 service reviews. 18 were about 'Inadequate communication between the office and the complainant' and the others related to delays.
- 4.27 Looking at the position of complaints about us as a whole, the overall complaint rate has remained steady. The levels of complaints about investigations are very low. Although service complaints increased, the proportion we upheld or partly upheld fell significantly. The proportion of upheld enquiry complaints rose in Quarter 4, but across both quarters only 2 upheld enquiry complaints have led to an investigation (with 3 still being reassessed).
- 4.28 Performance against this measure is rated as amber. However, a reduction in the proportion of upheld enquiry complaints and in the number of service complaints received (along with performance in other areas being acceptable) could result in a green rating for this measure.

Speed and outcome of compliance following investigations, interventions and requests for further work

- **Investigation**

4.29 Overall acceptance of recommendations was 100%.

4.30 Overall compliance with accepted recommendations was 99.4%³.

4.31 We achieved compliance with recommendations within the target date in 59.9% of cases (51% in 2011-12).

- **Resolution through intervention**

4.32 Overall acceptance of proposed interventions was 99%.

4.33 Overall compliance with interventions was 99%⁴.

4.34 We achieved compliance with actions following interventions within the target date in 66.5% of cases (71.7% in 2011-12).

- **Premature further work⁵**

4.35 We achieved compliance with requests for further work within target date in 42.9% of cases (44.1% in 2011-12). (This category of case has been included in this measure for the first time.)

4.36 Acceptance and compliance rates remain high. Improvements in the cases complied within target date for investigations need to be set against a slight dip on both intervention and further work cases. This measure remains at amber. There is scope to improve the current performance on compliance target dates for all three categories of case.

Judicial reviews

4.37 Of the four applications still outstanding at the end of Quarter 2, one has been granted a judicial review hearing for April 2013 and the other three were refused.

4.38 In the first half of 2012-13 there were four applications for judicial review. One was refused permission on the initial and renewed applications. The other three were refused initial permission and have been renewed.

4.39 Performance against this measure remains at green.

³ These figures relate to cases in which compliance has been concluded.

⁴ These figures relate to cases in which compliance has been concluded.

⁵ Cases closed as premature where the organisation was asked to carry out further work to resolve the complaint locally. Formal compliance recording and monitoring of these cases was introduced in 2011.

Internal casework audits

- 4.40 The audits of 'Clinical advice systems' and the 'Recommendations and Outcomes Panel' both gave an overall rating of 'substantial assurance'. Those findings mean that '(except for the specific weaknesses identified by the audit in the areas examined) the risk management activities and controls are suitably designed, and were operating with sufficient effectiveness, to provide reasonable assurance that the control environment was effectively managed during the period under review.'
- 4.41 On that basis, performance against this measure is rated at green.

Casework Quality Framework reviews

- 4.42 The review, carried out in Quarter 1, looked at cases being closed as premature at further assessment.
- 4.43 The review found that most cases in the review sample were appropriate for further (rather than preliminary) assessment. They were also, on the whole, premature in that some aspects of the complaint could be said to be outstanding. Some premature closures were justified. Many of the cases were 'technically' premature and could be closed as such in line with our current approach. However, there was a concern about when (and how many times) we should give an organisation another opportunity to 'get it right' locally before we consider taking a case further.
- 4.44 Premature closures did not tend to result in complaints about us, but a number of complainants returned to us later because they were unhappy with the further action by the organisation. None of the cases needed escalation to get agreement from the organisation to undertake further work. Our communication with both complainants and organisations was generally good, although we could be better at setting timescales for further work.
- 4.45 Agreed follow up work from the review covered: compliance training for casework staff and an agreement to develop new guidance on use of premature closure codes and considerations before closing a case as premature.
- 4.46 This measure is rated as green.

Information removed - out of scope

5. Commentary

- 5.1 We have seen welcome improvements in scores for customer satisfaction with service, customer service standards and casework quality reviews. At the same time, other scores have remained relatively stable. This improved picture is encouraging but has not shifted enough to justify a green rating overall. We would need 6 out of 8 measures to be rated as green and we currently have 5. Areas for improvement include customer satisfaction with outcome at enquiry, with service at review and on speed of compliance. We should also aim to reduce the number of upheld complaints about enquiries and about our service.

5.2 Attaining a green rating will be a challenge. We know achievement of meeting all six standards at the end of the business year is now at risk because of the focus on closing old cases earlier in the year. We need to keep a strong focus on operational issues during a period of uncertainty for staff as PHSO finalises its strategic plan and associated organisational structure.

5.3 We will be developing a new framework for performance measures for all PHSO's work over the next period. This gives us the opportunity to develop benchmarks which define the quality of our work as 'good'. We will also be better able to describe the changes in performance, or tolerances, which could shift us from amber to green in different areas of our work.

6. Risk context - including Freedom of Information

6.1 The risks of failing to meet all six of our customer service standards and allowing organisational change to impact on operational performance is explained in paragraph 6.2 above. We have plans in place to help us achieve our service standards and we will manage change carefully over the next period.

7. Resource implications

7.1 There are no specific actions identified in this report which require additional resources.

8. Equality and Diversity

8.1 A key challenge is to make our letters and reports even more accessible for complainants. The language letters and reports project runs to the end of March and will maintain this important focus.

9. Next steps and communication

9.1 We propose that the report is shared through the Cascade. We suggest some wording at Annex B.

10. Annexes

- Annex A. Sources of information used to measure quality
- Annex B. Draft Cascade text

Annex A: Sources of information used to measure quality in this report

Customer service standards

Measured by the Corporate Performance and Planning team and reported monthly.

Customer satisfaction survey

We commission IFF to undertake telephone surveys with complainants, enquirers, and review customers. The fieldwork is continuous and divided into waves each lasting two weeks. The results are reported quarterly. This report includes data collected from June to October 2012.

Complaints about us

Measured by the Corporate Performance and Planning team and reported on a six-monthly basis in the Review Team Management Information Report. This Casework Quality Report includes data from the Review Team report covering January to June 2012.

Speed and outcome of compliance following interventions and investigations

Outcomes and Learning Directorate compile a report which is circulated on a quarterly basis to the Operations Directors Meeting.

Outcomes and Learning also compile an annual compliance report.

Judicial reviews

Performance is reported via the Legal Adviser.

Internal casework audits

Relevant casework audits conducted in line with the Annual Internal Audit Plan and reported to the Audit Committee.

The audits relevant to this report are those covering 'Clinical advice systems' and the 'Recommendations and Outcomes Panel'.

Casework quality framework reviews

Outcomes and Learning manage reviews under the 'quality assurance' element of the Casework Quality Framework. ODM sets the review programme and looks at specific aspects of PHSO's casework to give assurance about the quality of our casework and, where appropriate, to make recommendations for any improvements. The review relevant to this report covered cases closed as premature at further assessment.

Casework information security

PHSO keeps a log of information security incidents and this report gives an overview of incidents involving Operations in the period reported on.

Annex B: Draft Cascade messages

- The latest Casework Quality Report covers 1 April 2012 to 30 September 2012. Our overall rating for casework quality is amber.
- We have seen welcome improvements in scores for customer satisfaction with service, customer service standards and casework quality reviews. At the same time, other scores have remained relatively stable. This improved picture is encouraging but has not shifted enough to justify a green rating overall. We would need 6 out of 8 measures to be rated as green and we currently have 5. Areas for improvement include customer satisfaction with outcome at enquiry, with service at review and on speed of compliance. We should also aim to reduce the number of upheld complaints about enquiries and about our service.
- Attaining a green rating will be a challenge. We know achievement of meeting all six standards at the end of the business year is now at risk because of the focus on closing old cases earlier in the year. We need to keep a strong focus on operational issues during a period of uncertainty for staff as PHSO finalises its strategic plan and associated organisational structure.

LEARNING FROM COMPLAINTS ABOUT US: WHAT ARE COMPLAINANTS TELLING US ABOUT OUR SERVICE AND HOW ARE WE RESPONDING?

Paper Mick Martin, Executive Director of Operations

1. Executive summary

- 1.1 Learning from complaints and using insight obtained from complaints to improve service provision is at the heart of PHSO's vision for how public bodies should operate and how the people within them should think and behave. We believe that there needs to be a shift from defensive handling of complaints to one where organisations are seeking to extract feedback and insight from complaints to learn and improve on their services. We also say that there needs to be Board scrutiny, analysis and learning from feedback.
- 1.2 These requirements apply to PHSO. We are hugely fortunate that we can gain a significant amount of insight from complainants, via our Review process, on whether we are adhering to our Principles. This process provides the Ombudsman Service with an opportunity to listen, evaluate and respond with relevant actions for improvement.
- 1.3 PHSO has acted on insight from complaints - the strategic shift to undertake thousands not hundreds of investigations, responds directly to key insight from the main complaint about our service, refusal to investigate. The focus on reducing the time it takes in PHSO to provide outcomes for complainants is also a direct response to the main difficulty people have with our service provision. More remains to be done on both these items.
- 1.4 More investigations mean more adjudications from them; we are therefore seeing a shift towards complaints about those decisions and the quality of our work undertaken to make them. In response, undertaking robust, sensitive investigations built on a well-defined, systematic methodology that can be explained and trusted becomes an urgent operational requirement. Insight from complaints indicate that we have significant work to do.
- 1.5 Learning from complaints must itself be placed in context. We have a range of sources of information about our service provision, including a considerable body of compliments about the kind, sensitive and professional way we help people receive a final outcome regarding their complaint.

1.6 This paper seeks to:

- Identify key points of learning evident from complaints about our service.
- Engage the Board in considering current items of feedback and insight from complaints to help shape strategy, policy and operational practice.
- Explain how PHSO is changing its service in response to learning from complaints.
- Place the Ombudsman Service operational plans in the context of accelerating service improvement by utilising insight from complaints.

2. The Board is asked to:

- Gain assurance that learning from complaints has informed significant improvement in PHSO service provision.
- Understand and consider current insight from complaints.
- Utilise learning from complaints when considering strategy and service development.
- Gain assurance that learning from complaints is being progressed and will be a central component in driving service improvement.

3. Overview of Complaints

3.1 Per month the Review Team receives approximately 280 enquiries about our work. When taken against the total number of decisions made in Customer Services and Operations and Investigations per month (2,485), it shows us that 11% of our customers are expressing some form of dissatisfaction with our work and decisions.

3.2 Complaints about the Ombudsman Service can be categorised as being about three main areas:

- Complaints about decisions not to undertake investigations into cases brought to us by complainants.
- Complaints about adjudications not to uphold complaints made against public sector service providers regarding injustice, maladministration or service failure.
- Complaints about the quality of our service provided to the complainant.

3.3 Year to date the Ombudsman Service has accepted for review:

- 482 complaints about decisions not investigate. The corresponding number last year was 949.
- 32 complaints about decisions not to uphold complaints. The corresponding number last year was 33.
- 83 complaints about our service provision. The corresponding number last year was 166.

- 3.4 Overall in 2013-14 (to date) 81% of complaints accepted for review have been about decisions not to investigate, 5% about investigation findings (outcomes) and 14% about our service provision.

4. The Review criteria

- 4.1 There need to be grounds for seeking a review. Prior to April 2013, the criteria for review specified that simple disagreement with a decision was not enough for us to undertake a review. Since April 2013, we have tightened the criteria to provide clarity and to ensure that reviews of decisions are only undertaken where legitimate concerns exist. Since the introduction of the criteria, we have accepted 40% less complaints for review. The variation then in the actual numbers accepted for review between 2012/13 and 2013/14 is attributable to both the introduction of more rigid review criteria and because we are doing more investigations for more people.
- 4.2 The criteria are:
- We made our decision based on evidence that contained facts that were not accurate and which could change our decisions.
 - The complainant has new and relevant information that was not previously available that might change our decision.
 - We overlooked or misunderstood parts of the complaint or did not take into account relevant information which could change our decision.
- 4.3 Our criteria for accepting complaints about our service has remained the same. Therefore, it is encouraging that despite the changes in our process, we have not experienced an increase in the number of reviews we undertake about our service. This would indicate that during this time of change, the standard of the service we provide remains constant.
- 4.4 While there has been a fewer requests for review accepted, the number of requests has remained the same. This indicates that:
- We are not explaining well our role and how we work.
 - We are not managing expectations sufficiently well throughout the life of a case.
 - Complainants have an expectation that their complaint will be looked at again at review.

5. Topics of complaint

- 5.1 In addition to factors contained within the Review criteria, important themes emerge from analysis of why people complain that the adjudications we have made are wrong. Of the complaints we receive requesting review, customers are typically complaining that:
- Our decision was biased - we have unduly favoured the service provider.

- Our response to the complaint repeats what the body said - we have therefore added no value.
- Our investigation was flawed because we did not interview the complainant or key witnesses.
- Our clinical advisors were not qualified to provide advice.
- We did not take into account the comments made on the draft report.

5.2 The consequential areas of learning and improvement action are:

- Elements of our service could lead to the perception that we favour public sector service providers - for example, different levels of contact between PHSO and the complainant is common. If we are criticising the body, we share our draft reports with them first.
- We do not provide clear requirements/guidelines to investigators on whether and when primary evidence gathering and interviewing parties is appropriate.
- The role of clinical advice in our investigations and the requirement for precision of requests for expertise is not well defined and therefore fully understood/practiced by investigators.
- There is no standard practice for ensuring that PHSO demonstrates that it has actually considered comments/input regarding draft reports and demonstrate our response to them.

6. Complaints specifically about our service support

6.1 The number of cases accepted for review remains stable on complaints about service alone. Key customer support issues are:

- Failures in managing customer expectations - making it clear to the complainant what to expect from the service, the parameters, the expected timescales and potential outcomes of the work we undertake.
- Delay - the time it has taken us to provide customer service, assess cases, commence and then undertake investigation. Since these stages are sequential, for the customer it means that the total time the Ombudsman Service has had the case is unacceptably long.
- Communication - ongoing explanations of the stages/approaches to our investigation, keeping the complainant (and the bodies) informed of the progress of the investigation, explaining the basis of the decision in a clear and simple manner.

7. Learning from individual case reviews

7.1 In undertaking more than 500 case reviews a year we can identify themes for learning that build on the core insight from the complaints themselves. Whilst only a small percentage of complaints about our original service are upheld (circa 10%) these insights are doubly important since they constitute independent confirmation of areas for improvement.

7.2 Key learning from these cases:

- We can fail to address all of the parts of the complaint.
- We can fail to understand the complaint.
- We can fail to consider all the relevant evidence in the investigation.
- Our findings are sometimes not robust - they may not clearly flow from the available evidence or the information gathered during the investigation.
- Our investigations are sometimes not rigorous enough - a clear methodology was not evident, there were gaps in our work versus the minimum requirements of an investigation.
- Our letters and reports can contain factual or typographical errors which may not necessarily undermine the decision but serve to enforce perceptions that our investigation is of low quality and our attention to detail is lacking.
- Reviewers have also identified that when we decline to investigate a complaint on the grounds that it is premature, we are not warning our customers about our statutory time limit. If we then time limit their complaint after they have completed local resolution, we can be perceived as having not carried out a thorough investigation and have wasted the time of the complainant.
- We are receiving an increased number of complaints that state we have not considered comments that were made on the draft report. While caseworkers may inform customers that they have considered the comments, there is sometimes no audit trail of any consideration.

8. Acting on learning

8.1 PHSO has commenced implementation of a step change in the number of investigations it undertakes.

8.2 Decisions not to investigate still dominate complaints accepted about PHSO. As we continue to deliver our 2013-14 business plan (which entails investigating all appropriate cases) we will further reduce the number of decisions not to investigate.

- 8.3 Reducing delay - PHSO has delivered significant reductions in the time it takes to undertake investigations (an average of 301 days in April 2013, 141 days in January 2014). However, durations remain beyond reasonable expectations. The Ombudsman service will set and navigate quickly to delivering against clear service standards for providing customer service, completing case assessments and completing investigations/resolutions.
- 8.4 Our provisional view of service throughput minimum requirements:
- Customer Services < 5 days
 - Case Assessment < 20 days
 - Investigation: 60% Completed within 13 weeks, 80% Completed within 26 weeks, 95% Completed within 52 weeks.
- 8.5 We will consolidate and embed information learning from the insight we capture from our data. It will be built into Operations and Investigations performance reporting and will be reviewed at all levels.
- 8.6 Spreading the learning - Insights from complaints about PHSO need to be regularly and effectively shared with employees. They will be used to develop coaching, training materials and improvement plans.
- 8.7 Service definition - significant gaps in defining customer support, assessment and investigative services exist. Meeting this core requirement is the priority for 2014-15. These are being built using the learning from complaints and insight from customer perceptions and experience.
- 9. Quality framework**
- 9.1 This will be informed from learning from complaints. It will define the requirements for delivering high quality customer support, case assessments and investigation service. This will enable robust self-assessment, line management performance review and ongoing measurement/sampling mechanisms.

Monthly Management Information

Review Team

February 2014

PROTECT

Summary

- The proportion of people complaining about our decisions remains low.
- There has been a reduction in the number of requests for review on decisions not to investigate, and an increase in those on investigation findings. More requests for review, however, have been accepted on decisions not to investigate, and less on investigation findings. This may be because of the recent guidance on recording our consideration of comments made on draft reports. If this is adhered to, we are unlikely to accept for review complaints that allege that we did not consider comments at draft report stage.
- A10 have a higher level of handling lessons arising than other teams. They have also had a higher number of upheld complaints against them.

The handling lessons identified from A10 are:

- Communication (insensitive communication, communication not tailored to requested adjustments, failed to contact complainant and poor communication with body)
- Compliance (failed to follow up compliance)

Summary

- Decision/findings (findings not sound, reasoning not robust and factual errors in decision letters/final reports) - factual errors were identified on five different cases
- Governance (body's refusal to accept recommendations was not escalated)
- The number of handling lessons arising from communication issues has reduced. The types of issues identified in February are:
 - Communication insensitive, failed to issue updates, failed to tailor response to comments on draft reports and failed to inform complainant about option of review in final report
- The number of handling lessons arising from our decisions/findings has remained unchanged. The types of issues identified in February are:
 - Decision letter did not explain in enough detail the evidence relied upon, failed to consider all relevant factors in a time bar case and analysis of complaint partly inaccurate
- Despite less decisions being made within Operations and Investigations, the number of requests for review remains

Upheld/Partly Upheld Reviews by Team (November 2013 - February 2014)

Position	Team	Decision		Service		Decision & Service		Total	Overall Total
		YTD	Feb-14	Total	YTD	Feb-14	Total		
1	A10	2	0	2	0	0	0	1	3
1	A12	3	0	3	0	0	0	0	3
3	A11	2	0	2	0	0	0	0	2
3	CAT	0	0	0	2	0	2	0	2
3	CA	2	0	2	0	0	0	0	2
3	A9	1	0	1	0	0	0	1	2
7	A1	0	0	0	1	0	1	0	1
7	A5	0	0	0	1	0	1	0	1
7	A8	0	0	0	1	0	1	0	1
7	H2	0	0	0	0	0	0	1	1
7	H6	1	0	1	0	0	0	0	1
7	P2	0	0	0	1	0	1	0	1
7	P3	0	0	0	1	0	1	0	1
7	ERT	0	0	0	1	0	1	0	1
7	CST7	0	0	0	1	0	1	0	1
7	RT	1	0	1	0	0	0	0	1
7	PHSO	0	0	0	1	0	1	0	1
18	A2	0	0	0	0	0	0	0	0
18	A3	0	0	0	0	0	0	0	0
18	A4	0	0	0	0	0	0	0	0
18	A6	0	0	0	0	0	0	0	0
18	A7	0	0	0	0	0	0	0	0
18	H1	0	0	0	0	0	0	0	0
18	H3	0	0	0	0	0	0	0	0
18	H4	0	0	0	0	0	0	0	0
18	H5	0	0	0	0	0	0	0	0
18	H7	0	0	0	0	0	0	0	0
18	CST1	0	0	0	0	0	0	0	0
18	CST2	0	0	0	0	0	0	0	0
18	CST4	0	0	0	0	0	0	0	0
18	CST5	0	0	0	0	0	0	0	0
18	CST6	0	0	0	0	0	0	0	0
18	CST8	0	0	0	0	0	0	0	0
18	Legal	0	0	0	0	0	0	0	0
18	FOI/DP	0	0	0	0	0	0	0	0

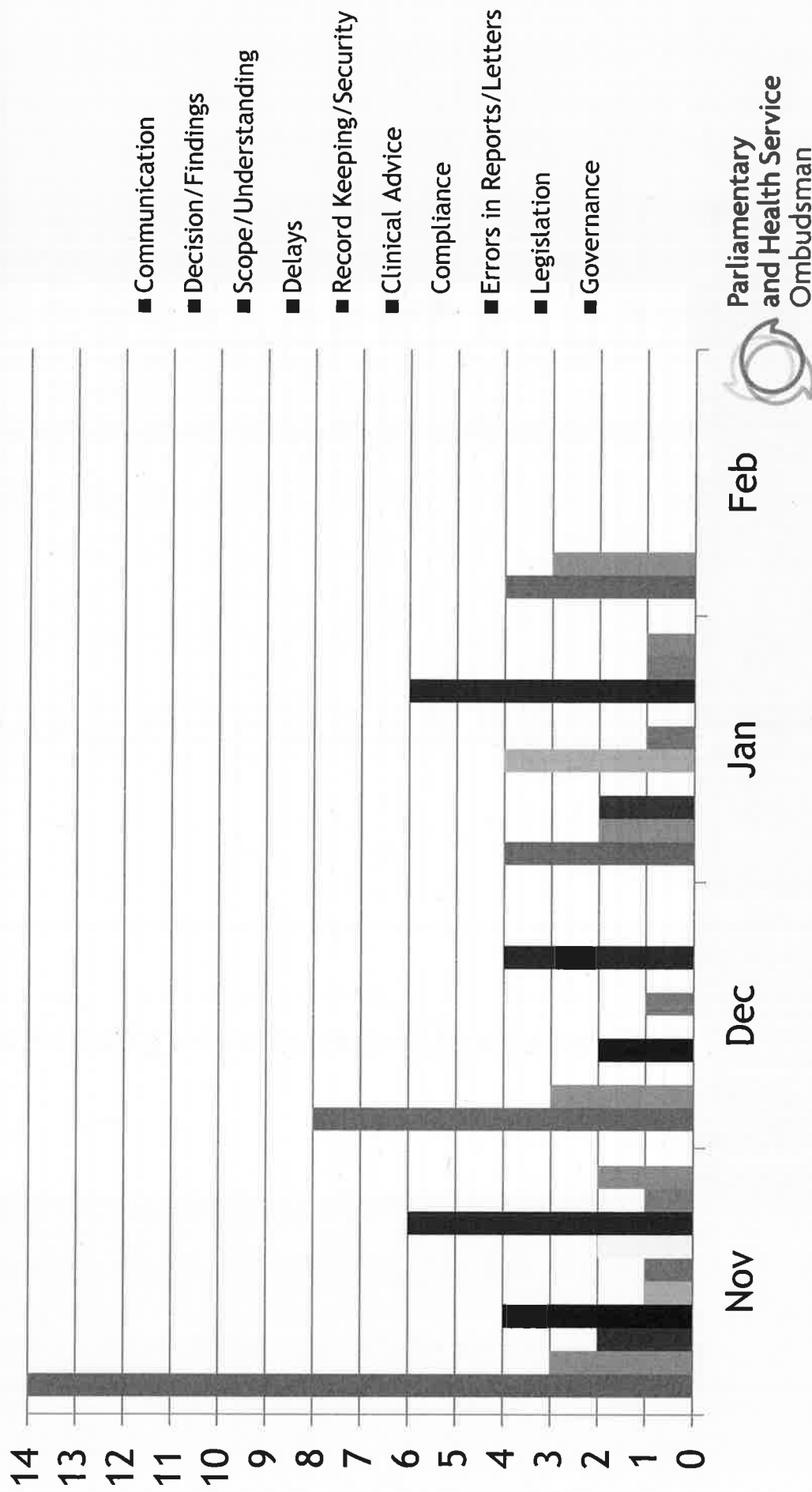
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Handling Lessons by Team (November 2013 - February 2014)

Position	Team	YTD	Feb-14	Total
1	A10	17	0	17
2	A8	8	2	10
3	A12	5	0	5
3	A9	2	3	5
5	P2	4	0	4
5	A6	4	0	4
5	RT	4	0	4
5	PHSO	4	0	4
9	A1	3	0	3
9	A3	3	0	3
9	CST4	3	0	3
9	CST7	3	0	3
13	A5	2	0	2
13	A11	2	0	2
13	H6	2	0	2
13	CAT	2	0	2
13	CA	2	0	2
13	P3	1	1	2
19	A2	1	0	1
19	A7	1	0	1
19	H2	1	0	1
19	H3	1	0	1
19	ERT	1	0	1
19	CST2	0	1	1
25	A4	0	0	0
25	H1	0	0	0
25	H4	0	0	0
25	H5	0	0	0
25	H7	0	0	0
25	CST1	0	0	0
25	CST5	0	0	0
25	CST6	0	0	0
25	CST8	0	0	0
25	Legal	0	0	0
25	FOI/DP	0	0	0

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Type of Handling Lessons (2013 - 2014)

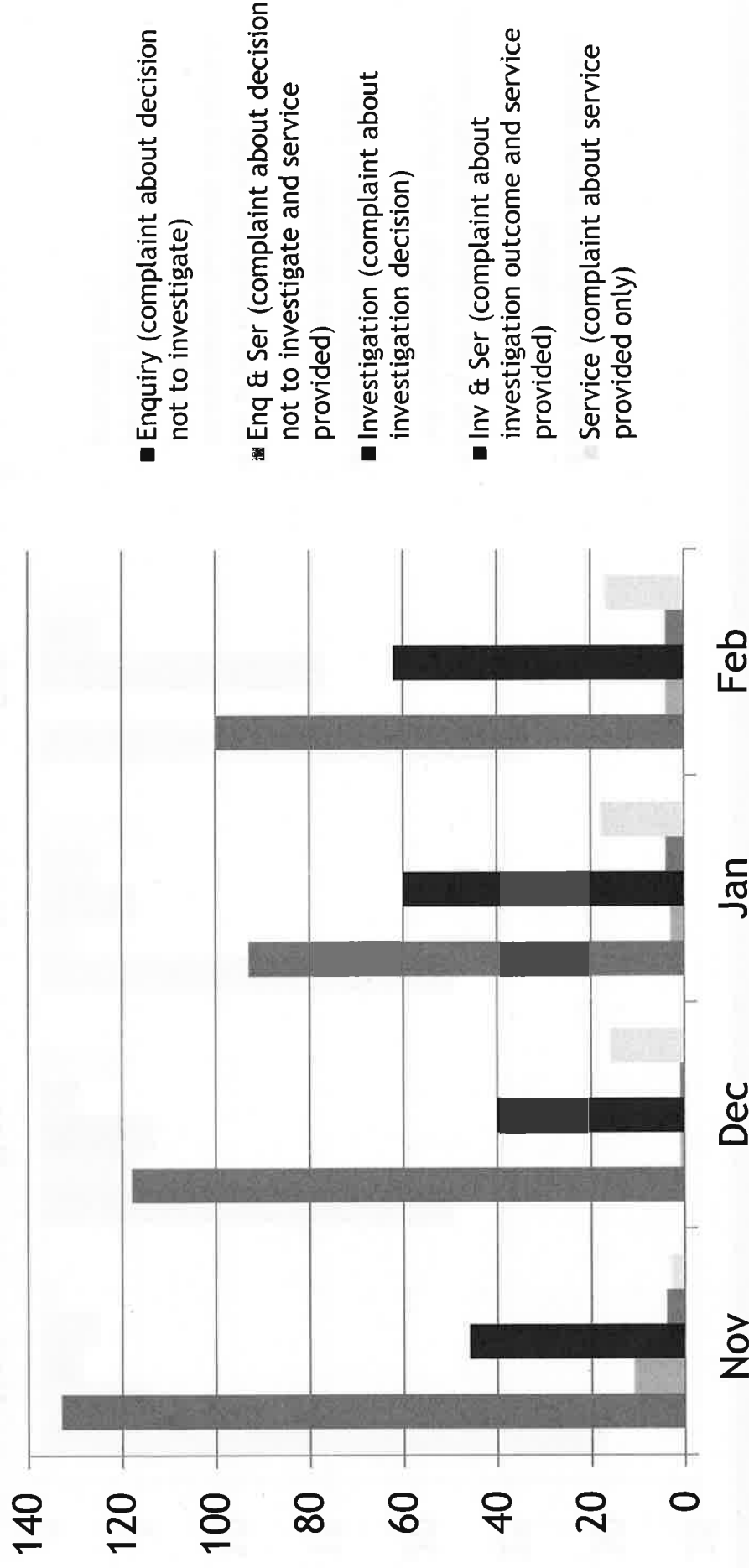


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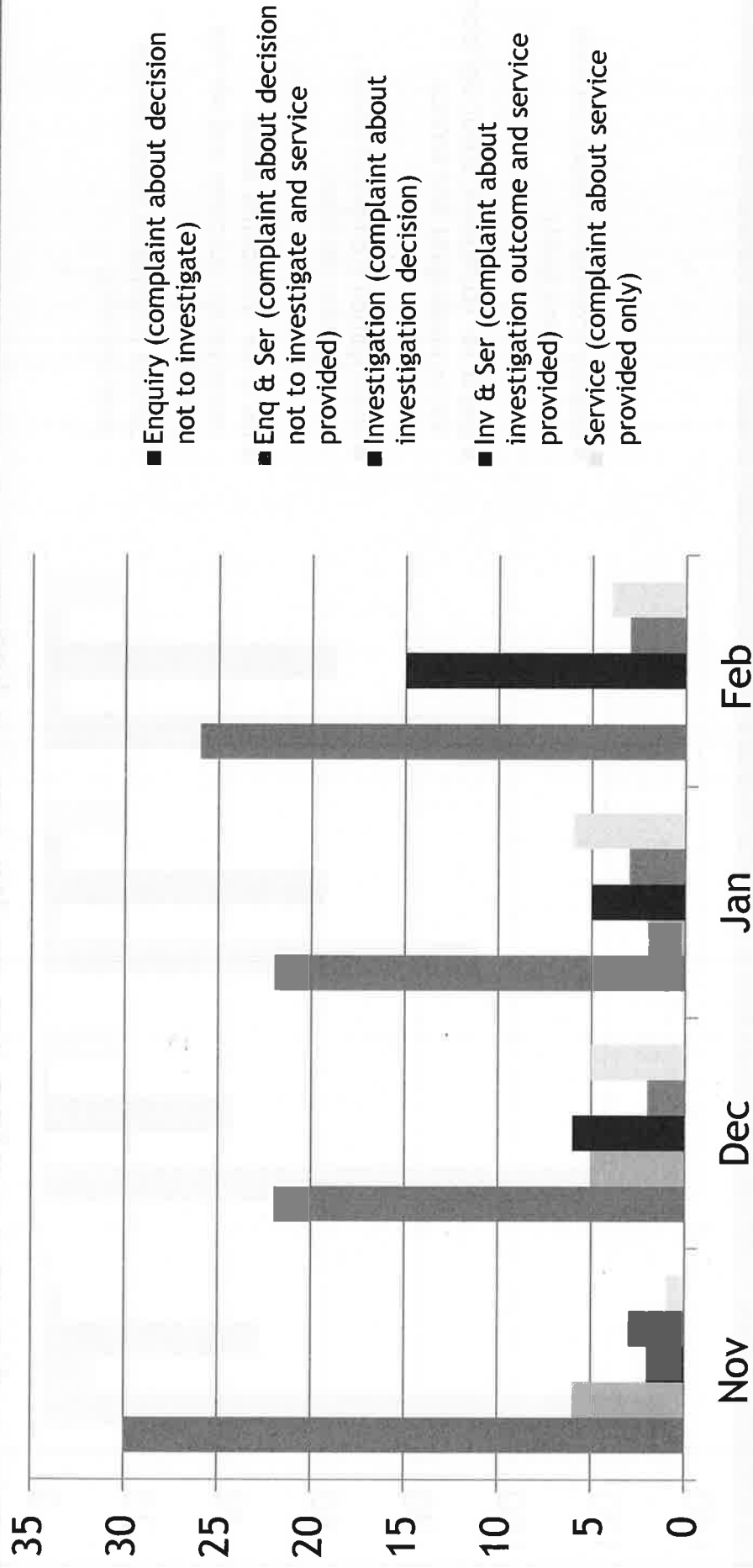
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Type of Review Requests (2013 - 2014)

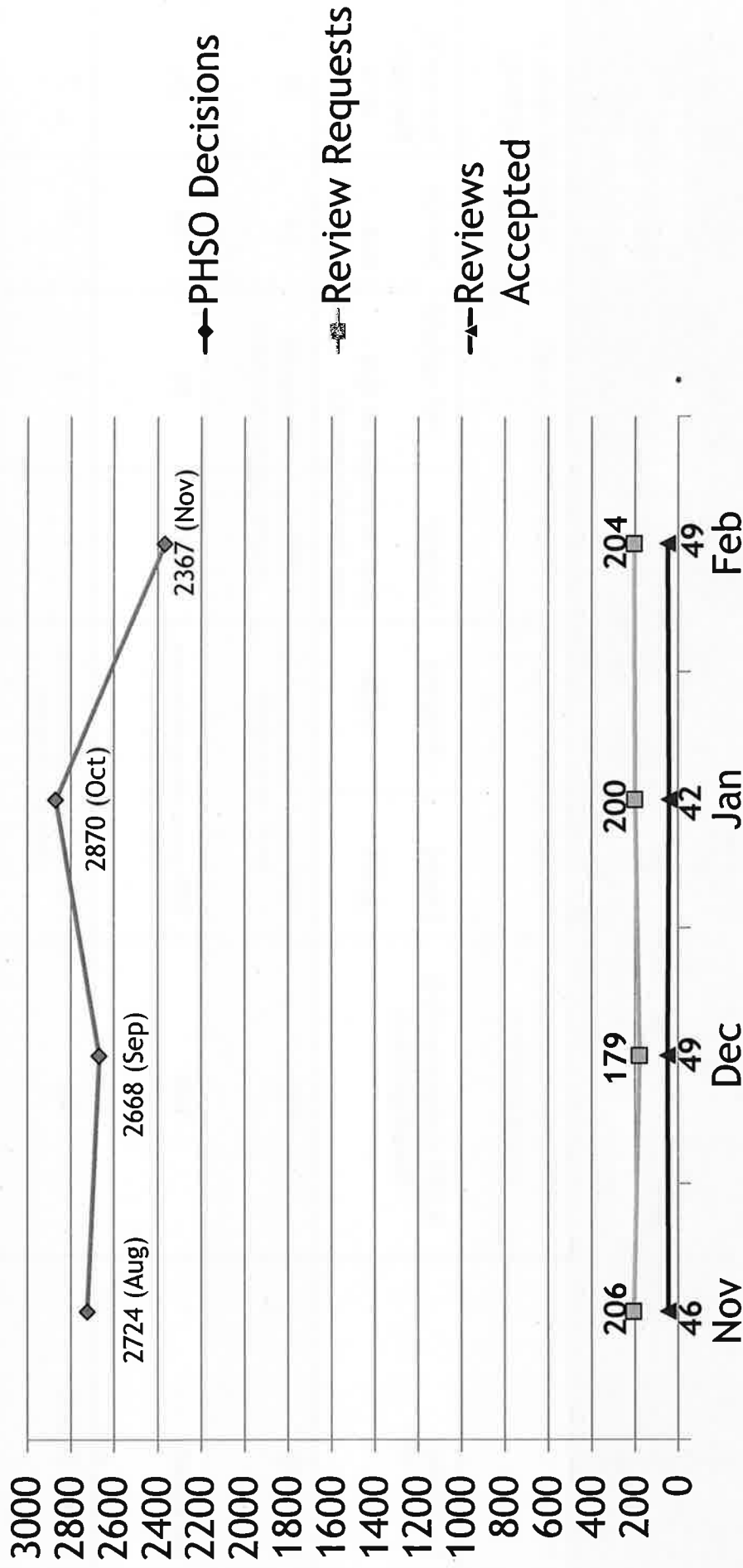


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Accepted Reviews (2013 - 2014)



Review Requests (2013 - 2014)



Year to Date figures for Nov 2013 - Feb 2014

	Work Numbers Volume	Assessment		Investigation		Customer Service
Total	9,293 (assessments & investigations)	8,229 (closed only)		1,064 (closed only)		4,550 (all cases in hand/waiting)
Decisions	9,293 (assessments & investigations)	Closed 8,229	Progress 1,338	Upheld (not as simple as this - see David's email)	Not upheld	Service N/A Service & Decision N/A
Requests	738	444 (cannot distinguish between closed and in progress)		208 (cannot distinguish between upheld/not here)		32
Accepted	168	100 (cannot distinguish between closed and in progress)		9		24
Upheld (total)	26	12 (cannot distinguish between closed and in progress)		1		7
Upheld (%)	0.3% (against total decisions)	0.1% (against total assessment decisions)		0.2% (against total investigation decisions)		0.1% (against in hand figure) 0.05% (against in hand and total decisions)

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Recommendations for Intervention

<u>Recommended intervention</u>	<u>Intervention</u>
We need to make a policy decision (and update CP&G accordingly) on whether, when considering injustice in relation to out of time complaints, we look to establish a link between the claimed injustice and the alleged maladministration, or whether we should limit ourselves to establishing whether the claimed injustice provides grounds to put the time limit to one side.	Open
Consider whether guidance for staff is required for when customers request to speak to a senior manager. Our approach currently, is inconsistent.	Open
We need a process for dealing with correspondence that is addressed to the Ombudsman or the COO.	Executive Office have changed their process for dealing with correspondence that is addressed to the Ombudsman or Chief Operating Officer. The changes mean that in future any correspondence addressed to the Ombudsman or COO will be sent to the Head of the Executive Office. She will acknowledge receipt of the letter and inform the complainant who has been tasked to respond to it.
Caseworkers need to be reminded about recording their consideration of comments received on draft reports.	Casework Policy and Guidance has been changed to ensure caseworkers record their considerations of comments on draft reports. The updated guidance is about ensuring that a minimal and proportionate analysis is recorded which shows that we have considered the comments made.
When we decide a complaint is premature, we need to warn customers that we have a time limit for accepting complaints.	Customer Services now include information about the time limit in premature decisions.

Would it be useful to include...

- Basis of review request?
- Criteria we accept on?
- Basis for upholding reviews?
- Remedy for complainant?

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and Health Service
Ombudsman

Monthly Management Information

Review Team

March 2014

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Summary

- Despite an increase in the number of investigations we are conducting, there has not been an increase in the number of requests for review of investigation decisions. We are also accepting less requests for review of investigation decisions because people are not always meeting the criteria for review.
- There has been a significant reduction in the number of requests for review of enquiry decisions (30% reduction).
- Despite changes in the way we process complaints, the number of complaints about our service remains stable.
- In March, no individual team had a disproportionate number of complaints upheld against them.
- Overall, between November 2013 and March 2014, A12 had the highest number of complaints upheld against them, followed by A10, A9 and H2.

Team	Reason for upheld
A12	Failed to manage complainant expectations Failed to correctly interpret clinical advice Recommendation to Trust flawed Decision not to investigate flawed
A10	Failure to understand complaint Decision/findings unreasonable Factual error
A9	Failure to understand complaint Failed to issue updates Decision/findings unreasonable
H2	Delays Decision/findings reasonable, but lacked robustness Failed to respond to contact

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Summary - continued...

- In March, H2 had the highest number of handling lessons raised against their work. Overall, between November 2013 and March 2014, A10 had a disproportionate number of handling lessons raised against their work when compared to other teams. They were followed by A8, A9 and H2.

Team	High level category for handling lesson	Second level category
A10	Communication	Communication insensitive/lack of empathy Inappropriate communication Did not share draft report appropriately Response not tailored to requested adjustments Failed to clarify complaint with complainant
	Factual errors in reports/letters	Factual errors (does not change outcome)
	Decisions/findings	Decision/findings unreasonable Reasons for decision unclear
	Record keeping/security	Documents filed on incorrect case file
	Scope/understanding	Failure to understand complaint
	Compliance	Failed to follow up compliance
	Governance	Failure to escalate appropriately
A8	Communication	Communication insensitive/lack of empathy Repeatedly used the word 'appears' when evidence left little room for doubt Failed to clarify complaint with complainant

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Summary - continued...

Team	High level category for handling lesson	Second level category
A8	Record keeping/security Decisions/findings Errors in reports/letters	Record of case discussion not saved to VF Sent complainant a letter including information about another person's case Reasons for decision unclear Decisions/findings reasonable, but lacked robustness Factual errors (does not change outcome)
A9	Communication Scope/understanding Errors in reports/letters Decisions/findings Governance	Failed to issue updates Information about review omitted from final report Response to comments on draft report could have been more tailored Failure to understand complaint Factual errors (does not change outcome) Decision/findings unreasonable Quality assurance process ineffective
H2	Decisions/findings Governance Compliance Communication Delays Errors in reports/letters Clinical advice	Decision/findings reasonable, but lacked robustness Quality assurance process ineffective Case opening/closure audit trail incorrect Failed to follow up compliance Failed to respond to contact Unnecessary delays Our letter was inappropriately worded We did not accurately reflect clinical advice in our decision letter

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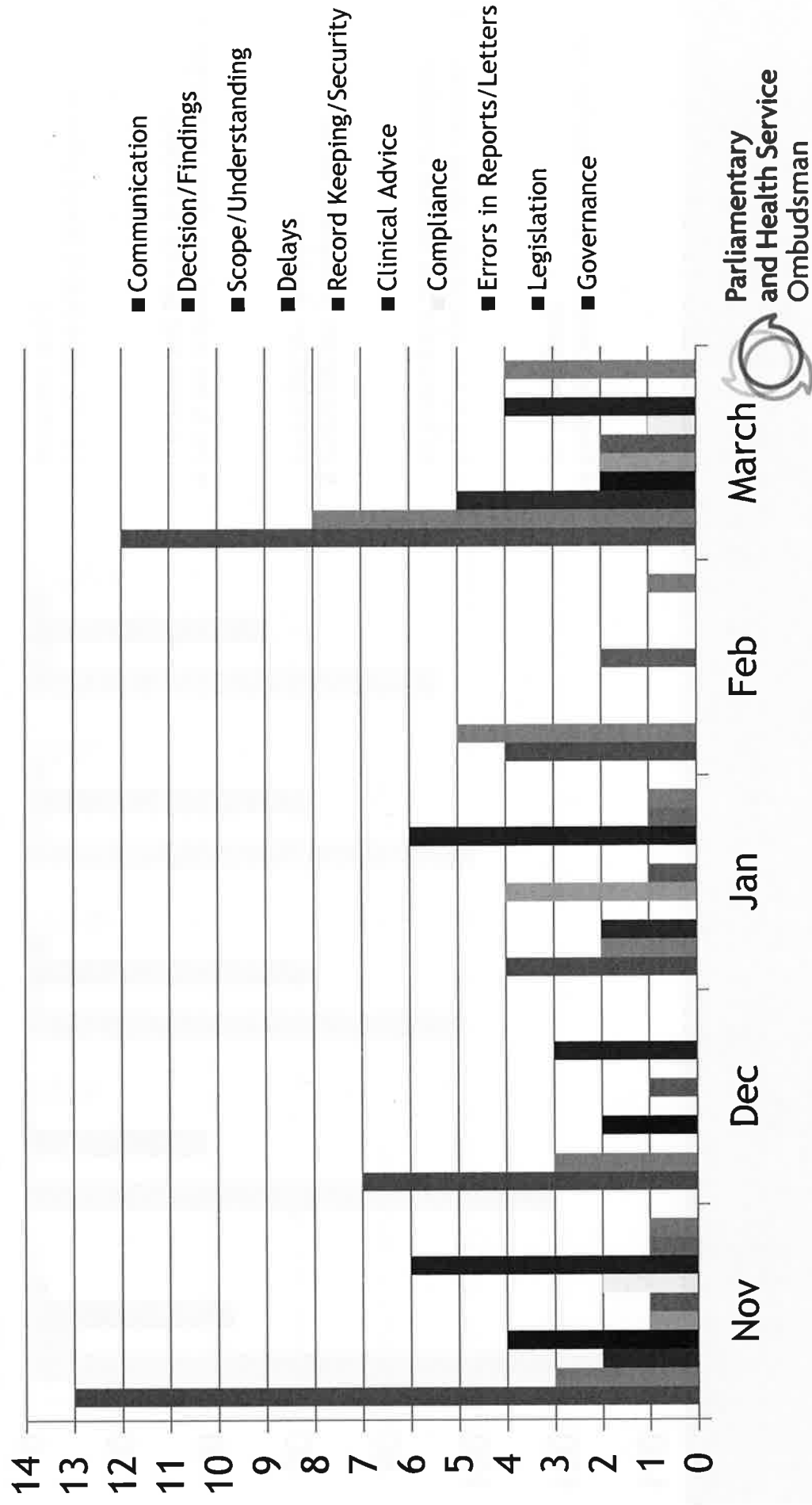
Upheld/Partly Upheld Reviews by Team
(November 2013 - March 2014)

Decision & Service									
Decision					Service			Decision & Service	
Position	Team	YTD	Mar-14	Total	YTD	Mar-14	Total	YTD	Total
1	A12	3	1	4	0	0	0	0	0
1	PHSO	0	0	0	1	2	3	0	1
3	A10	2	0	2	0	0	0	1	1
3	A9	1	1	2	0	0	0	1	1
3	H2	1	0	1	0	0	0	1	2
6	A11	2	0	2	0	0	0	0	0
6	CAT	0	0	0	2	0	2	0	0
6	CA	2	0	2	0	0	0	0	0
6	H6	1	0	1	0	0	0	1	1
6	A1	0	1	1	1	0	1	0	0
6	A5	0	1	1	1	0	1	0	0
6	CST2	0	0	0	0	0	0	0	2
13	A8	0	0	0	1	0	1	0	0
13	P2	0	0	0	1	0	1	0	0
13	P3	0	0	0	1	0	1	0	0
13	ERT	0	0	0	1	0	1	0	0
13	CST7	0	0	0	1	0	1	0	0
13	A6	0	0	0	0	0	0	0	1
13	A7	0	0	0	0	0	0	0	1
13	CST4	0	0	0	0	1	1	0	0
13	CST5	0	0	0	0	1	1	0	0
22	A2	0	0	0	0	0	0	0	0
22	A3	0	0	0	0	0	0	0	0
22	A4	0	0	0	0	0	0	0	0
22	H1	0	0	0	0	0	0	0	0
22	H3	0	0	0	0	0	0	0	0
22	H4	0	0	0	0	0	0	0	0
22	H5	0	0	0	0	0	0	0	0
22	H7	0	0	0	0	0	0	0	0
22	CST1	0	0	0	0	0	0	0	0
22	CST6	0	0	0	0	0	0	0	0
22	CST8	0	0	0	0	0	0	0	0
		Overall Total							
		4							

Handling Lessons by Team (November 2013 - March 2014)

Position	Team	YTD	Mar-14	Total
1	A10	17	2	19
2	A8	9	0	9
2	A9	5	4	9
2	PHSO	4	5	9
2	H2	3	6	9
6	A12	5	2	7
6	CST4	3	4	7
8	A6	4	1	5
9	P2	4	0	4
9	H6	4	0	4
9	A1	3	1	4
9	CA	3	1	4
9	CST2	1	3	4
14	A3	3	0	3
14	CST7	3	0	3
14	A5	2	1	3
14	A2	1	2	3
14	A7	1	2	3
19	A11	2	0	2
19	CAT	2	0	2
19	P3	2	0	2
19	CST6	0	2	2
23	H3	1	0	1
23	ERT	1	0	1
23	CST1	0	1	1
23	CST5	0	1	1
23	Allocation Team	0	1	1
23	Assessment Panel	0	1	1
29	A4	0	0	0
29	H1	0	0	0
29	H4	0	0	0
29	H5	0	0	0
29	H7	0	0	0
29	CST8	0	0	0

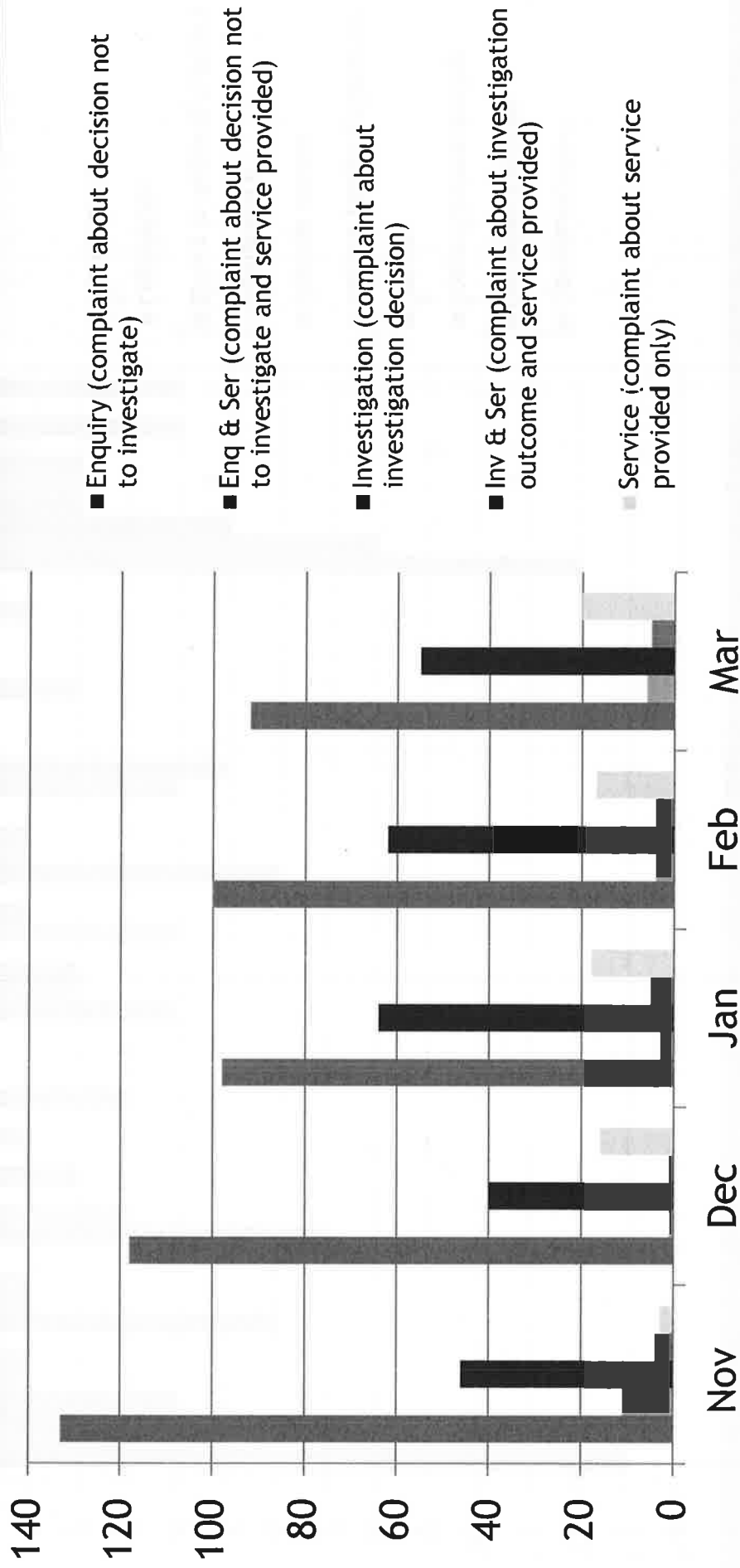
Type of Handling Lessons (November 2013 - March 2014)



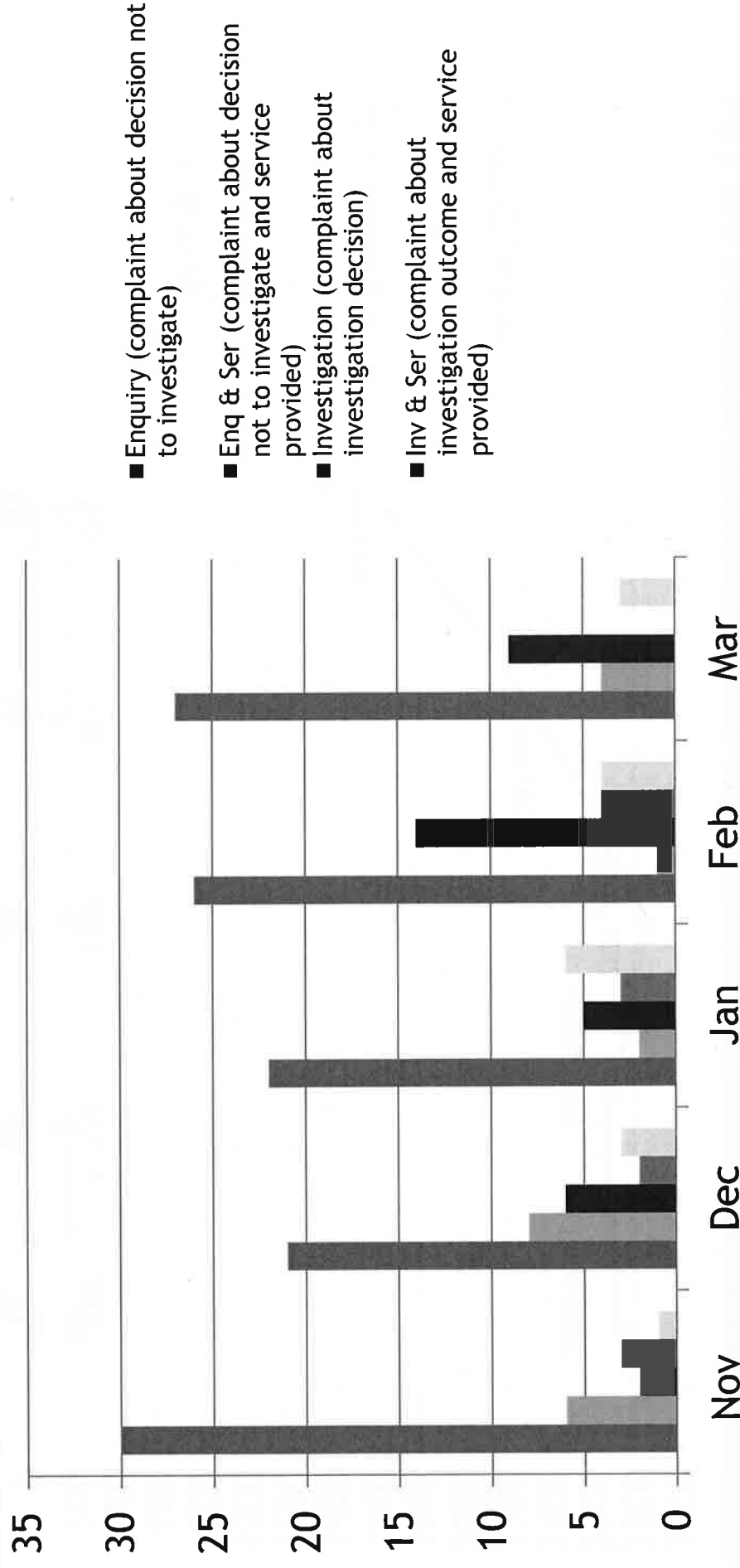
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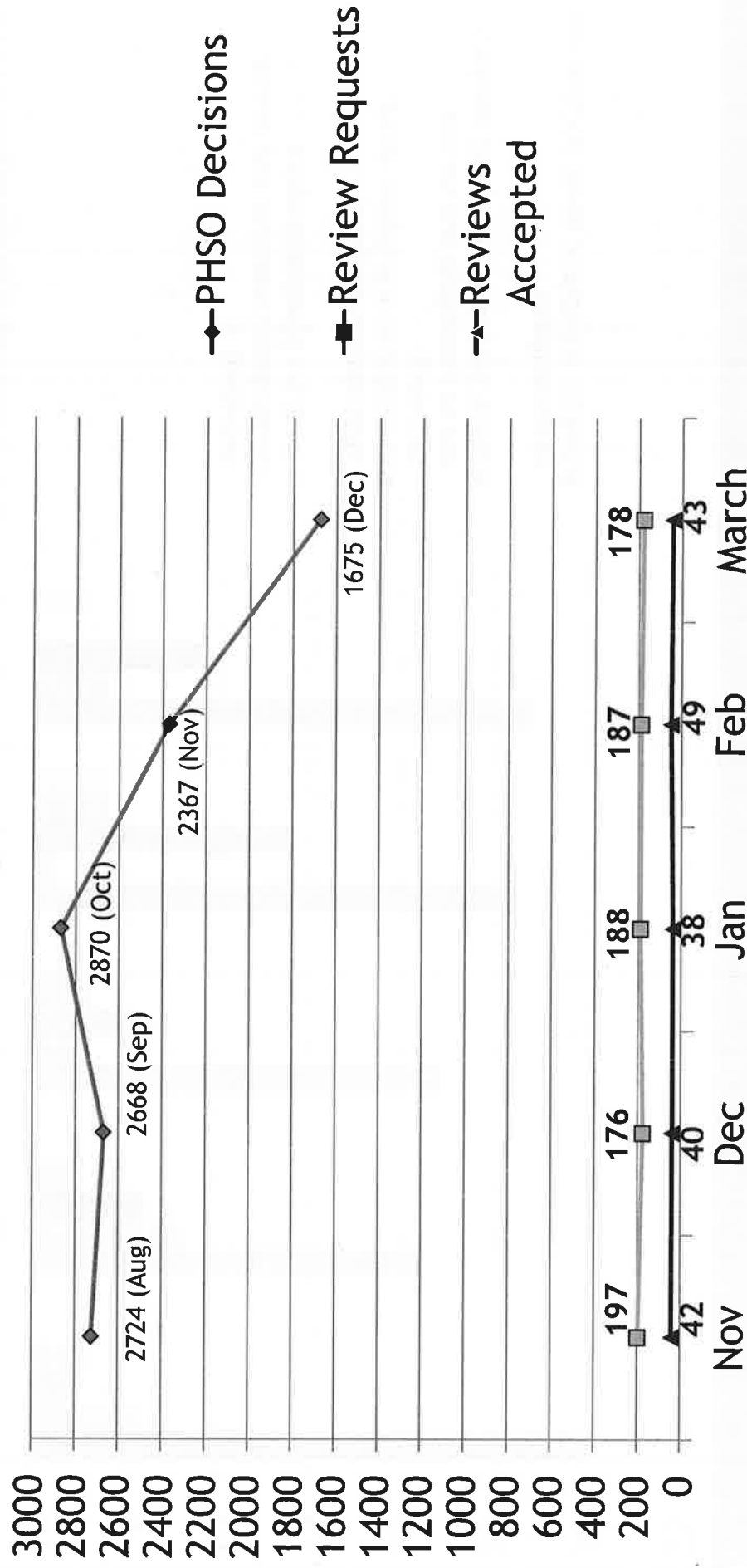
Type of Review Requests (November 2013 - December 2014)



Accepted Reviews (November 2013 - March 2014)



Review Requests (2013 - 2014)



Year to Date figures for Nov 2013 - March 2014

	Work Numbers Volume	Assessment	Investigation		Customer Service
Total	12,149 (assessments & investigations)	10,722	1,539		3333 (all cases in hand/waiting)
Decisions	12,149 (assessments & investigations)	10,722	Upheld 584	Not upheld 849	N/A
Requests	926	541	267		<div>Service</div> <div>74</div> <div>Service & Decision</div> <div>44</div>
Accepted	212	126	10	26	33
Upheld (total)	44	18	1	1	14
Upheld (%)	0.36% (against total decisions)	0.17% (against total assessment decisions)	0.13% (against total investigation decisions)		<div>0.30% (against all cases in hand/waiting)</div> <div>0.42% (against all cases in hand/waiting)</div>

Quotes from our customers

Quote

Details

Complainant said that he was *Information removed - s40(2) FOIA*

Upheld service complaint (HS-172471)

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Recommendations for Intervention

<u>Recommended intervention</u>	<u>Intervention</u>
The PHSO website needs to contain information about investigation timeframes	
Generic update letters need to contain information that is meaningful to the individual customer	
We need to make a policy decision (and update CP&G accordingly) on whether, when considering injustice in relation to out of time complaints, we look to establish a link between the claimed injustice and the alleged maladministration, or whether we should limit ourselves to establishing whether the claimed injustice provides grounds to put the time limit to one side.	For consideration by Operations/QSI team. Chris Morgan to respond
Consider whether guidance for staff is required for when customers request to speak to a senior manager. Our approach currently, is inconsistent.	For consideration by Operations/QSI team. Chris Morgan to respond
We need a process for dealing with correspondence that is addressed to the Ombudsman or the COO.	Executive Office have changed their process for dealing with correspondence that is addressed to the Ombudsman or Chief Operating Officer. The changes mean that in future any correspondence addressed to the Ombudsman or COO will be sent to the Head of the Executive Office. She will acknowledge receipt of the letter and inform the complainant who has been tasked to respond to it.
Caseworkers need to be reminded about recording their consideration of comments received on draft reports.	Casework Policy and Guidance has been changed to ensure caseworkers record their considerations of comments on draft reports. The updated guidance is about ensuring that a minimal and proportionate analysis is recorded which shows that we have considered the comments made.
When we decide a complaint is premature, we need to warn customers that we have a time limit for accepting complaints.	Customer Services now include information about the time limit in premature decisions.

Monthly Management Information

Review Team

April 2014

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Summary

- This is our first report for the 2014/15 business year. Comparative data from the 2013/14 business year is contained in the previous March 2014 report. Please be aware however, that for 2014/15 team names have changed.
- Since the previous report, the reduction in the number of REQUESTS for reviews on enquiry decisions has continued. There has however, been an increase in the number of REQUESTS for reviews of investigation findings. We are still ACCEPTING more complaints about enquiry decisions than investigation decisions.
- Since the previous report, there has been a reduction in the number of people requesting a review solely on the basis of poor service.
- Misunderstanding/overlooking aspects of the original complaint and disagreement with our decisions form the basis for the majority of our requests for review.
- In April, no individual team had increased levels of complaints upheld against them when compared with other teams. The primary reason for upholding a complaint is because we misunderstood or overlooked aspects of the original complaint - the same reason that constitutes the motivation behind complaining in the first place
- Compared with other teams, H2 had the highest number of handling lessons raised against them (please see table below for details). When looking at the handling lessons raised from across all of Operations, we identify more in relation to communication, than any other area. When we drill down further however, there are no specific areas of our communication that give rise to more handling lessons. This suggests that the issues raised are unique to the individual concerned, rather than there being an overall Operational issue.

Team	First level category for handling lesson	Second level category
H2	Scope/understanding Decision/findings Communication	Failed to understand complaint Decision/findings unreasonable Recommendation to body worded ambiguously



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Upheld/Partly Upheld Reviews by Team

		Decision				Service				Decision & Service				Overall Total
Position	Team	YTD	Apr-14	Total	YTD	Apr-14	Total	YTD	Apr-14	Total	YTD	Apr-14	Total	
1	PHSO	0	0	0	0	1	1	0	0	0	0	0	0	1
1	H8	0	1	1	0	0	0	0	0	0	0	0	0	1
1	Allocation	0	0	0	0	1	1	0	0	1	0	0	0	1
1	H3	0	1	1	0	0	0	0	0	0	0	0	0	1
1	CST6	0	0	0	0	1	1	0	0	1	0	0	0	1
1	H9	0	0	0	0	1	1	0	0	1	0	0	0	1
1	H2	0	1	1	0	0	0	0	0	0	0	0	0	1

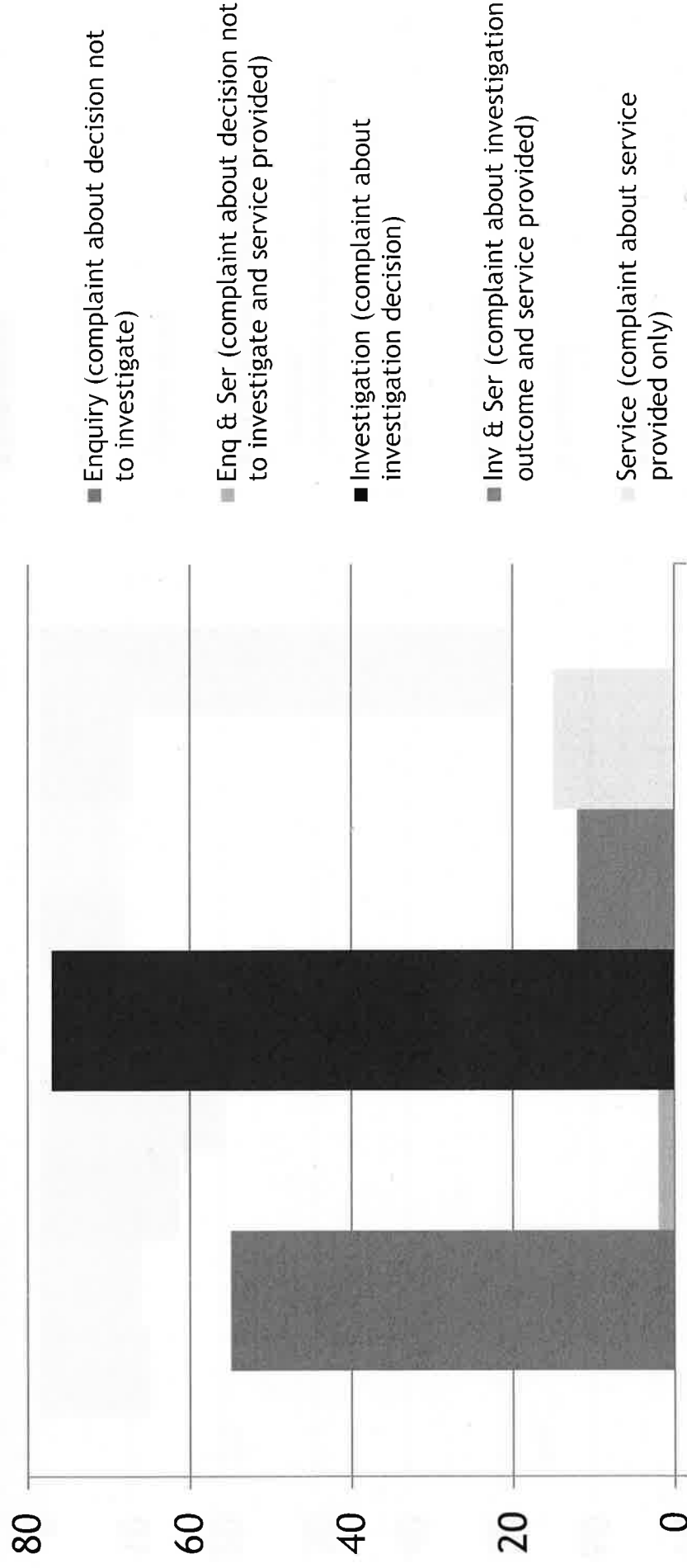


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Handling Lessons by Team

Position	Team	YTD	Apr-14	Total
1	PHSO	0	3	3
1	H2	0	3	3
2	H8	0	2	2
2	H3	0	2	2
2	CST2	0	2	2
2	H11	0	2	2
2	CST5	0	2	2
2	P1	0	2	2
3	Allocation	0	1	1
3	CST1	0	1	1
3	CST6	0	1	1
3	H9	0	1	1
3	H7	0	1	1

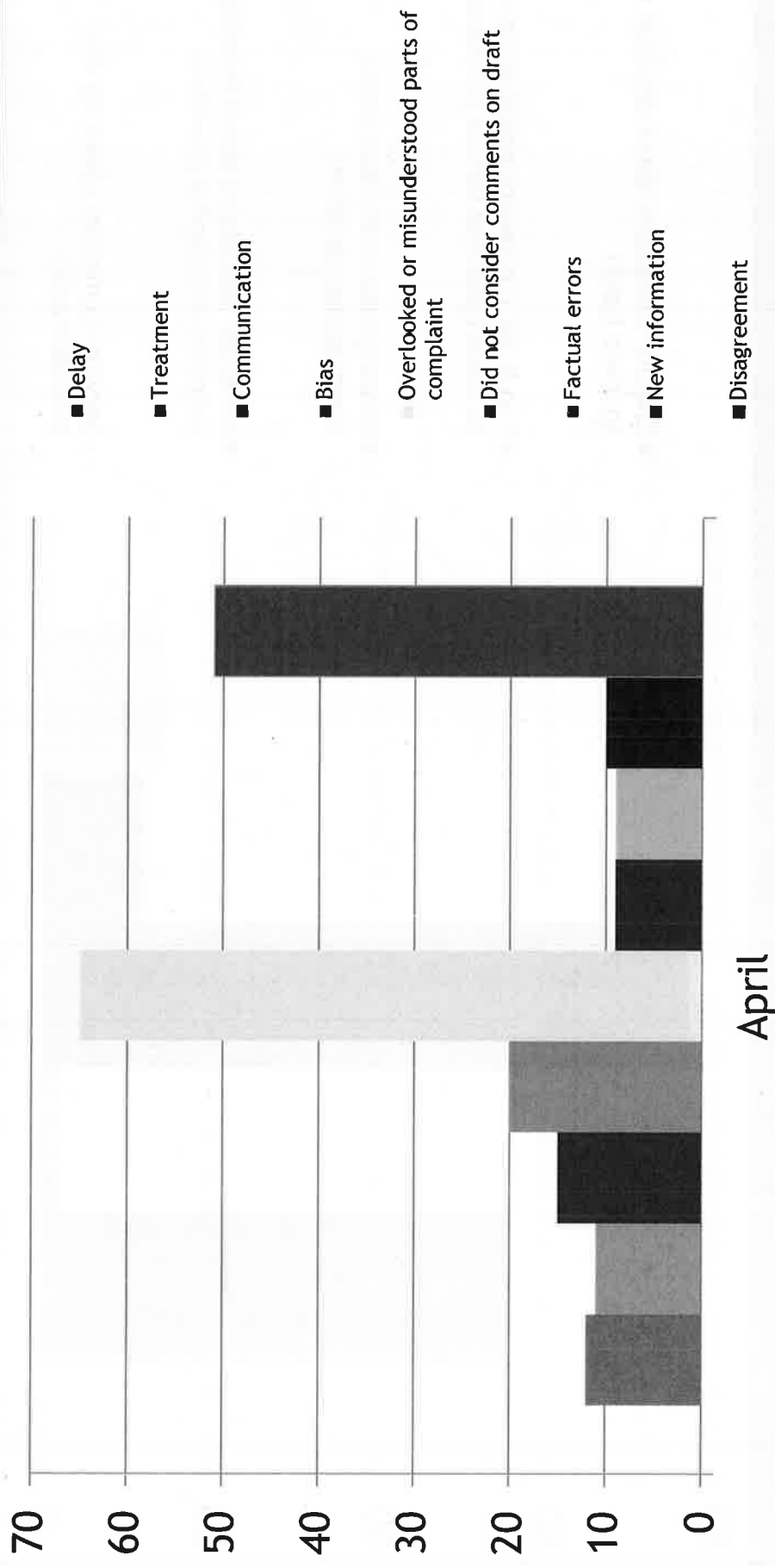
Type of Review Requests



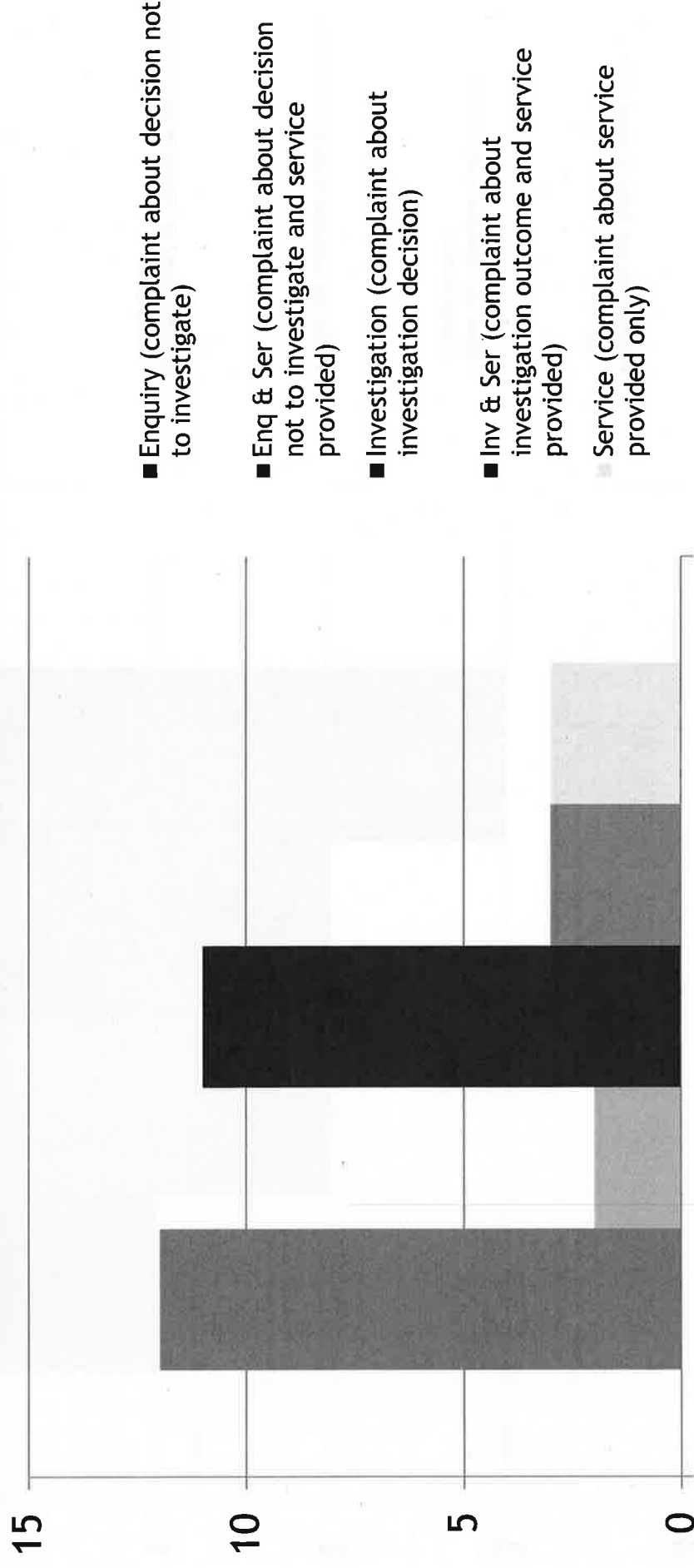
April

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Basis of Review Requests



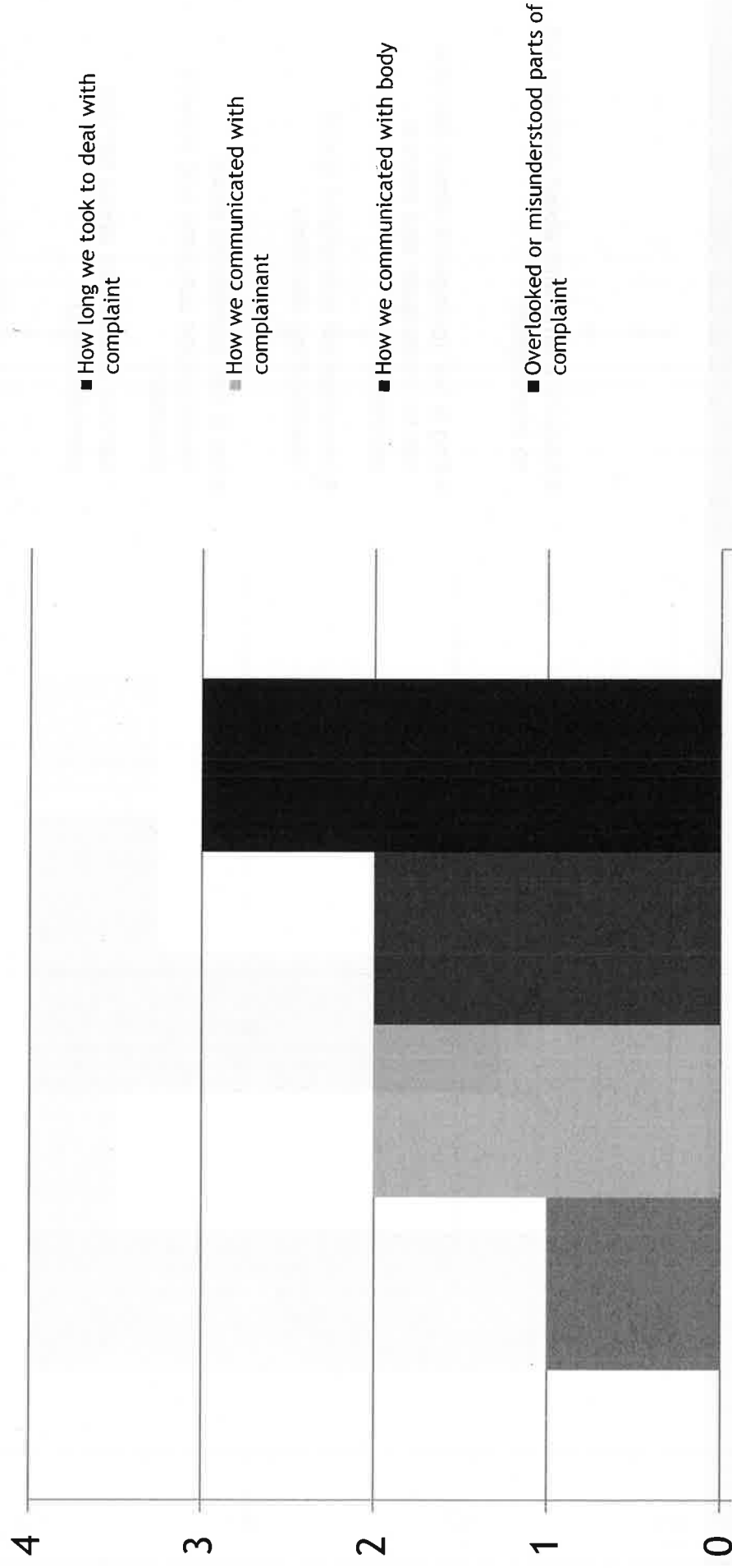
Accepted Reviews



April

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Reasons for Upholding/Partly Upholding Reviews



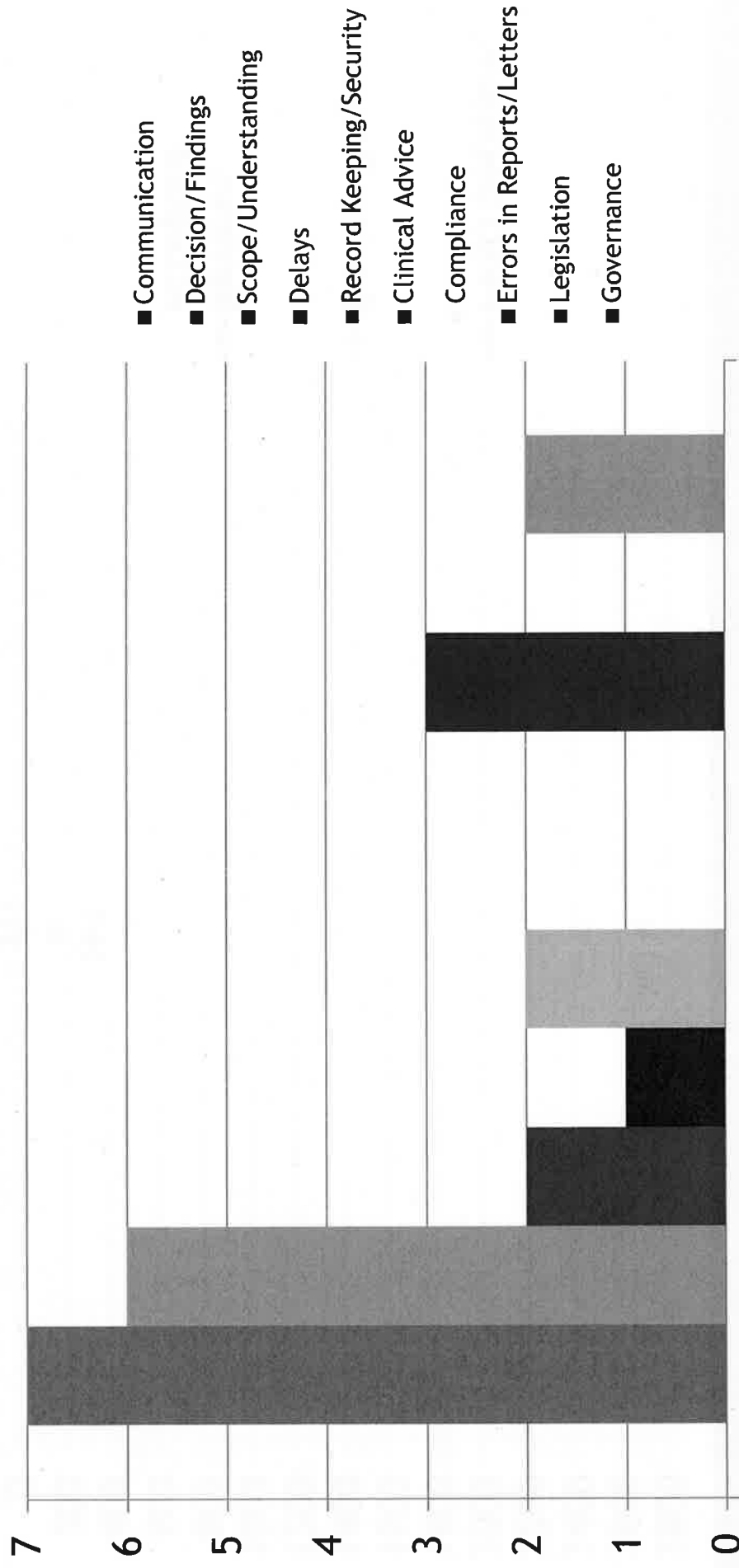
April

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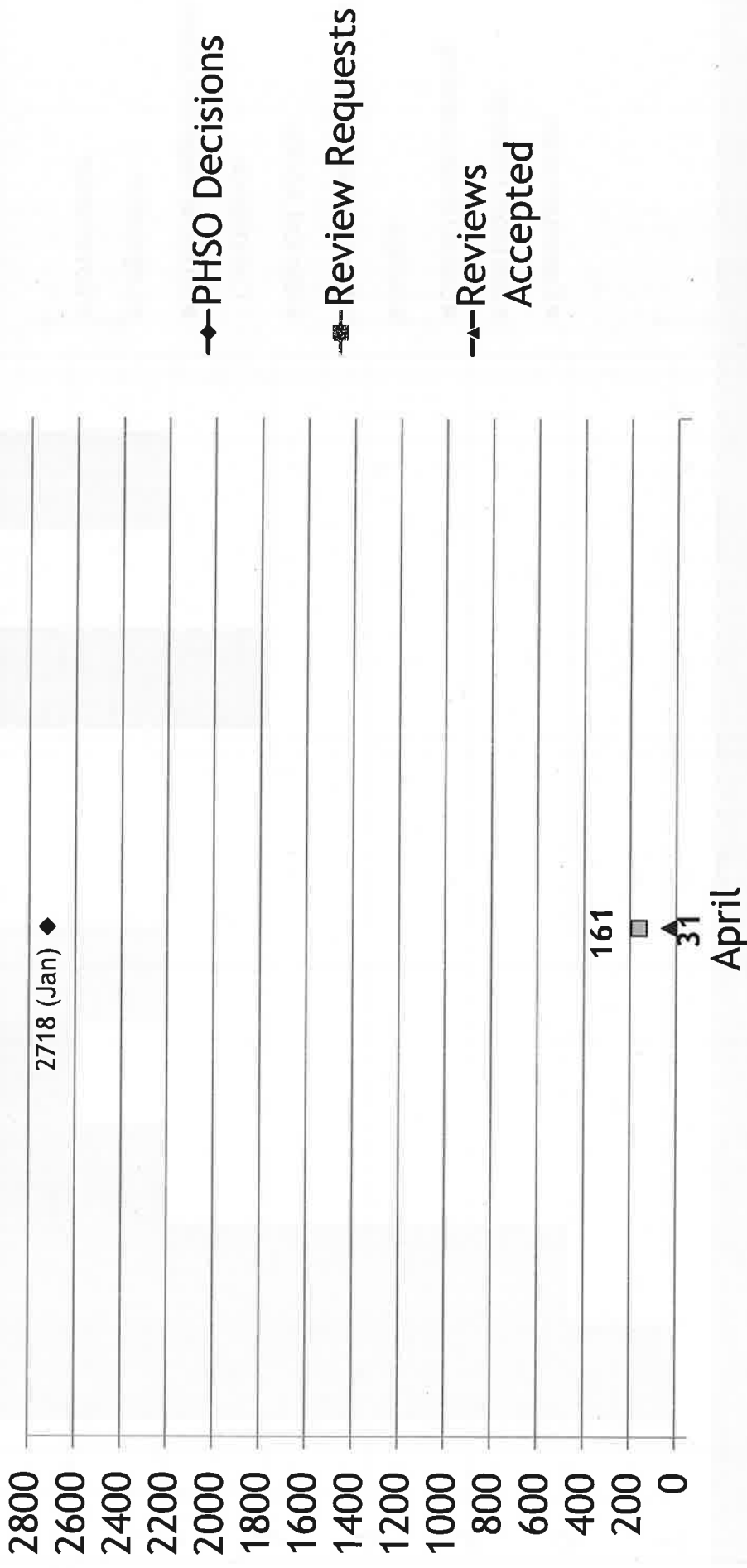


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Type of Handling Lessons



Review Requests



Year to Date figures

	Work Numbers Volume	Assessment	Investigation		Customer Service	
Total	1884 (assessments & investigations)	1571	313		3458 (all cases in hand/waiting)	
Decisions	1884 (assessments & investigations)	1571	Upheld 120	Not upheld 174	N/A	
Requests	161	50	66		Service 11	Service & Decision 7
Accepted	31	12	3	8	3	5
Upheld (total)	6	3	0	0	2	1
Upheld (%)	0.32% (against total decisions)	0.19% (against total assessment decisions)	0% (against total investigation decisions)		0.06% (against all cases in hand/waiting)	0.03% (against all cases in hand/waiting)

Recommendations for Intervention

<u>Recommended intervention</u>	<u>Intervention</u>
The PHSO website needs to contain information about investigation timeframes.	
Generic update letters need to contain information that is meaningful to the individual customer.	
We need to make a policy decision (and update CP&G accordingly) on whether, when considering injustice in relation to out of time complaints, we look to establish a link between the claimed injustice and the alleged maladministration, or whether we should limit ourselves to establishing whether the claimed injustice provides grounds to put the time limit to one side.	For consideration by Operations/QSI team. Awaiting response from Chris Morgan on action taken
Consider whether guidance for staff is required for when customers request to speak to a senior manager. Our approach currently, is inconsistent.	For consideration by Operations/QSI team. Awaiting response from Chris Morgan on action taken

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