

Current FOI Requests (13/08/14)

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

1. Introduction

- 1.1 This paper provides the Executive Team with the information requests we have received/are receiving. The Audit Committee has asked that the Executive Team maintain a strategic overview of the issues information requests are raising. Providing a regular update of this kind, helps provide this overview and also enables the Executive Team to input as required while requests are still 'live'.
- 1.2 The list of requests provided in the annex to this note focuses on requests for information under the Freedom of Information Act 2000 rather than requests for case-related data under the Data Protection Act 1998. I will only refer to case related requests of note.
- 1.3 I haven't filtered any of the FOI requests out. The cases are organised by requester rather than by topic.
- 1.4 Technically, not all of the requests are requests for recorded information under FOIA. In these cases although we would say that, we do also still try to aid and assist by providing clarification or explanation about our role and work.

NB: The requests were made via the whatdotheyknow website unless otherwise stated.

2. Requests of note

- 2.1 The vast majority of open requests are from people associated with PHSOthefacts or from current complainants who are unhappy with the decisions we have reached on their cases.
- 2.2 In terms of themes, the main focus of the group currently is the changes in our processes; compliance with our recommendations, the qualifications of our staff, and how we ensure bodies give us information. However, our annual report and staff survey has, so far at least, generated very little in the way of FOI requests.
- 2.3 I would also ask the Executive Team to note the further requests received about members of PASC, Clerks of the committee, and officials from the DOH listening in to calls on PHSO's helpline (bold).
- 2.4 I would also ask you to note that I am processing a follow-up on a request for papers relating to the award of the Board development contract. It is likely that we will have to provide further internal emails relating to the

process but a large amount of what we hold is exempt because it is commercially sensitive. I will ensure Julie and Rosemary Jackson are sighted on the information I propose to release.

- 2.5 Finally, I should like to update you on two other longstanding case related requests of note. The first is the full file request from s 40(2) (a published investigation). We have put together the information we feel should be released but have had to seek further clarification from DFID on a couple of documents. Nonetheless, we are close to completing the request.
- 2.6 s 40(2) subject access request for all the information we hold about him since the date of his last request in early 2012 also remains open. You will be familiar with the issues that have arisen in releasing/withholding information. I am hoping we will be in a position to complete this request shortly.

3. Action(s) Required

- 3.1 The Executive Team is asked to *note* the contents of the report and *discuss* as appropriate.

Annex

Requests received from people associated with PHSO the facts

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-197858	29/07/2014	27/08/2014	<p>1. Does PHSO believe that it has nothing to learn and improve regarding the functioning of this department?</p> <p>2. Organisation compliance rates</p> <p>3. Number of complaints you received about yourselves - with break down of how many upheld service complaints and how many upheld decision complaints.</p> <p>4. Number of NHS action plans</p> <p>5. Number of Parliamentary action plans</p> <p>6. Can you now release all the data regarding the staff survey of 2013.</p> <p>7. Can I also have the breakdown between fully upheld and partially upheld cases for 2013-14.</p>
FDN-197413	28/07/2014	26/08/2014	<p>1. Can you confirm that the Meridio software used by PHSO since January 2013 provides the following facilities, as stated on their website?</p> <p>"This complete infrastructure layer allows for the automatic categorization, tagging, linking, retrieval and profiling of all forms of unstructured information in real-time regardless of repository. It automatically analyses any piece of information from 1,000 different content formats, including text, voice or video and delivers over 500 functions including hyperlinking, agents, summarization, taxonomy generation, retrieval, channels, clustering, education, profiling, collaboration and alerting."</p> <p>http://www.vmware.com/files/pdf/isv/Autonomy_Corporation_-_Meridio_5_1_Support_Statement.pdf</p> <p>2. Can you confirm that all data handling staff at PHSO have been fully trained in how to use the many functions provided by Meridio software?</p> <p>3. Can you also confirm that despite the advantages of this multi-functioning, high tech software it is still necessary for data controllers to look individually at each file in order to respond to FOI requests?</p>

FDN-198097	30/07/2014	27/08/2014	<p>In a recent FOI on Closure Codes https://www.whatdotheyknow.com/request/closure_codes#incoming-539025 you released a table of closure codes used from 2011 - 2014.</p> <p>1. In 2013/14 two cases were out of remit due to - Administrative action taken on judicial authority. Can you explain what this means?</p> <p>2. In 2013/14 fifty eight cases were out of remit due to - Exercise of judicial/legislative functions. Can you explain what this means?</p> <p>3. In 2013/14, 290 cases were closed under - Investigation resolved - Upheld - Failings found leading to an unremedied injustice. Can you confirm that these were the only fully upheld cases for 2013/14 out of a total of 854 listed as 'upheld' from the Annual Report?</p>
FDN-198422	06/08/2014	04/09/2014	Please can you release under FOI minutes of meetings of the PHSO Advisory Board for 2013 and 2014?

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-196287	12/07/2014	08/08/2014	<p>I suspect you have breached the Data Protection Act by allowing two clerks to listen in to members if the public that call you in confidence, let alone actual Members of the Committee.</p> <p>Could you tell me which members if the Committee came to 'scrutinise' you and listen in to telephone calls? Could you also guide me to the part of your legislation where it states that you are legally allowed to have people that are not employed by the PHSO listen in to telephone calls by members of the public.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-197377	26/07/2014	22/08/2014	s 40(2) seems to be asking for information about any developments that have occurred with regard to the role and function of the review team since the Board meeting of 21 January 2014.
FDN-198433	07/08/2014	05/09/2014	<p>1. How many organisations were visited in the last year after difficulties obtaining evidence?</p> <p>2. Which organisations were visited?</p>

			<p>3. How much time did the investigator spend on the organisations premises on each case?</p> <p>4. Did the PHSO manage to obtain new evidence, that was previously withheld by those organisations?</p> <p>5. Did these visits affect the outcome of the case?</p> <p>Dear Parliamentary and Health Service Ombudsman,</p>
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- s 40(2)

Ref	Rec'ved	Target	Request
FDN-196930	20/07/2014	15/08/2014	<p>Please can you confirm that the Parliamentary and Health Services Ombudsman as a 'Public Service' is bound absolutely to comply with the requirements of the Equality Act 2010 and the rules of its previous forms (i.e. Equality in Disability; Age; Sex; Race; Religion; Belief etc.), and that this cannot be affected, waived or ignored under any rule of Ombudsman privilege or discretion, as has been claimed is held in some judicial matters.</p> <p>Please explain fully if this cannot be confirmed.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-197928	30/07/2014	28/08/2014	<p>I must ask has the current legal adviser decided to resign or have they been dismissed?</p> <p>When was the decision taken for them to leave that job role?</p> <p>Is the position currently vacant, or has the current legal adviser stayed on until a replacement can be found?</p> <p>Who is handling the recruitment and interview stage?</p> <p>When does the Ombudsman anticipate that a new legal adviser will be in place?</p>
FDN-198075	30/07/2014	28/08/2014	<p>It has come to my attention that in the past you used to have a tiered review service. A complainant could request a first and then a second tier review. I note that at some point you have done away with this second tier. I would like to know when that was?</p> <p>I would also like to know if you have a record of the reasons behind the decision to do away with the second tier?</p>

			<p>If so I would like to receive a copy of that information.</p> <p>I would also like to know if you have a record of the reasons behind your having had a second tier?</p>
FDN-198080	30/07/2014	28/08/2014	<p>1) How many pre-action protocol letters before action have been received by the Ombudsman for the past year (July 2014 to July 2013)?</p> <p>2) For how many of these letters did the Ombudsman do any of the following:</p> <p>a) Agree to reopen the investigation / review the decision?</p> <p>b) Contest the claim and not reopen the investigation?</p> <p>3) Of the complaints that were reopened, how many resulted in the Ombudsman revising it's procedures?</p> <p>4) Of the complaints that were contested how many proceeded to issue court proceedings?</p> <p>5) Of those complaints (that were contested and issued court proceedings) how many were granted permission to proceed?</p> <p>6) Of those same complaints, how many were refused permission, but applied for an oral hearing?</p> <p>7) How many of those complaints were granted permission following an oral hearing?</p> <p>8) Of the complaints that were refused permission on how many occasions did the Ombudsman apply for and be awarded costs?</p> <p>9) Was there any shortfall between the amount of costs awarded and the amount the Ombudsman had spent in contesting the claim? If so what was it?</p> <p>10) Following the permission stage did the Ombudsman consider any form of ADR (Alternate Dispute Resolution)?</p> <p>11) Has the Ombudsman ever made use of mediation or any other form of ADR to reach a settlement of a matter that was heading for a judicial review?</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-197376	26/07/2014	22/08/2014	<p>PHSO are currently in the process of recruiting a Legal Adviser: http://jobs.thelawyer.com/job/899523/legal-adviser/</p> <p>A request is made for a copy of the full job description for this position</p>
FDN-198539	10/08/2014	08/09/2014	<p>A request is made under the FOIA for an electronic copy of Ann Abraham's paper: "The Ombudsman and "paths to justice": a just alternative or just an alternative?" On belief and understanding it is dated 2007 or early 2008.</p>

Other Complainants

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-198277	06/08/2014	04/09/2014	<p>Since the formation of The Parliamentary Health Service Ombudsman (PHSO) , how many times has this organisation been threatened with legal action in respect of the failure of a PHSO "Investigator" or "Review Panel" to respect and adhere to the eight principles of The Data Protection Act?</p> <p>Please provide the months and the year this action was suggested by victims of the PHSO's failure to adhere to UK data legislation and please provide the dates that the legal action started against the PHSO?</p> <p>If legal action was pursued using the Small Claims route, then how many of the legal actions in respect of The Data Protection Act was successful?</p> <p>Since 2012 how many times has the PHSO been informed that victims of NHS healthcare feel that changes in legal aid mean that this is one of the few options left for them to confirm factually correct data and the possible redemption for the trauma that the complaints process has caused them?</p> <p>This request was made under The Freedom of Information Act 2000.</p> <p>An evasive answer will not be acceptable and I must warn you that the failure to provide a succinct and truthful response on this webpage may lead to legal action.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-197436	25/07/2014	22/08/2014	<p>1 We appreciate the response from your FOI officer on 22 July. to (briefly) explain the Informal Agreement between the Ombudsman's office and UKBA-UKVI.</p> <p>2 Please convey to your FOI officer our request to be supplied with a copy of the full Informal Agreement document.</p> <p>3 We also request that your FOI officer confirms to us</p>

			<p>(as our further FOIA request) whether the Informal Agreement has been or is currently also described as a "Framework Agreement" or "Memorandum of Understanding" or by any other description or title of Agreement.</p> <p>4 We separately, here continue to update the Ombudsman's office of the state of play regarding our complaints to UKBA-UKVI. s 40(2) is the UKVI officer currently directly having responsibility in the matter and she has confirmed that she/UKVI (continue to) keep your office up-dated. We follow suit.</p> <p>5 Where our reasonable and satisfactory outcome shall not be provided by UKVI or where a reasonable period has elapsed without response or resolution, then we shall have to return to your offices to seek your assistance/determinating for achieving remedying.that is reasonable on all the facts and in all the circumstances.</p> <p>6 We have yet to receive an acknowledgement or response from s 40(2) UKVI to our substantive response (sent by email on 15 July 2014 and hard copy by recorded delivery on 16 July)) to their wholly unsatisfactory 'substantive' response and offer made by 'Ombudsman and Ex-gratia manager s 40(2) on 17 June 2014.</p>
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- s 40(2)

Ref	Rec'ved	Target	Request
FDN-198256 (Not WDTK)	21/08/2014	21/09/2014	Please comply with the race relations act. Are you, s 40(2) , a white woman? Are you, s 40(2) , a racist? Please answer the questions yes or no for race relations purposes. What are your race and ethnicity codes?

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-198538	08/08/2014	08/09/2014	<p>I write in respect of The Freedom of Information Act.</p> <p>Since 2006, when were ALL the branches of PHSO staff provided with "best" delivery training in the principles of the following legislations?</p> <p>1. Safeguarding Vulnerable Groups Act 2006 2. Mental Capacity Act 2005 3. Equality Act 2010 4. Police Reform</p>

			<p>Act 2002</p> <p>Please could the PHSO confirm whether any training in the legislation outlined in points 1 to 4 had been given to advisors and consultants?</p>
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- s 40(2)

Ref	Rec'ved	Target	Request
FDN-198063 (not WDTK)	29/07/2014	27/08/2014	Request for the names of the clinical advisers in his complaint case.

Other Requesters

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-196289	13/07/2014	08/08/2014	<p>"The Ombudsman's governing Acts, the Health Service Commissioners Act 1993 and the Parliamentary Commissioner Act 1967 enables PHSO to share information for the purposes of carrying out her role. Given the importance of PASC to our statutory role we were able to share information with them. The Freedom of Information Act was not relevant."</p> <p>Some information about the Acts you refer to is contained in "An agreed set of principles between the PHSO and the ICO":</p> <p>http://ico.org.uk/about_us/how_we_work/~media/documents/library/memo_of_understanding/Documents/MOU_PHSO.ashx</p> <p>In the document it states:</p> <p>"PHSO will also consider individual rights under the Data Protection Act taking into account any relevant exemption."</p> <p>Which exemption under the Data Protection Act was used to permit 2 clerks of PASC and 4 senior officials from the Department of Health to listen in to calls on your customer helpline?</p>
FDN-198439	07/08/2014	05/09/2014	In a recent response to an Fol request you included a copy of an email sent from Luke Whiting to whatdotheyknow.com in which he voiced his disapproval

			<p>of a number of annotations made by members of the public. He wrote:</p> <p>"Requesters are being directed to the campaign website in the annotations here"</p> <p>https://www.whatdotheyknow.com/request/219931/response/547823/attach/6/WDTKrelease.pdf</p> <ol style="list-style-type: none"> 1. Please confirm the identity of the website in question. 2. Please provide all recorded information held by the PHSO on the website in question and all of the recorded information that Luke Whiting used to determine that the website in question was in fact a "campaign website". Please Include any relevant handwritten notes.
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- s 40(2)

Ref	Rec'ved	Target	Request
FDN-197087	22/07/2014	19/08/2014	I would like to know the number of complaints received by the Ombudsmen concerning dentistry for 2013, and preferably for the 2 preceding years as well.

2014-2015 QUARTER 2 - INFORMATION GOVERNANCE COMPLIANCE PROGRAMME REPORT

Paper by Hannah Burling, Information and Records Manager and Luke Whiting, Head of Freedom of Information/Data Protection

1 Executive summary

- 1.1 This paper reports the 2014-2015 Quarter 2 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.

2 Action required

- 2.1 Executive 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 7 and 8
 - approve submission of report to the 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 second quarter of 2014-2015.
- 3.2 Due to the potential for incidents to have a high level of impact on PHSO's reputation, business continuity and compliance with the Information Assurance Maturity Model, this report also includes PHSO's activity and compliance with internal information security requirements for the second quarter of 2014-2015.
- 3.3 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 After a busy Q1, the volume of requests received in Q2 fell largely due to a fall in case related requests received. Consequently, this quarter we have been able to cut our work in hand and recruiting permanently to four roles has helped bring a greater sense of stability to the team. We continue to meet our targets and effectively manage the risks associated with the requests we receive.
- 4.1.2 In Q2 2014-15 we received 163 information requests compared to 220 in Q1 and 185 in Q4 2013-14. All but 5 of the requests we resolved (181) were responded to within the statutory deadlines. This is quite sharp fall in requests received (26%) from the

previous quarter and is in part due to one requestor who submitted a very large number of requests in Q1 becoming less active. More generally, it seems likely that the Office's increased engagement and direct dialogue with the Phsothefacts group and its members has led to a fall in case related requests received.

4.1.3 This fall in information requests received this quarter has enabled us to halve the high number of cases in hand we had been carrying. We remain on track to meet our corporate service standard of responding to 90% of FOI and DP requests within the statutory deadlines and are currently achieving 96% and 97% respectively.

4.1.4 In Q2 2014-15, we logged 18 requests for review of our decisions spanning 20 cases.¹ 35 reviews spanning 37 cases have been completed during this quarter as the spike in information requests received in Q1 was translated into review requests. Three of these reviews were upheld in full and three in part.

4.2 Information requests - Non case related (FOIA)

4.2.1 In Q2 of 2014-15 we received 98 non case related requests for information under the Freedom of Information Act 2000. This compares to 132 in Q1 and 98 in Q4 2013-14, 105 in Q3, 82 in Q2, and 51 in Q1.

4.2.2 In Q2 2014-15 97% of FOI requests resolved (109 of 112) were closed within the statutory deadline. We are currently on track to meet and exceed our corporate service standard of responding to 90% of FOI requests within 20 working days.

4.2.3 Four requesters made 33% of the FOI requests received in Q4 (32). 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 have generally remained hostile in tone and content which continues to make them more difficult to respond to and resolve. Though we continue to be as helpful as possible we have tried to make our responses more circumspect this quarter which has made it easier to draw some requests to a close. For many of our regular requestors we are at the point where on some of their most common request topics (our review process for example), there isn't much more we are able to say. In several instances we have been in the position of refusing requests because they are repeats.

4.2.5 This being the case, towards the end of this quarter we have seen requests become more targeted and specifically in response to things like the publication of specific investigations and our annual report, interviews in the media with Dame Julie, or public criticisms of the office in the media or on social media.

4.2.6 In Q2 2014-15, we received FOI requests in relation to Jeremy Hunt's criticism of the office, Audit Committee minutes and National Audit Office reports, the websites accessed by PHSO staff, compliance ratings, legal action and judicial review cases, our annual report and performance figures, staff bonuses, and drug

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.

and alcohol testing of staff. We also received requests for information about PASC's visit to PHSO's office and their listening to telephone calls on our customer services line.

- 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 65 of the 163 information requests received in Q2 2014-15 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 a fall of 27% from Q1 (88). It is difficult to say for sure why this fall has occurred but it seems most likely to be linked to the increased engagement with some of our frequent requestors.
- 4.3.2 97% of the case-related requests we resolved (69) in Q1 2014-15 were resolved within the statutory time limits. We are currently on track to exceed 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.
- 4.3.4 Requests of note we have closed in Q2 have related to cases with a high media profile; cases related to Morecombe Bay and an investigation we published into the Department for International Development.

4.4 Complaints to the ICO and Tribunal cases

- 4.4.1 In Q2 2014/15, five complaints were referred to the ICO. Two were related to FOI requests and three were related to case related requests. In four of the cases the ICO concluded we had complied with the legislation. One of the FOI complaints remains open.
- 4.4.2 As I mentioned in my Q1 report, two FOI cases we closed earlier in the year have been appealed to an information tribunal. By this I mean that the requestor was unhappy with the ICO's decision not to uphold their case and they have exercised their right to appeal that decision. A hearing date is still to be listed. I will of course provide an update in my Q3 paper.

4.5 Staffing in the FOI/DP Team

- 4.5.1 We have now recruited three FOI/DP officers to permanent roles in the team. We have also successfully recruited a Business Support Officer who will start in the team in a few weeks.

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

- 5.1 In total, there was 1 'Major Incident' and 36 'Minor Incidents' reported during Q2. Details of the incidents that took place can be found in Annex A.
- 5.2 The number of total incidents in Q2 has slightly increased compared to Q1 but the number of 'major' incidents decreased, which is positive. The one 'major' incident this quarter involved the name of a doctor not being removed from a published report. Failure to anonymise documents appropriately seems to be an increasing risk for PHSO. We are hopeful that the recently published Anonymisation Guidance will improve practice in this area. The guidance is being incorporated into the refreshed case summary guidance for all investigators.
- 5.3 The number of minor incidents has risen slightly compared to Q1 and remains high. The primary cause of incidents is staff not checking documents before sending - e.g. not checking address or email details, or mentioning the incorrect complainant in cover emails/letters. This remains our biggest risk. Staff are regularly reminded of how to handle information. It is rare for a member of staff to make the same mistake twice.
- 5.4 A 'security sweep' to check if staff are complying with our clear desk policy was carried out across both sites in September. 17 breaches of policy (compared to 11 in Q1) were found. This represented an increase and the majority of breaches were related to protectively marked documents containing personal data being left on desks or in unlocked pedestals. Individual staff had the documents confiscated and staff are provided with information on how to comply with the policy when retrieving their confiscated documents. IAO's have received an update with key messages for staff following the security sweeps.
- 5.5 With the focus on 'quality' in our casework it is hoped that the incidence of human errors that cause many of our information security breaches will decline. The ICT/IRM team is part of the Quality and Service Integrity Directorate and steps are being taken to integrate information security needs into the Quality Framework processes. In the meantime we will look to managers to help improve behaviours.
- 5.6 None of the above incidents were reported to the ICO by PHSO during quarter 2 as they did not meet the notification criteria (set out in the Information Security Breach Policy). A complainant did however report PHSO to the ICO regarding some missing documents (an email and a letter) that we have acknowledged are missing from our casefile. ICT/IRM are looking into this issue and will continue to cooperate with the ICO; however the ICO's new way of dealing with individual complaints means that they will keep this on record but on this occasion have asked us to investigate the complaint and respond appropriately to the individual concerned. They do not expect a response from PHSO on this occasion.
- 5.7 ICT/IRM continue to work on the Information Assurance Maturity Model (IAMM), which seeks to ensure that PHSO is managing its information assets and risks

appropriately. As part of this programme we launched the Data Protection eLearning tool for all staff to complete. Demonstrating that PHSO staff are aware of their responsibilities in Data Protection is a key requirement of the IAMM and the ICO expects this of all organisations handling personal data. PHSO's Information Asset Owners have all received training from the National Archives or are booked to attend in November 2014.

- 5.8 The Head of ICT/IRM meets with Mick Martin as PHSO's Senior Information Risk Owner (SIRO) on a monthly basis to discuss Information Management/Security related issues. They are about to undertake a programme of training and mentoring to support them in their roles. This will be particularly useful as PHSO moves away from the GSi and begins to work more closely with organisations like the LGO, who may adopt a different approach to information risk.

6. Findings – Records Management

- 6.1 A compliance check on how staff are managing information (i.e. in Meridio and Visualfiles) was carried out at the end of Q2. This included checking that staff are using our systems to store information in a manner which enables the key requirements of good records management (naming conventions, correct storage/system, protective markings, appropriate access controls, appropriate versioning).
- 6.2 Due to the changes in structure since Q4 when the last compliance checks were carried out it is difficult to provide a direct comparison regarding records management compliance. The case file structure is still an area of uncertainty and no clear policy has been communicated to staff since May 2013. However the following elements of records management scored very highly in our checks:
- Correct use of Access Controls in Meridio
 - Naming of documents on Meridio and Visualfiles
 - Documents and emails are being stored in the correct locations in Meridio
 - Large majority of staff are complying with the Clear Desk Policy
 - Attendance at IRM induction training remains high
- 6.4 Work will continue to ensure staff remain knowledgeable in good records management practice, with the following areas identified as requiring further work:
- Understanding the Protective Marking Scheme (around Information Handling rather than 'access control')
 - Declaring Records (Meridio)
 - Version Control
 - Case file structure
 - My Workspace – appropriate use
 - Still old folders to be reviewed on G:Drive fileshare
 - SharePoint/Website/Intranet still need retention policies applied
 - Completion of the Meridio induction checklist is quite low. IRM are trialling a new way of getting this information to Learning and Development from Q2 onwards.
- 6.5 The IRM team will continue to use the existing LIRA network meetings to discuss how they can help improve practice in their areas. The IRM team will use existing communication methods to explain and demonstrate examples of best practice. Work continues to ensure appropriate records management policies are applied to

information in SharePoint, Website and Intranet. We have found approaching LIRA's to assist us with the work around individual's My Workspace has been beneficial and we will continue to use this network to improve office practice in this area.

- 6.6 Very few staff are following the paper elements of the case file structure that was introduced last year. The electronic (VF) elements are quite good. As the office is moving towards electronic working a review of the paper case file structure could be disproportionate except where it can inform the design of the electronic system.

7. Risk Assessment

7. 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 of 2014-15
- 7.1 The number of minor Information Security incidents has risen during Q2 compared to Q1, there is evidence that staff are still not checking their work before transmitting information (i.e. email addresses, cutting and pasting information, selecting wrong body). The main risk, and cause of most incidents, is human error, but by working with the Quality and Service Integrity Directorate, along with staff and managers when mistakes do happen, helps to decrease the likelihood of mistakes happening again and we expect to see a decrease in the number of incidents over the coming months.

8 Next steps

- 8.2 The ICT/IRM team will continue to raise awareness of what staff should be doing to use and manage our information in accordance with Records Management guidelines and Information Security requirements. We will work with HR, People and Talent and managers to find ways to improve behaviours, and are working to integrate the requirements of information management into quality framework tools and processes developed by the Quality and Service Integrity Directorate. The ICT/IRM team is involved in the new CMS project to provide requirements and recommendations in terms of information and records management and information security.

PROTECT

Annex A - Information Security Incidents - further details

1 Major Incidents:

Definition of Major: *Personal Data or Protectively Marked PHSO information lost and not recovered; or recovered but still compromised (i.e. shared inappropriately)*

Reference	Summary	RAG rating
2014-2015_02 External Affairs	Name of doctor left in published report. Staff informed the doctor and apologised. The report was replaced on the website with an anonymised version. Incident Closed.	Low <ul style="list-style-type: none"> Reference to Clinician's name Clinician was not distressed by mistake and accepted apologies Report removed from website and updated with anonymised version

36 Minor (or near miss) incidents

Definition of Minor: *Incidents where information (whether personal data or protectively marked PHSO information) has been recovered (a 'near-miss') or breaches of internal policies and procedures but where information is not believed to have been compromised (i.e. not password protecting documents in emails)*

Reference	Summary
038	HR Confidential waste sacks/boxes not stored in locked cupboard at the end of the day
039	Complaint summary letter sent to NHS Trust which named one patient but all the details related to a different patient
040	3 boxes sent using TNT to Capita Secure Site rather than the Exchange as a result of Capita staff being granted access to the online system used to arrange deliveries
041	Individual received an invite to interview letter that was for a 3rd party (another internal candidate)
042	An email about a new starter's training was sent to an external gmail address rather than an internal member of staff
043	A case file intended for SPSO was sent at the same time as another package and therefore received by PSOW by mistake
044	An incorrectly addressed letter was returned, unopened to PHSO. The correct address had been provided and VF was not updated accordingly.
045	A letter sent to the wrong trust who did not oversee the clinic that the complaint was about
046	Final report sent to wrong CCG
047	Copy of complaint form forwarded to Practice who then contacted complainant for a signature.
048	Correspondence lost internally - sent by post opening team but not received by Investigator and has not been located
049	Information about a third party released via FOI request - was anonymised and 3 rd party cannot be identified
050	Draft report sent to the wrong trust
051	Acknowledgement and more information required letter sent to the wrong address.
054	Update letter for a different complainant accidentally sent to MP along with correct update letter

PROTECT

055	Email regarding how to progress a complaint was sent to co.uk version of complainants email address rather than the correct hotmail.com address
056	Draft report and password sent to incorrect email address - left out '57' in the address
057	IRM store room and key cabinet unlocked over weekend - IRM adamant they had locked the store room. Unsure why key cabinet was left unlocked. Nothing missing.
058	Government official named in report. They complained that they should not have been.
059	Blackberry handed back with password attached; laptop returned with code written on instructions
060	Recorded delivery letter missing internally - subsequently found following a stop and search
061	FOI request for our staff structure. Submitted to WDTK and published online. Some staff names redacted using a tool to hide the information; but since found to be accessible via html. Document eventually removed from website and replaced
063	Email relating to third party disclosed in response to information request
064	Boxes sent from Millbank to CAB conference instead of the Exchange.
065	Complainant believes they gave us an orange folder and a diary was enclosed - no evidence to suggest we received diary in first instance
066	Email to trust about complaint. All correct documents attached but covering email referred to a Mrs Robinson rather than a Mrs Brown.
067	Hard copy correspondence scanned into VF but original cannot be found - believed to have been destroyed
068	Letter sent to Trust in an envelope addressed to another trust.
069	Letter sent to incorrect address and returned
070	Draft report sent to Trust at their old address - we were informed of new address but not explicitly
071	Papers relating to individual sent to 3rd party - letter intercepted and returned unopened. No disclosure of data.
072	Case file papers that had been taken off site were not returned in line with policy but all case file has been returned.
073	USB sent to Millbank from the Exchange to transfer files onto VF. Not been returned to Exchange and has not been located - searches on-going
074	Correspondence signed for but cannot be traced after that - searches on-going
075	Draft report addressed to wrong address however envelope had correct address and was received by correct individual
076	P60 sent to wrong member of staff (an address was used for a former member of staff with the same initial/surname as the current member of staff)

NB 037, 052,053, 062 -relate to Physical Security incidents, not Information Security.

Information Requests

Author: Luke Whiting

Performance

- At the mid-year point we have received 156 case related requests for information under the DPA and 225 requests for information under FOIA. This is up 27% on the same time last year (138 DPA requests and 163 FOI requests).
- 113 (50.5%) FOI requests received so far this business year have been made by four people.
- At the mid-year point 96% of DPA requests closed (160) and 96% of FOI requests (222) were closed within the statutory deadlines. We are exceeding our corporate service standard of closing 90% within the statutory timeframes.
- In each of the 12 cases referred to the Information Commissioner so far this year, our application of the legislation has been upheld.

Information Requests received

FOI requests

- The majority of FOI requests we have received this year are from people associated with the PHSO the facts or from other complainants who are unhappy with the decisions we have reached on their cases. While there have been requests for data from researchers and from stakeholders these have been irregular and in the minority.
- In terms of themes, the PHSO the facts group has not only continued to focus on the our review and post review processes but other areas of our performance and processes such as how we manage unreasonable behaviour and treat vulnerable people, legal action and judicial review cases, the numbers of cases we investigate and how we intend to do more with less, how we ensure compliance with our recommendations, and how we ensure bodies give us information. Other requests of note have focused on PHSO's relationship with PASC, questioning, for example, the appropriateness of the visit of PASC members to our telephone advice line. We have also had requests for information about criticisms of PHSO by Jeremy Hunt and the Morrish family.

DPA requests

- The casework related requests we have received were generally in relation to complaints about the NHS that were not upheld. 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 e.g. clinical advice.

Key points

- When a customer asks for information from their case file we will provide as much information as we can in order to show what we did, how we did it, and what evidence we relied in coming to our decision.

Author: Luke Whiting

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- Our FOI requestors have made it clear that they were unhappy with the service they had received from PHSO and the outcome in their case. PHSO has heard these concerns, engaged with them, and by reopening a dialogue, has begun to resolve them.
- Our customers have told us that they want to be able to easily access much more information about PHSO and its work than is currently available on our website. Work is underway to update and add to our publication scheme. A searchable disclosure log of FOI responses will also shortly be available on our website.

Current FOI Requests (13/11/14)

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

1. Introduction

- 1.1 This paper provides the Executive Team with an update on the information requests we are receiving. The Audit Committee has asked that the Executive Team maintain a strategic overview of the issues information requests are raising. Providing a regular update of this kind, enables this overview and also allows the Executive Team to provide input as appropriate while requests are still 'live'.
- 1.2 The list of requests provided in the annex to this note focuses on requests for information under the Freedom of Information Act 2000 rather than requests for case-related data under the Data Protection Act 1998. I will only refer to case-related requests of note.
- 1.3 I haven't filtered any of the FOI requests out. The cases are organised by requester rather than by topic.

NB: The requests were made via the whatdotheyknow website unless otherwise stated.

2. Requests of note

- 2.1 The list of open requests is unusually mixed. There are complainants past and present, as well as other interested parties like journalists, and stakeholder organisations. The majority of open requests are from one requestor who makes frequent requests of lots of different government departments. They are loosely linked with PHSOthefacts (i.e. they message on the WDTK website) but they haven't brought a complaint to PHSO before. This individual appears to make requests for information that they think others will find useful.
- 2.2 In terms of themes, the main focus of the requests from complainants are our policies and processes. However, there is some attempt to drill down on things like our review process, sickness absence, attendance records, and casework performance (cases in hand etc).
- 2.3 The Executive Team are already aware of the FOI request from the HSJ and from s 40(2) for our audit notes and NAO reports. The HSJ request is almost complete and most of you been involved in putting together my first response. There is a small amount of information outstanding which we are consulting with the NAO about and a further response to the HSJ about this will be sent in due course.

2.4. The request for Audit Committee minutes is more complex but I hope to complete that work next week. I will ensure you are sighted on the information I plan to release beforehand.

3. Action(s) Required

3.1 The Executive Team is asked to ***note*** the contents of the report and ***discuss*** as appropriate.

Annex

Requests received from people associated with PHSO the facts

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-199103	15/08/2014	15/09/14	<p>Please can you release under FOI all Audit Committee Minutes from 2012 until the present date?</p> <p>Can you also release any reports produced by the National Audit Office in relation to PHSO from 2012 until the present date.</p>
FDN - 205408	20/10/2014	FOI: 07/11/14	<p>According to the Minutes of the PHSO Board Meeting of 25th March 2014 a paper was delivered which outlined ways in which PHSO aimed to learn lessons from complaints made about their services.</p> <p>9. Learning from Complaints About Us</p> <p>9.1 The Board welcomed the paper which outlined how PHSO was using the insight and learning from complaints about our service and decisions to feed into our service design and improve our service provision. It had also informed our strategy of providing more investigations for more people and our quality framework.</p> <p>This paper was not included with the minutes and would be of interest to the general public and particularly to those who have made direct complaints to the Ombudsman about their services. I am therefore requesting to see a copy of the named paper presented on the 25th March.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-205866	27/10/2014	24/11/2014	<p>I have received a response to my request for a SAR in which the PHSO employee has apparently counted up the number of requestsI have made- and feels that this has some bearing on the PHSO's response to my SAR. My previous understanding was also that SAR's are not dependent, or influenced, by the amount of FOIA requests made. Could you therefore please send me the PHSO's formal response - which is sent to all - requesters on receipt of a SAR request? The point being that I wish to see if all SAR enquirers have their FOIA requests innumerated in the same way, as the employee would obviously not have bothered to spend time counting up Foi requests - if there was no need to apply this criteria.</p>

FDN-206900	10/11/2014	FOI: 8/12/14	<p>In the absence in your reply of any Section 16 guidance on how I might narrow my request, please could you provide me with the date and the time and spent on this file: files.shroomery.org site- (no date given on your response)</p> <p>Using these specifics in the clarified request-</p> <p>.....a. Please now provide the time (e.g. 10.30am) and length of usage (e.g. 10 minutes) of each website, when it was used.)</p> <p>... and using the hours surrounding this 'hit' as you term it - (before and after - With this particular hit as a central point on the list) to comply with the financial constraint of £450 that you specify.</p>
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Other Complainants

- s 40(2)

Ref	Rec'ved	Target	Request
FDC-205948 (not WDTK)	27/10/2014	05/12/2014	<p>1 Can you confirm that you or your agent holds any data record, notes, recording or any other document relating to the of the telephonic survey which was the topic of your contact with me? If so please provide a copy of the data record of the survey conducted with me as well as any other notes (including handwritten notes), records and documents and audio recording which you generated in relation to the survey contact with me. (For the avoidance of doubt I am asking for the records of the survey conducted with me personally and not for the full survey record of other complainants.)</p> <p>2 Can you provide me with the questionnaire which formed the basis of your survey contact with me?</p> <p>3 If you had any correspondence with IFF research in relation to the survey contact with me can you please provide copies of such correspondence?</p> <p>4 If the data record of my survey has been or will be incorporated in the results of any research, report or survey results which IFF Research has conducted on behalf of the PHSO, can you please confirm and identify</p>

			these and provide me with a copy of these documents?
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- s 40(2)

Ref	Rec'ved	Target	Request
HS-189075 (not WDTK)	21/10/2014	18/11/2014	You state that you may uphold a complaint by a patient undergoing a consultation alone with a consultant. Please take this as a Freedom of Information request and supply me with the number of times that you have done so. You have not answered my question as to how I was supposed to provide you with evidence. You have failed to provide me as requested with copies of s 40(2) statement and any other evidence provided by the Trust. I ask again that you disclose this information.

Other Requesters

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-204717	21/10/2014	18/11/2014	<p>I note that your staff benefit from:</p> <p>'Subsidised on-site café (London)'</p> <p>'Childcare vouchers'</p> <p>'Employer contribution to gym membership'</p> <p>http://www.ombudsman.org.uk/about-us/work-for-us/what-we-offer</p> <p>1. Please provide details of the amount the on-site cafe in question was subsidized to the tune of in the financial year 2013/14 and, if known, its total turnover.</p> <p>2. Please provide details of the value of childcare vouchers provided to staff in the year 2013/14 and the number of staff who received them.</p> <p>3. Please provide details of the total contribution made to gym membership and the number of staff who benefited from it.</p>
FDN-205934	26/10/2014	21/11/2014	<p>You recently provided the following information:</p> <p>"2011/2012 - 261 Cases reviewed by external reviewers"</p>

			<p>https://www.whatdotheyknow.com/request/percentage_of_review_requests#comment-54627</p> <p>Information previously provided:</p> <p>"Between April 2011 - March 2012, 241 cases were reviewed by external reviewers."</p> <p>https://www.whatdotheyknow.com/request/e...</p> <p>Please confirm the monthly start and end dates concerning the figure of 261 that you have provided.</p>
FDN-205925	26/10/2014	21/11/2014	<p>You recently provided the following information:</p> <p>You recently disclosed that in 2013/14 staff had single periods of sickness absence of up to 75 days.</p> <p>https://www.whatdotheyknow.com/request/sickness_absence_21#incoming-568306</p> <ol style="list-style-type: none"> 1. Please provide all information held on what happens to the cases being handled by investigators who are absent because of sickness. 2. After how many days of sickness absence are an investigator's cases passed to someone else to investigate? 3. Is the caseload of an investigator who returns to work after a period of sickness absence reduced? If so, specify the length of sickness absence required for an investigator's caseload to be reduced as well as the maximum period of time for which it can be reduced. 4. Please provide all information held concerning the impact of sickness absence on those salary of staff affected.
FDN-205856	26/10/2014	21/11/2014	<p>You wrote:</p> <p>'A customer may request a review by an external reviewer. However, the decision to allocate a case to an external reviewer remains with PHSO.'</p> <p>https://www.whatdotheyknow.com/request/external_reviewers</p> <p>Please provide for each of the three past years:</p> <ol style="list-style-type: none"> i. The number of requests received requesting that a

			<p>review be conducted by an external reviewer;</p> <p>ii. the number of these requests that were granted;</p> <p>iii. details of who decides whether to grant the request; and,</p> <p>iv. details of the procedure for notifying the requester whether his or her request has been granted.</p> <p>Include copies of all standard documents used throughout the process.</p>
FDN-205937	26/10/2014		<p>In circumstances where an employee's attendance or performance is not up to scratch he or she may be subject to an Improvement Plan:</p> <p>https://www.whatdotheyknow.com/request/218269/response/542536/attach/html/3/Capability%20Policy%20Guidance.pdf.html</p> <p>1. Please provide details of the number of staff in each of the past 3 years who were subject to Improvement Plans. Specify the figures for those working in 'Investigations' and 'Complex Investigations'. Breakdown the figures to reveal those relating to:</p> <p>a. attendance</p> <p>b. performance.</p> <p>'The Healthy Workforce policy gives guidance on "trigger points" which indicate the Office's view of levels of absence which are unacceptable.'</p> <p>2. Please provide details of what these "trigger points" are for each section, unit, department etc. and specify the number of times in each of the past 3 years for each section, unit department etc that an employee reached the "trigger point"</p>
FDN-205966	29/10/2014	26/11/2014	<p>1. Please provide all information held concerning any obligation the General Medical Council is under to notify you of how it acts on the information that you share with it about doctors whose actions have put patients at risk.</p> <p>2. For each of the past three years, please provide the number of times you have shared information with the General Medical Council under section 15 of the Health Service Commissioners Act 1993.</p> <p>3. For each of the past 3 years please provide the number of times the General Medical Council has contacted you with information concerning the fitness of a doctor whom</p>

			<p>you have shared information about to practice.</p> <p>Para 66 of the report refers to a "Responsible Officer" that all doctors have. Unless the doctor who failed the patient provides you with details of her Responsible Officer you cannot contact the Responsible Officer to inform them of the doctor's failure to provide proper treatment.</p> <p>4. For each of the past 3 years, please provide details of:</p> <p>a. the number of Responsible Officers you have sought to contact following the outcome of an investigation;</p> <p>b. the number of Responsible Officers you have been able to contact following the outcome of an investigation.</p>
FDN-205411	22/10/2014	19/11/2014	<p>You recently provided the following information:</p> <p>Casework Activity Year to Date score Conclude 65% of cases within 1 month: 67.4% Conclude 95% of cases within 6 months: 95.9% Conclude 99% of cases within 12 months: 98.8%</p> <p>https://www.whatdotheyknow.com/request/new_staffing_levels#incoming-503165</p> <p>1. Please provide the actual number of cases on which each of the percentage figure outcomes was based.</p> <p>2. Please provide details of the number of caseworkers responsible for achieving each of the three outcomes.</p> <p>3. Please disaggregate the figure provided in response to 2 to show the specific job titles of those responsible for carrying out the casework.</p> <p>The Independent Case Examiner has confirmed that:</p> <p>'on average an investigation officer aims to deal with a caseload of six cases at any one time.'</p> <p>https://www.whatdotheyknow.com/request/234086/response/575311/attach/html/3/Fol%204579%20reply.pdf.html</p> <p>4. What is the caseload that a PHSO investigation officer aims to deal with at any one time? Please specify the figure for those handling 'Complex Investigations'.</p> <p>5. What is the current/most recent average caseload a PHSO investigator has/had at any one time? Please specify the figure for those handling 'Complex Investigations'.</p>

FDC 206222	05/11/2014	03/12/2014	<p>It has been revealed that a PHSO computer was used to access the website files.shroomery.org:https://www.whatdotheyknow.com/request/internet_sites_visited_by_phso_e#incoming-580853. This website contains information on mind-bending, hallucinatory mushrooms and information on how to manufacture the class A drug cocaine. The harm caused by cocaine is widely documented: "Cocaine has powerful negative effects on the heart, brain, and emotions. Many cocaine users fall prey to addiction, with long-term and life threatening consequences. Even occasional users run the risk of sudden death with cocaine use." http://www.webmd.com/mental-health/addiction/cocaine-use-and-its-effects1. Please provide all information held on any policy the PHSO has concerning the drug-testing of its employees. 2. Please confirm whether any investigation has been instigated to establish who accessed the website in question and why.</p>
FDC 206226	05/11/2014	03/12/2014	Please provide full details of the categories of information that are captured by your servers when someone accesses a website from a PHSO computer
FDN- 206902	10/11/2014	8/12/14	<p>Your press office which accepts enquiries from the media comprises 2 press officers, 1 senior press officer and 1 manager:</p> <p>http://www.ombudsman.org.uk/about-us/news-centre/press-contact-information</p> <ol style="list-style-type: none"> 1. How many press enquiries were received by the PHSO during each of the past three months? 2. Specify the organisations from whom the requests were received and the number of enquiries relating to each. 3. Of the press enquiries received, how many were on the telephone number 0300 061 4996? 4. Of the press enquiries received, how many were on the telephone number 07825 781 289? 5. Of the press enquiries received, how many were by email? <p>The telephone number 07825 781 289 is for your duty press officer and allows journalists to contact you outwith normal hours.</p> <ol style="list-style-type: none"> 6. Please provide details of the amount paid to the duty officer for being available to take calls at any time of the

			day. Include weekend and holiday rates.
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- s 40(2)

Ref	Rec'ved	Target	Request
FDN-205870 (Not WDTK)	24/10/2014	21/10/2014	<p>I write to with regards to a FOI REQUEST on the following information.</p> <p>1-Are you appointed by the crown the monarchy or the crown corporation to investigate complaints?</p> <p>2-If a complaint is not resolved by the service, who or what office can intervene?</p>

Other Requests of note

- Request from s 40(2)

Ref	Rec'ved	Target	Request
FDN-204963 (Not WDTK)	16/10/2014	24/10/2014	<p>The three charities mentioned above provide discretionary support to those who contracted either HIV (in the case of s 40(2)) or Stage 1 & Stage 2 Hepatitis C s 40(2)) following treatment with NHS-supplied blood products, as well as the partners and carers of those infected.</p> <p>My understanding is that if people have issues with any of these charities, their first recourse would be to approach the Charities Commission complaining about the charity. If dissatisfied with the Commission's decision, they could then make an internal complaint to the Charities Commission itself complaining about the Commission's own handling of the complaint. Once a complainant has exhausted all three stages of the Commission's internal complaints procedure - namely the Stage 1 review, Stage 2 review and Independent Complaint Review - I understand that they would then be able to approach the Parliamentary and Health Service Ombudsman (PHSO) with a complaint about the Charities Commission.</p> <p>I would thus like information on the following:</p> <p>(1) How many complaints the PHSO has received in relation to the Charities Commission's handling of complaints regarding each of these three charities. I would like to know the number of complaints received in each year since these charities' inception, at their respective dates.</p> <p>(2) Any information on the outcome of the decisions made</p>

			<p>by the PHSO, such as whether it was decided in favour of the complainant or not.</p> <p>Finally, I would also like to know whether the PHSO deals with complaints from individuals in Scotland, Wales and Northern Ireland in relation to these three charities. This is because - although the relevant Gov.uk page says “there is a different process for reporting serious concerns about charities in Scotland and Northern Ireland” (see: www.gov.uk/complain-about-charity) - there are no Northern Irish or Scottish versions of these charities listed either on the Northern Irish Charities Commission website or the Scottish Charity Register. Indeed, curiously, on the English and Welsh Charities Commission’s website, these three charities say they operate variously in: England & Wales, Scotland and Northern Ireland (as in the case of s 40(2)); England & Wales and Scotland s 40(2)); and Northern Ireland and Scotland s 40(2)). I would appreciate any clarification you could give in this area; and have sent a similar FOI request to the Charities Commission in relation to this.</p>
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- Request from IPCC

Ref	Rec’ved	Target	Request
FDN-206892 (not WDTK)	07/11/2014	5/12/14	<p>The IPCC has asked for 'the number of complaints that have been made to the PHSO about failure of service providers to follow the Victims Code'.</p> <p>2-If a complaint is not resolved by the service, who or what office can intervene?</p>

- Request from [s 40\(2\)](#)

Ref	Rec’ved	Target	Request
FDN206063(not WDTK)	29/10/2014	26/11/14	<p>Could you please perform a key-word search on all complaints that have been selected for investigation by the PHSO since 2009, using the following words: [list of cancers provided]...For all relevant complaints, could you please provide a breakdown of the following, for each complaint, structured by the year that the complaint was resolved:</p> <ul style="list-style-type: none"> • Which service provider the complaint is associated with (e.g. hospital, GP surgery) • Why the complaint was escalated to the PHSO (e.g. ‘no communication by trust’) • Why the NHS Trust’s response to the complaint was investigated by the PHSO

			<ul style="list-style-type: none"> • What this investigation cost, along with any further breakdown that you can give (e.g. administrative cost, legal costs, etc.) • What action was taken as a result of the investigation, along with a breakdown of the associated costs • The age or year of birth of the person making the complaint • The gender of the person making the complaint • Date the claim was received • Date the claim was resolved • A free text summary of the claim (if available) with any personal information or identifiers removed or anonymised. <p>In addition, please include a list of unresolved complaints containing the above key words, broken down by the above categories, where possible.</p> <p>I would like to have this information in an editable Excel spreadsheet.</p>
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• Request from s 40(2)

Ref	Rec'ved	Target	Request
FDN 204872 (not WDTK)	15/10/2014	12/11/2014	<p>I wish to receive a copy of the investigation report submitted to the PHSO from the National Audit Office following its recent examination of procurement issues at the PHSO and in particular the decision to award a contract to Rosemary Jackson Consulting Ltd. This report has been referred to publicly in Health Service Journal and has raised continuing public interest questions for both the PHSO and the NAO particularly around the probity of the PHSO and its procurement processes and the suggestion of potential conflicts of interest.</p> <p>I would also like to receive copies of any emails or other correspondence sent to the NAO from PHSO staff in relation to the above investigation, particularly but not limited to, correspondence between Dame Julie Mellor and/or her office and the NAO as well as correspondence between Dame Julie Mellor and/or her office and PHSO staff related to the above investigation.</p>

• Request from s 40(2)

Ref	Rec'ved	Target	Request
27/10/2014 (Not WDTK)		24/11/2014	<p>1. How many complaints have been made about the mental health care given by Burnley General Hospital since January 2010?</p> <p>2. Can we have the figures broken down year by year e.g the number of complaints in 2012, in 2013 etc.</p>

			<p>3. How many complaints have been made about the mental health care given by Burnley General Hospital by Burnley residents?</p> <p>4. How many complaints have been made about the mental health care given by Burnley General Hospital by Pendle residents?</p> <p>5. Can we have a breakdown of the complaints made about the mental health care given by Burnley General Hospital since January 2010?</p> <p>Please can we have a response by email.</p>
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Current FOI Requests (11/12/14)

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

1. Introduction

- 1.1 This paper provides the Executive Team with an update on the information requests we are receiving. The Audit Committee has asked that the Executive Team maintain a strategic overview of the issues information requests are raising. Providing a regular update of this kind, enables this overview and also allows the Executive Team to provide input as appropriate while requests are still 'live'.
- 1.2 The list of requests provided in the annex to this note focuses on requests for information under the Freedom of Information Act 2000 rather than requests for case-related data under the Data Protection Act 1998. I will only refer to case-related requests of note.
- 1.3 I haven't filtered any of the FOI requests out. The cases are organised by requester rather than by topic.

NB: The requests were made via the whatdotheyknow website unless otherwise stated.

2. General themes and issues arising

- 2.1 The majority of open requests are from one requestor who makes frequent requests of lots of different government departments. They are loosely linked with PHSOthefacts (i.e. they message on the WDTK website) but they haven't brought a complaint to PHSO before. This individual appears to make requests for information that they think others will find useful.
- 2.2 In terms of themes, the main focus of the requests from complainants are our policies and processes. They in the main relate directly to issues arising in their cases or the decisions we have taken.
- 2.3 Perhaps unsurprisingly, recent press coverage (positive and negative) is also generating information requests. There is a real desire from our frequent requestors to test everything we say publically or to reinforce criticisms made by others of our service. In short, we are being asked to back up our public statements with evidence.
- 2.4 The request for Audit Committee minutes has taken longer than I had hoped. Consultation was required from some third parties. I hope to complete work on the request shortly.

3. Action(s) Required

- 3.1 The Executive Team is asked to ***note*** the contents of the report and ***discuss*** as appropriate.

Annex

Requests received from people associated with PHSOthe facts

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-199103	15/08/2014	15/09/14	<p>Please can you release under FOI all Audit Committee Minutes from 2012 until the present date?</p> <p>Can you also release any reports produced by the National Audit Office in relation to PHSO from 2012 until the present date.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-207549	17/11/2014	15/12/2014	<p>1. Could you please tell me whether the PHSO has ever used the services of P-PACT , or Christine Gifford ,with regard to vexatious , or any other FOIA and DPA requests.</p> <p>2. Please provide any correspondence between this company , or Christine Gifford - and the PHSO.</p>
FDN-207581	17/11/2014	15/12/14	<p>Could you please supply me with:</p> <p>List of companies with which you have a contracts (over £50,000) from November 1, 2013 to the date of return of information</p> <p>Please include copies of material which you hold in the form of paper and electronic records including emails.</p> <p>I would be grateful if you would supply this information in the form by email.</p>
FDN-209098	21/11/15	19/12/14	<p>Is the number of of FOIA requests made a relevancy to quote (as in the answer to my request) for instance?</p> <p>If a requestor made several FOIA enquires, would this influence an organisation's legal duty on whether or not to supply a SAR to the requestor?</p> <p>How many requsts might the requestor have to make before a SAR was denied?</p> <p>And what other points (presumably negative but nay be positive) do the FOIA team use in determining whether or not to fulfil a SAR?</p> <p>And finally, is their a written PHSO policy on the refusal of a SAR?</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-208600 (not WDTK)	27/11/2014	29/12/2014	<p>I wish to ask under FOIA2000 the following please:</p> <p>1] When did Dame Julie Mellor join the PHSO?</p> <p>2] Who appointed Dame Julie Mellor as Ombudsman and when was the choice made, and when did she take up her role?</p> <p>3] Did Dame Julie Mellor investigate or in any way involved in NHS Trusts whilst she was at PricewaterhouseCooper? If so, did it include</p> <p>a] Oxleas NHS Foundation Trust</p> <p>b] South London Healthcare NHS Trust</p> <p>c] Bromley Hospital NHS Trust</p> <p>d] King's College Hospital NHS Foundation Trust</p> <p>e] Oxleas NHS Trust</p>
FDN-	07/12/14		<p>1] How much money has been expended by the Public Purse to investigate London Borough of Bromley's known non-compliance in respect of my database? I say known non-compliance because the PHSO itself identified that I had been denied justice and that there had been maladministration. But this was never communicated to me. Why not?</p> <p>2] On account of the ICO not supporting me, it then enabled Mr Patterson CEO London Borough of Bromley to write to me in January 2014 stating that both the LGO and ICO had not found fault with the Council. And yet it is proved that of course they were in breach because in June 2012 they wrote to tell me that they had no case records on me in a piece of correspondence of 18 June 2012. And yet I kept telling ICO that they have a great deal of my data that they have withheld. As of 7 June 2013, Mr Giannini London Borough of Bromley sent me an email in which he attached 22 separate discrete datasets which were electronically communicated to me. Thus, it simply is not true that London Borough of Bromley were not in breach of the Data Protection Act 1998, and yet although the ICO knew all of this, the ICO has not returned to London Borough of Bromley at all. Why not?</p> <p>3] Why did not the PHSO and ICO accept what I proved to be the case?</p> <p>I am requesting this under Freedom of Information to the ICO and to the PHSO.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
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FDC-207433	13/11/2014	11/12/2014	<p>In regard to the one case where the Ombudsman used ADR or mediation, what form did this take, what costs were involved and was an agreement reached on the day or did mediation fail? What was reported following the mediation by the staff who attended it? How did they make these reports? In short what was recorded as having been achieved from the mediation/ADR?</p> <p>How does the Ombudsman approach mediation, is there a policy on which staff it sends to such a meeting, do senior staff take any interest or do they delegate responsibility to lesser beings?</p> <p>I would also like to know in relation to the cases where permission was granted that did not proceed to ADR or mediation what the recorded outcome of these was?</p> <p>Did the Ombudsman concede the claim? Did they progress to court? What was the verdict of the courts? What are the case names?</p> <p>How much has it cost the Ombudsman in total to defend these claims?</p>
FDN-207447	14/11/14	12/12/14	<p>Again I apologise the letter was not sent from Wragge and Co, they are representing Ofqual. It was sent by your solicitors Browne Jacobsen. I am sorry for any confusion but keeping track of who's lawyer is who in this tawdry affair is quite the task.</p> <p>I would also like to know when in the Judicial Review process you would seek the opinion of an independent counsel, a barrister, to provide representation. Do you go to an outside chambers or is this service provided for you through an in-house brief at your solicitors. Would you approach counsel for an opinion before drafting a defence or after the permission stage or in the event that the matter would proceed to court? How much has the Ombudsman spent on barrister, per judicial review, over the past year and of this what costs have been recovered?</p>

Other Complainants

- s 40(2)

Ref	Rec'ved	Target	Request
FDC-208889 (not WDTK)	01/12/2014	30/12/2014	<p>1. You said that the case summaries were started being prepared since April 2013 but not in respect of back years.</p> <p>2. Please supply me with confirmation (names redacted) from April 2013 to October 2014 of the ombudsman's</p>

			finding of Mal administration in those cases you identified in your letter and a copy of the case summaries for those cases from April 2013 to 31 October 2014.
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- s 40(2)

Ref	Rec'ved	Target	Request
FDC-208855	30/11/2014	31/12/2014	<p>1. What proportion of complaints relate to mental health Trusts?</p> <p>2. How do PHSO policies and procedures ensure that patients with mental health problems are not unwittingly discriminated against and prevented from complaining?</p> <p>3. How does PHSO typically manage complaints from complainants with fluctuating capacity and what exactly are their statutory responsibilities around making sure their voices and complaints are heard too?</p> <p>4. What medical expertise does the PHSO have access to in general and specifically relating to psychiatry?</p> <p>5. How many complainants has Dame Mellor actually met in person?</p> <p>6. Of the cases personally reviewed by Dame Mellor, what proportion had drafts written up for her to sign off in advance?</p> <p>7. What proportion of staff have NHS backgrounds.</p> <p>8. What proportion of staff have civil service backgrounds.</p> <p>9. What proportion of cases go to review?</p> <p>10. How many complaints about PHSO staff have occurred in the last 24 months?</p>
FDC-208890	02/12/14	02/01/15	<p>Please may I request the following:</p> <p>1. How are clinical advisors recruited?</p> <p>2. How much are clinical advisors paid?</p> <p>3. What scrutiny is done of clinical advisors work?</p> <p>3. Have any clinical advisors had GMC, HPC or NMC complaints made against them in their careers? If so how many?</p> <p>4. Have any clinical advisors had GMC, HPC or NMC complaints made against them as part of PHSO work. If so how many?</p> <p>5. What proportion of advisors currently work for NHS Trusts?</p>

			<p>6. How are medical clinical advisors revalidated and appraised?</p> <p>7. What proportion of clinical advisors names and details released at investigation report stage?</p> <p>8. How many specialist mental health advisors do you have? Please give a breakdown of their general backgrounds, qualifications , roles and current employment. Names may be withheld.</p> <p>9. How many doctors work in a clinical advisor capacity? Please give a breakdown of their general backgrounds, qualifications, current employment and roles. Individual names may be withheld.</p> <p>10. How many complaints against clinical advisors were upheld?</p> <p>11. Can you give a general breakdown in terms of themes for the nature of complaints?</p> <p>12. What conflicts of interests have any clinical advisors declared?</p>
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- s 40(2)

Ref	Rec'ved	Target	Request
FDC-207884 (not WDTK)	16/11/2014	12/12/2014	<p>Under the FOIA please provide me with the copies of the following:</p> <ul style="list-style-type: none"> • The number of complaints received by the PHSO during the Period 1 January 2013 to 16 November 2014 that relate to complaints made to them of failures by the Barclaycard, Barclays Bank PLC, all other banks and building societies that offer banking services in the UK to respond properly to SARs. Please note that the complaints received by the PHSO may relate to complaints to the ICO made earlier than the beginning [the period stated] - this FOIA request specifically about complaints received by the PHSO in the period stated • For the above complaints received by the PHSO the number that were upheld by the PHSO. • For the above complaints received by the PHSO the number that were not upheld by the PHSO. <p>I would be grateful if you would, if possible, collate the Relevant Information into the following tabular format:</p> <p>Organisation Name, Number of complaints received by the PHSO, Number of complaints upheld by the PHSO, Number of complaints not upheld by the PHSO</p> <p>I understand that under the Act I am entitle to a response within 20 working days of your receipt of this request. Some parts of the request may be easier to know than</p>

			<p>others. Should this be the case, I request that you release information as soon as possible.</p> <p>If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees.</p> <p>I would prefer to receive the information electronically, and you may email it to me at peter@legal-beagle.co.uk</p> <p>If you require any further clarification, I expect you to contact me under your section 16 duty to provide advice and assistance if you find any aspect of this FOI request problematic.</p> <p>Please acknowledge receipt of this request, and I look forward to receiving the information in the near future</p>
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Other Requesters

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-209576	07/12/2014	07/12/2014	<p>1. Which companies tendered for the new Case Management System.</p> <p>2. Which company will supply the new system.</p> <p>3. What is the name of the software.</p> <p>4. What was the initial cost of the software and what is the ongoing annual cost.</p> <p>5. Does the system require staff training, if so how many man hours are required and how many staff are to be trained.</p> <p>6. What is the name of the company and software that is being replaced.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-207479	14/11/2014	12/12/2014	<p>Please confirm that someone from the PHSO contacted someone from the Guardian with information concerning the PHSO's treatment of historical cases after the article was published.</p> <p>If so, please provide details of any information that was passed to the Guardian on the matter and copies of all relevant communications.</p>
FDN-207493	15/11/2014	12/12/2014	<p>I am disappointed that you can not deal with my request within the appropriate cost limits. I wish to narrow the terms of my request.</p> <p>Please provide the information requested for the month of January 2014.</p>
FDN-207501	15/11/2014	12/12/2014	<p>In a paper prepared by Mick Martin it was revealed that you have:</p> <p>" a considerable body of compliments about the kind, sensitive and professional way we help people receive a final outcome regarding their complaint."</p> <p>https://www.whatdotheyknow.com/request/learning_from_complaints_made_ab#incoming-584719</p> <ol style="list-style-type: none"> 1. Please provide details of the number of compliments you received in each of the 6 months before Mr Martin produced his report. How many were about your: <ol style="list-style-type: none"> a. kindness; b. sensitivity; and c. professionalism. 2. Specify how many of the compliments were made: <ol style="list-style-type: none"> a. by telephone; b. by email; c. by letter; d. by postcard; or d. in person. 3. If Mr Martin's claim was based on specific information please provide the information on which it was based. 4. Please provide all recorded information on how a compliment from a complainant is handled. Do staff pass on details of compliments to anyone or are they recorded in a particular way?
FDN-	15/11/2014	12/12/2014	"Q32 Chair: Before you do a draft report, why do you not

207506	014	2014	<p>just show them the evidence you have been given?"</p> <p>http://data.parliament.uk/writtenevidence/committeevvidence.svc/evidencedocument/public-administration-committee/work-of-the-parliamentary-and-health-service-ombudsman-201415/oral/15335.pdf</p> <p>Dame Julie later responds to a statement about sending people the facts before reaching a view on the findings:</p> <p>"Exactly, and that is why we have introduced that stage." She then states: "We will be introducing that stage in our process."</p> <ol style="list-style-type: none"> 1. Please confirm whether the stage referred to has been implemented or will be implemented. 2. Please confirm whether all evidence is/will be sent to the complainant before the draft report is produced. 3. If complainants do not/will not receive all the evidence what do/will they receive before the draft report is produced? A summary? 4. Does/will this stage apply to both Parliamentary and Health Service complaints?
FDN-207595	17/11/2014	15/12/14	<p>The Public Service Ombudsman for Wales has responded thus:</p> <p>"If this office receives a transcript of a conversation with an officer of an authority, and the officer knew that the conversation was being recorded and confirmed the accuracy of the transcript, then we will accept this as evidence. If the authority indicates that the transcript is inaccurate in some way, then we will not accept the transcript as reliable evidence".</p> <p>https://www.whatdotheyknow.com/request/209154/response/522311/attach/html/3/201400868%20response%20to%20request.pdf.html</p> <ol style="list-style-type: none"> 1. Is this how the PHSO deals with a transcript of a conversation? 2. Please provide all relevant recorded information on how you deal with a transcript of a conversation. 3. Please provide all relevant recorded information on how you deal with an actual recording of a conversation

			<p>submitted by a complainant:</p> <p>i. made with the consent of an officer of an authority; ii. conducted covertly.</p>
FDN-207668	18/11/2014	16/12/14	<p>The BBC has published an article in which the respected Patients Association refers to you organisation as being "wholly ineffective and failing families". Additionally, "it has lost faith in the service and no longer advises callers who ring its national helpline to go to the PHSO."</p> <p>http://www.bbc.co.uk/news/health-30087031</p> <p>1. Please provide a copy of any information you have sent to the Patients Association in the past month on the quality of your investigations.</p> <p>2. Please provide a copy of any information (letters, emails, notes of telephone conversations etc) that you have provided to the BBC concerning the article in question before or after its publication.</p>
FDN-207697	18/11/2014	16/12/2014	<p>The following quote is from a highly critical report on your organisation by the Patients Association (page 5):</p> <p>"The PHSO cited section 15 of the Health Service Commissioners Act 1993 and the case of R (Kay) v Health Service Commissioner [2008] EWHC 2063 (Admin) to support its assertion, that complainants are not allowed to discuss its draft findings".</p> <p>http://www.patients-association.com/Portals/0/PHSO%20-%20The%20%27Peoples%27%20Ombudsman%20-%20How%20it%20Failed%20us%20-%20FINAL3.pdf</p> <p>1. For each of the past three years, please provide details of the number of times you have been made aware of a complainant discussing draft findings contrary to the law. Specify any action you have taken against these aberrant complainants.</p> <p>2. Please provide all recorded information provided to investigative staff concerning the obligation on complainants not to discuss draft findings.</p> <p>3. Please provide all recorded information concerning the consequences to complainants who discuss draft findings when they shouldn't.</p>

FDC 207703	18/11/2014	16/12/2014	<p>In a recent highly critical report of your organisation by the Patients Association a case is cited in which a widower was offered compensation of £250. His wife died after a fall in an NHS Trust and you refused to investigate the matter of a Do Not Attempt Resuscitation (DNAR) form that at been completed (page 5):</p> <p>http://www.patients-association.com/Portals/0/PHSO%20-%20The%20%27Peoples%27%20Ombudsman%20-%20How%20it%20Failed%20us%20-%20FINAL3.pdf</p> <p>For each of the most recent 10 cases handled involving a death, and where you have recommended financial compensation, please specify the amounts. Please also specify the dates on which the compensation was recommended.</p>
FDC 208247	21/11/2014	19/12/2014	<p>You recently provided me with a list of actions on complaints you recommended for the month of September:</p> <p>https://www.whatdotheyknow.com/request/accepted_and_awaiting_compliance#incoming-583139</p> <p>1. Please list each of the 20 or so apologies you recommended for Parliamentary (PA) complaints in the month of September and state for each whether you dealt with:</p> <ul style="list-style-type: none"> i. a qualified legal representative acting on the complainant's behalf; ii. someone else acting on the complainant's behalf. <p>I have identified the culpable bodies as:</p> <p>UK Visa and Immigration (about one-third of the total) Children and Advisory Support Services HM Revenue and Customs Coal Authority Legal Aid Gambling Commission Department for Transport Child Support Agency Driver and Vehicles Standards Agency</p> <p>2. I note that an apology provided by Her Majesty's Prison Service relates to Health Service (HS). How many apologies have you recommended Her Majesty's Prison Service make this year, and how many, if not all, have been categorized as Health Service (HS)?</p>
FDN- 208340	22/11/2014	20/12/14	You recently disclosed that:

			<p>4.3 "PHSO reserves the right to terminate an individual's employment prior to the expiry of an employee's paid sick leave."</p> <p>https://www.whatdotheyknow.com/request/dealing_with_cases_when_staff_of</p> <p>How many times in each of the past 3 years has PHSO exercised this right?</p>
FDN-208341	22/11/14	19/12/14	<p>I am disappointed that you cannot provide me with all of the information requested. I wish, however, to narrow the terms of my request.</p> <p>Please provide the information for the following staff that you identified in this FoI response:</p> <p>https://www.whatdotheyknow.com/request/the_55_of_staff_neither_investig#comment-54739</p> <p>"Investigator 22.19" FTE; and, if costs permit,</p> <p>"Investigator 26.02" FTE.</p>
FDN-208347	22/11/14	19/12/14	<p>Please provide the name of each body you recommended make an apology in respect of parliamentary complaints (PA) that is contained in your "Accepted and awaiting compliance" records for the period April 2013 to March 2014. State the number of apologies you recommended that each culpable body identified make.</p>
FDN-208582	26/11/14	24/12/14	<p>Thank you for providing some of the information requested. I note the following from the "General Guidance Disclosure of concerns about the health and safety of patients" :</p> <p>"16. If the case is considered suitable for disclosure then it should be referred to the Ombudsman, Managing Director or the Executive Director of Operations and Investigations for their agreement to disclose information."</p> <p>1. From March 2012 please provide information on the number of occasions the Ombudsman, Managing Director or the Executive Director of Operations and Investigations each refused their agreement to disclose information to either the GMC, NMC or GDC.</p> <p>2. For each of the 8 cases identified in the document linked to below involving the disclosure of information, please provide details of who agreed the disclosure:</p> <p>i the Ombudsman;</p>

			<p>ii the Managing Director; or</p> <p>iii the Executive Director of Operations and Investigations.</p> <p>https://www.whatdotheyknow.com/request/2...</p>
FDN-208836	29/11/14	30/12/14	<p>You have disclosed:</p> <p>"On 12 June 2014, 4 senior officials from the Department of Health listened to calls on our customer helpline as part of improving the health service complaints system."</p> <p>https://www.whatdotheyknow.com/request/customer_service_helpline_and_co#comment-51955</p> <p>In the same response you also disclosed:</p> <p>"Legislation governing the recording and monitoring of telephone calls do not require us to obtain consent from callers, as the processing of personal information (and sensitive personal information) is necessary to exercise our statutory function."</p> <p>This response leads me to believe that you did not not obtain consent from the callers for the 4 senior officials from the Department of Health to eavesdrop on their conversations.</p> <ol style="list-style-type: none"> 1. Was consent obtained? 2. Please provide any information you hold created by either yourselves or the Department of Health "as part of improving the health service complaints system" that originated as a consequence of the eavesdropping.
FDN-203963	29/11/14	30/12/14	<p>"The table of data for 'outcomes of review following an investigation' previously provided to you relates to complaints where an individual as asked for a review because they think our decision on their complaint is wrong. Please let us know if you are interested in a breakdown of these figures. "</p> <p>I am interested, thank you. Please send.</p>
FDN-208852	29/11/14	30/12/14	<p>Please provide:</p> <ol style="list-style-type: none"> i) the number of current complaints outstanding about PHSO service delivery as of today (29 November 2014) ii) the number of current complaints outstanding about PHSO decisions as of today (29 November 2014) <p>For i) and ii) separately please provide:</p>

			<p>iii) the number of such complaints received 20 working days or less before today;</p> <p>iv) the number of such complaints received 21-40 working days before today;</p> <p>v) the number of such complaints received 41-60 working days before today;</p> <p>vi) the number of such complaints received 61-80 working days before today;</p> <p>vii) the number of such complaints received 81-100 working days before today;</p> <p>vii) the number of such complaints received 100-150 working days before today;</p> <p>viii) the number of such complaints received 151-200 working days before today;</p> <p>ix) the number of such complaints received more than 200 days before today.</p> <p>By "current complaints outstanding", I mean a complaint that you have received but have yet to make a final reply.</p> <p>I would be content with "today" being taken as 31 October or any day in November 2014 if this would be more convenient, whilst allowing a reply within the time scale.</p>
FDN-209058	03/12/14	05/01/14	<p>Dear Parliamentary and Health Service Ombudsman,</p> <p>The BBC has published a shocking story of a woman who lost a High Court action against the Ombudsman:</p> <p>http://www.bbc.co.uk/news/health-30279915</p> <p>"The bereaved mother's request to the Ombudsman for an investigation was originally rejected, although her complaint is now being looked into."</p> <p>The bereaved mother, however, has stated:</p> <p>"No amount of money could make up for the distress this process has caused me"</p> <p>Please provide information on:</p> <p>i.) the job title of the person who originally rejected the complaint;</p> <p>ii) the job title(s) of any other PHSO personnel who originally considered and confirmed the rejection of the complaint;</p> <p>iii) the total number of cases the person who originally rejected the complaint considered in the six-month period immediately preceding the date of the original rejection</p>

			<p>of the complaint;</p> <p>iv.) the number of cases the person who originally rejected the complaint rejected in the six-month period immediately preceding the date of the original rejection of the complaint;</p> <p>v.) the total number of cases the person who ultimately considered and confirmed the original rejection of the complaint considered and confirmed in the six-month period immediately preceding the date of the original rejection of the complaint;</p> <p>vi.) the number of cases the person who ultimately considered and confirmed the original rejection of the complaint rejected in the six-month period immediately preceding the date of the original rejection of the complaint.</p>
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- s 40(2)

Ref	Rec'ved	Target	Request
FDN 208606 (Not WDTK)	28/11/2014	30/12/2014	<p>I am writing to make a request for all the information to which I am entitled under the Freedom of Information Act 2000. In order to assist you with this request, I am outlining my query as specifically as possible. If, however this request is too wide or too unclear, I would be grateful if you could contact me, as I understand that under the act, you are required to advise and assist requesters. Please provide:</p> <p>1) The total number of complaints you have received and/or investigated about urgent care, GP Out of Hours Services and minor injuries units between 28th November 2013 - 28th November 2014 across England. Please send me those as two separate figures: the first figure being the number of complaints you have received, and the second figure being the number of complaints you have investigated.</p> <p>Please highlight the provider about which each complaint that meets the above criteria was made, and the Clinical Commissioning Group (from hereon in referred to as 'CCG') that that provider was commissioned by when that complaint was made, and the date for every complaint that meets the above criteria.</p> <p>2) Please also include the number of Serious Untoward Incidents/Serious Incidents Requiring Investigation that you have had reported to you, and that you have investigated, between 28 November 2013 - 28th November 2014 across England. I only request those incidents that relate to urgent care, GP Out of Hours Services, minor injuries units and other unscheduled care excluding A&E. Please send me those as two separate figures: the first</p>

			<p>figure being the number of Serious Untoward Incidents/Serious Incidents Requiring Investigation that have been reported to you, and the second figure being the number of Serious Untoward Incidents/Serious Incidents Requiring Investigation that have been investigated.</p> <p>Please highlight the provider that was commissioned to provide the care about which the Serious Incident Requiring Investigation/Serious Untoward Incident relates so, and the CCG that commissioned that provider. Please also highlight the date that each Serious Incident Requiring Investigation/Serious Untoward Incident occurred.</p> <p>I look forward to your prompt response within the statutory time limits. In the interests of transparency I would be grateful if this information could be released well in advance of the statutory time limits of 20 working days, in line with information commissioners guidance to responding authorities.</p>
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2014-2015 QUARTER 3 - INFORMATION GOVERNANCE COMPLIANCE PROGRAMME REPORT

Paper by Hannah Burling, Information and Records Manager and Luke Whiting, Head of Freedom of Information/Data Protection

1 Executive summary

- 1.1 This paper reports the 2014-2015 Quarter 3 summary findings from the Information Governance compliance programme. This includes compliance with the access to information provisions under the Freedom of Information Act (FOIA) and Data Protection Act (the DPA) legislation, and compliance with Information Security requirements, including under the 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 7 and 8
 - **approve** submission of report to next Audit Committee.

3. Background

- 3.1 PHSO is required by law to comply with FOIA, the 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 2014-2015.
- 3.2 Due to the potential for incidents to have a high level of impact on PHSO's reputation, business continuity and compliance with the Information Assurance Maturity Model, this report also includes PHSO's activity and compliance with internal information security requirements for the second quarter of 2014-2015.
- 3.3 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 Though the number of requests this quarter was consistent with Q2, we look on course for a yearly increase of between 25-35% in information requests received. The nature of those requests and the topics they relate to remains challenging and High Risk. Nonetheless, we continue to meet our targets and effectively manage the risks associated with the requests we receive.
- 4.1.2 In Q3 2014-15 we received 167 information requests compared to 168 in Q2 and 220 in Q1. All but 6 of the requests we resolved (170) this quarter were responded to within the statutory deadlines. Please find at Annex A the figures from previous quarters and years for comparison.

4.1.3 We remain on track to meet our corporate service standard of responding to 90% of FOI and DP requests within the statutory deadlines and are currently achieving rates of 95% and 96% respectively.

4.1.4 In Q3 2014-15, we logged 8 requests for review of our decisions which is a significant fall from the 18 requests for review logged in Q2.¹ 11 reviews have been completed during this quarter. One complaint was partially upheld and a further explanation provided. One complaint about service was upheld because we missed the statutory deadline for a response.

4.2 Information requests - Non case related (FOIA)

4.2.1 In Q3 of 2014-15 we received 85 non case related requests for information under the Freedom of Information Act 2000. This compares to 98 in Q2, 132 in Q1, and 98 in Q4 2013-14. The vast majority of FOI requests received were made via the 'whatdotheyknow' website.²

4.2.2 In Q3 2014-15 91% of FOI requests resolved (75 of 83) were closed within the statutory deadline. We are currently on track to meet and exceed our corporate service standard of responding to 90% of FOI requests within 20 working days.

4.2.3 We have seen that the steps PHSO has taken to engage with our longstanding complainants in the past six months has meant that we are receiving fewer contacts through the WDTK website from people wanting to talk about the specifics of their case or their unhappiness with our decision. While this has meant that the numbers of FOI requests received has remained steady over two quarters, it hasn't meant the requests/correspondence we have received is any less challenging to deal with. That requests for information are now more focused and precise means they are catching much more recorded information which we have to consider releasing or apply an exemption to. In addition, because the information requested has often been about sensitive issues and/or 'live' PHSO projects means that our work continues to be challenging and high risk.

4.3 Further analysis of FOI requests received

4.3.1 Three requesters made 55 FOI requests in Q3 (64% of FOI requests received).

4.3.2 One person made 11 requests and is a former PHSO customer who over the past year or so has been a regular requestor and has taken a number of cases to the ICO. Generally, this person's requests were in response to news stories/public criticisms of PHSO. They focused on information we held about the Patients Association report, Dame Julie's involvement in the recruitment of Clerk of the House, and the Morris court case. They also focused on PHSO's web usage, the websites visited by our staff, and our monitoring of staff use of the internet at work.

4.3.3 A second requestor, who coordinates the PHSOthefacts group, made seven requests

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 have done 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.

in Q3. They generally focused on asking us for evidence to back up statements made about our service and the improvements we are making. They also focused on the National Audit Office report, requesting audit committee and minutes and reports over a three year period. N.B. This overlapped with a request from a Journalist at the Health Service Journal for the National Audit Office report.

- 4.3.4 The third requestor made 37 requests in Q3. There is no indication that they have previously had a case with PHSO and they appear to make FOI requests of different public sector bodies. My impression is that they have felt making requests to us will help the people they have seen campaigning to improve our service (and, like them, public services in general). As a basis for their requests they reviewed responses we provided earlier in the year to other people and asked follow up requests to test our earlier statements, facts, figures, and policies. They have also made requests for evidence to back up public statements PHSO has made about topics like historical cases and compliments we have received about our service. Latterly, their requests have also flowed from stories about PHSO in the press.
- 4.3.5 I have also looked at what information was requested by people making their first FOI request to us (17 people). Seven people made detailed requests for figures about specific bodies/organisations and issues related to their substantive complaints to PHSO. An MP and the IPCC asked for figures relating to specific issues they were interested in (a charity and the victims code respectively). Several other people asked for our casework policy and guidance and our guidance and figures relating to financial remedies. Two people requested information about the clinical adviser on their case and our clinical advisers more generally. One person asked about Dame Julie's appointment and another person (a student) asked for information relating to the consultation on direct access.
- 4.2.6 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 the local area or project manager.
- 4.3 Information requests - Case-related (FOIA/HSCA/PCA/DPA)**
- 4.3.1 83 of the 168 information requests received in Q3 2014-15 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 an increase of 18% from Q2 (70) but a return to the levels of Q1 (88).
- 4.3.2 98% of the case-related requests we resolved (85 of 87) in Q3 2014-15 were resolved within the statutory time limits. We are currently on track to exceed 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 Information Commissioner (ICO) and Tribunal cases

- 4.4.1 In Q3 2014/15, three complaints about FOI requests were referred to the ICO. The first was high risk in so much as it related to our decision to apply s36 (prejudice to the effective conduct of public affairs) to minutes of a meeting between Dame Julie and Bernard Jenkin MP. The complainant also sought to challenge Dame Julie's role in the decision making as the 'qualified person' for the purposes of the exemption.³ The ICO concluded that the decision to apply the exemption had been properly taken and accepted our arguments for why the information should not be disclosed.
- 4.4.2 The remaining two cases are still open. One is about the decision to withhold the name of one of our clinical advisers. The other is about information we were unable to provide about potential conflicts of interest for our clinical advisers.
- 4.4.3 As I mentioned in my Q1 and Q2 reports, two of our FOI cases upheld by the ICO last year have been appealed to the Information Tribunal. The oral hearing for these cases was in November 2014 but we are still waiting for the written judgement. One relates to the decision to apply s14 (1) (the exemption for vexatious requests) to a request for the names and contact telephone numbers of PHSO staff. The other (related) request from the same person was for the direct dial telephone number of Dame Julie. Both of these will potentially make our relationship with the requestor more difficult and may be used by other critics of our service. I will of course provide an update in my Q4 paper.

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

- 5.1 In total, there was 1 'Major Incident' and 23 'Minor Incidents' reported during Q3. Details of the incidents that took place can be found in Annex B.
- 5.2 The number of total incidents in Q3 has decreased compared to Q2 (1 'Major' incident and 36 Minor Incidents) which is positive. The one 'major' incident this quarter involved documents been sent back to a complainant at the wrong address as a result of their address being deleted from VF and us not contacting the complainant for new address details. The documents were subsequently lost by Royal Mail. This incident could have been prevented and the investigation uncovered a number of missed opportunities.
- 5.3 The number of minor incidents has fallen since Q2 but remains high. The primary cause of incidents this quarter is staff not checking address or misfiling information. Both are high risk areas for PHSO especially as information could be inappropriately disclosed to 3rd parties. Staff are regularly being reminded of how to handle information. We are looking to meet with Mick Martin as SIRO and all the Information Asset Owners in February/March 2015 to discuss what we can learn from these incidents and what steps we need to take to continue to minimise the number of incidents.

³ To apply the s36 exemption you requires the recorded opinion of the 'qualified person' (usually the Chief Executive or Minister) that the release of the information would prejudice the effective conduct of public affairs (including the provision of advice for deliberation and the free and frank exchange of views).

- 5.4 None of the above incidents were reported to the ICO by PHSO during quarter 3 as they did not meet the notification criteria (set out in the Information Security Breach Policy).
- 5.5 ICT/IRM are working closely with the LGO following our recent gap analysis against ISO27001:2013 to ensure we are working to the same information security standards making it easier to work together in the future. We are carrying out an exercise to compare similar policies and procedures around information security to determine any major differences that will need to be rectified.
- 5.6 ICT/IRM continues to work on the Information Assurance Maturity Model (IAMM), which seeks to ensure that PHSO is managing its information assets and risks appropriately. As part of this work we are reviewing our training around Data Protection and Information Assurance for all staff to complete. Demonstrating that PHSO staff are aware of their responsibilities in Data Protection is a key requirement of the IAMM and the ICO expects this of all organisations handling personal data.
- 5.7 The Head of ICT/IRM meets with Mick Martin as PHSO's Senior Information Risk Owner (SIRO) on a monthly basis to discuss Information Management/Security related issues. Throughout January and February they will be undertaking a programme of SIRO training and mentoring to support them in their roles. This will be particularly useful as PHSO moves away from the GSi and begins to work more closely with organisations like the LGO, who may adopt a different approach to information risk.

6. Risk Assessment

- 6.1 PHSO is largely complying with the FOIA 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 Q3 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 of 2014-15
- 6.2 The number of minor Information Security incidents has fallen during Q3 compared to Q2, there is evidence that staff are still not checking their work before transmitting information (i.e. email addresses, not password protecting information going to unsecure email addresses, selecting wrong body). The main risk, and cause of most incidents, is human error, but by working with the Quality and Service Integrity Directorate, along with staff and managers when mistakes do happen, helps to decrease the likelihood of mistakes happening again. We expect to roll out of further training on Data Protection and Information Security during the roll out of the new CMS which we hope will have a positive impact on the number of incidents over the coming months.

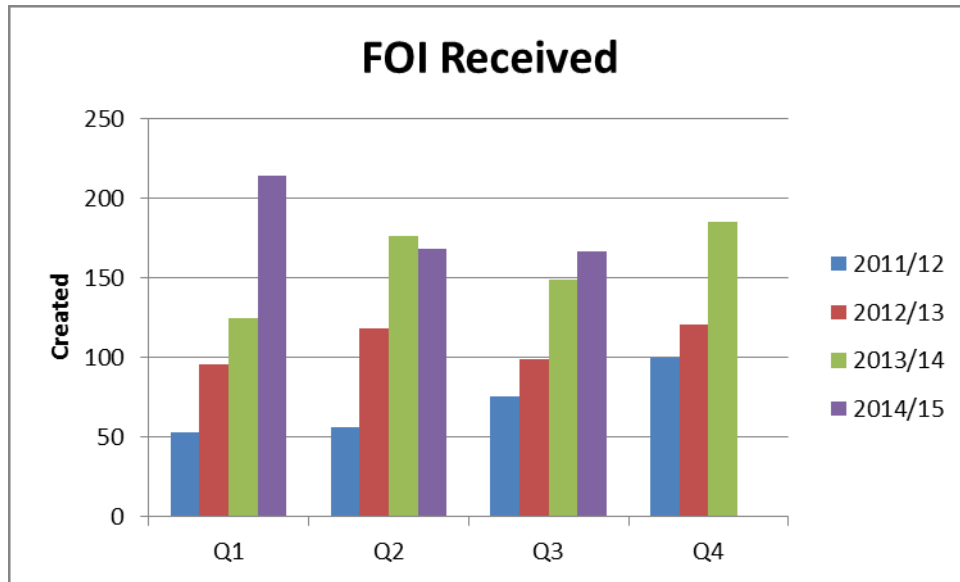
7 Next steps

- 7.1 The ICT/IRM team will continue to raise awareness of what staff should be doing to use and manage our information in accordance with Records Management guidelines and Information Security requirements. The ICT/IRM team, along with individual teams, are developing new training around information security which we hope to

implement alongside the introduction of the new CMS to aid good practice from the beginning. We are also in the process of ensuring IAO's are aware of what is expected of them and looking to improve their general awareness of information security risks in their areas.

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Annex A- Information requests received 2011/12-2014-15



	2011/12	2012/13	2013/14	2014/15
Q1	53	96	125	214
Q2	56	118	176	168
Q3	76	99	149	167
Q4	100	121	185	
Total	285	434	635	

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Annex B - Information Security Incidents - further details

1 Major Incidents:

Definition of Major: *Personal Data or Protectively Marked PHSO information lost and not recovered; or recovered but still compromised (i.e. shared inappropriately)*

Reference	Summary	RAG rating
2014-2015_03 Review Team (Legal Group)	Documents sent to a complainant's old address. A staff member deleted the address from VF after realising it was incorrect but did not take steps to contact the complainant to update their address. Address was subsequently updated to old address - documents then lost by Royal Mail. Number of missing opportunities resulting in data loss. Incident Closed.	Medium <ul style="list-style-type: none"> Information about private aspects of individuals life including sensitive personal data Individual was not distressed by mistake and accepted apologies No recovery of data but Royal Mail lost the documents within their postal system

36 Minor (or near miss) incidents

Definition of Minor: *Incidents where information (whether personal data or protectively marked PHSO information) has been recovered (a 'near-miss') or breaches of internal policies and procedures but where information is not believed to have been compromised (i.e. not password protecting documents in emails)*

Reference	Summary
077	Wider Meridio access granted to new starter due to new starter form instructions not being followed
078	IRM team cupboard left unlocked - team adamant they locked it before they left
079	Recorded delivery letter received by PHSO but now missing internally
081	Letter sent to complainants old address - address not checked against complaint form and created from old case
082	2 pages of internal meeting minutes were scanned and sent to the complainant, Adjudicator and HMRC
083	Reference request email received from external party - forwarded internally to wrong person
084	Documents not password protected and sent to insecure email address.
085	Two files sent to clinical advisors (external) - wrong files went to each clinician - returned - no data loss
086	Update letter sent to wrong MP- MP's office destroyed letter in question
087	Papers misfiled internally - located during FOI request - near miss
088	Letter correctly addressed to individual was sent to a 3 rd party organisation not connected with complaint
089	Letter sent to incorrect CCG
090	Complainant believes we have not provided copies of correspondence he sent to us in response to a request and that it is lost. Unclear if we hold

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	original copies - may be misfiled
091	Draft investigation report sent to the wrong nhs.net email address - subsequently destroyed
092	Confirmation of investigation sent to the wrong nhs.net email address - subsequently destroyed
093	Page from wrong case saved onto the end of a document stored in Visual Files. File has only been shared internally and no external breach
094	CDs sent to clinical adviser as part of normal practice. When file was returned by the clinical adviser only 1 of the expected 4 CDs were present - believed to have been destroyed by NHS IT but still awaiting confirmation
095	Spreadsheet containing financial information sent to home email address by staff member. Not restricted information but may not all be released under FOI therefore should have been password protected.
096	Document marked PROTECT found on printer - been out all night
097	Case sent to LGO but not password protected and sent to unsecure email address
098	Copy of complaint form lost - we did hold at some point as we used this to make our determination - believed to have been destroyed internally
099	Complaint form and cover letter sent to the incorrect address - recorded incorrectly on VF

NB 080 -relates to Physical Security incidents, not Information Security.

Current FOI Requests (11/03/15)

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

1. Introduction

- 1.1 This paper provides the Executive Team with an update on the information requests we are receiving. The Audit Committee has asked that the Executive Team maintain a strategic overview of the issues information requests are raising. Providing a regular update of this kind, enables this overview and also allows the Executive Team to provide input as appropriate while requests are still 'live'.
- 1.2 The list of requests provided in the annex to this note focuses on requests for information under the Freedom of Information Act 2000 rather than requests for case-related data under the Data Protection Act 1998. I will only refer to case-related requests of note.
- 1.3 I haven't filtered any of the FOI requests out. The cases are organised by requester rather than by topic.

NB: The requests were made via the whatdotheyknow website unless otherwise stated.

2. General themes and issues arising

- 2.1 The majority of open requests are from current and former complainants. Those with the most open requests are also long standing requestors through the WDTK website. The requestor s 40(2) declined to take part in the customer charter workshops but continues to raise issues directly relating to her complaints. While PHSO has recently undertaken to reinvestigate a complaint from s 40(2) she has since made a number of requests focusing on PHSO's probity and integrity. s 40(2) also appears to have complained to PHSO before and continues to make requests about our processes, focusing currently on the sharing of draft reports and prospect that decisions can be changed.

3. Action(s) Required

- 3.1 The Executive Team is asked to **note** the contents of the report and **discuss** as appropriate.
- 3.2 I would ask that in particular you note the request from s 40(2) about the 'quality control' around PHSO's casework. I would also highlight the request from s 40(2) about compromise agreements and the request relating to cases referred by Bernard Jenkin MP.

Annex

Requests received from people associated with PHSOthe facts

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-216898	07.03.2014	07.04.2015	Please could you provide me with, or guide me to, the complaints statistics regarding the Treasury Solicitors Department.

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-215495	21.02.2015	20.03.2015	Please send to me your data, regarding complainant experience. Please include stats evidencing whether people agree/ disagree that the PHSO process was helpful/ provided remedy/ satisfaction etc. Please send to me a copy of the template you use for feedback.....I am trying to understand your process!

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-216152	28.02.15	27.03.2015	<p>In February 2015, The Norfolk and Suffolk Foundation Trust was the first NHS Trust in the UK to be put into "Special Measures". (In this FOI enquiry the organisation will be referred to as "the Trust".)</p> <p>1) When was The Ombudsman first alerted that there were a catalogue of concerns with this NHS Trust?</p> <p>2) Between December 2009 and December 2014, how many complaints about the Trust were progressed and investigated by the PHSO?</p> <p>3) Since December 2009, how many complaints against this Trust was upheld by the PHSO?</p> <p>4) How many complaints against the Trust were never progressed into an investigation by the PHSO?</p>
FDN-216185	03.03.2015	31.03.2015	<p>Please could the PHSO confirm which MP's are subjecting this organisation to most scrutiny and inspection since June 2004?</p> <p>Please note that I referenced the manner in which the PHSO responds to FOI requests on this website to the PASC enquiry last month. My evidence has been accepted and reviewed by Parliament's representatives.</p>
FDN-216715	02.03.2015	30.03.2015	<p>I refer you to the comments made by s 40(2)</p> <p>I refer you to the documentation and questions that still</p>

			<p>remain unanswered and unexplained by Mick Martin, Russell Barr and Dr Gavin McBurnie following the documentation that Della personally handed to Mick Martin on 15th September 2015.</p> <p>I refer you to the Westminster Briefing on 7th October 2014. The PHSO was represented on the panel by your HEAD of PUBLIC RELATIONS, Sally Sykes. The PHSO has already been copied into the Blog by Della whereby she writes up my attempts to try to get the CQC and the PHSO to review and investigate a selection of complaints NEVER progressed by the The Norfolk and Suffolk Foundation Trust between 2009 and 2011.</p> <p>That conference was supposed to be a review of what the NHS Complaints System had learnt from the Francis Report.</p> <p>I invite the PHSO to review the timescales of when the public tried to openly alert Sally Sykes about issues at the Trust. This NHS conference was held a fortnight before the Trust was investigated by the CQC and just 4 months before the Trust was put into Special Measures. Please note that my FOI request is being sponsored and any charges for manual searches will be met.</p>
FDN-216187	03.03.2015	31.03.2015	<p>At the Westminster Briefing; NHS Complaints System : Improving Patient Safety and Rights on the 7th October 2014, The Parliamentary Health Service Ombudsman (PHSO) was represented by the Head Of Public Relations on the Panel. Sat next to Ms Sykes was the representative for the CQC.</p> <p>The Westminster Briefing was four months before the CQC put The Norfolk and Suffolk Foundation Trust into Special Measures. Between 11am and 3.15pm, the Chair took two questions from the room in respect of that same Trust.</p> <p>The Norfolk and Suffolk Foundation Trust will henceforth be referred to as the Trust in this data request.</p> <ol style="list-style-type: none"> 1. Please could the PHSO provide a copy of the notes taken by the representative for the PHSO at the Westminster Briefing on 7th October 2014? 2. Please could the PHSO confirm the times, dates, method of communication and most importantly, the recipients, of that feedback collected about the NHS Trust by the Head of Public Relations? 3. When The Norfolk and Suffolk Foundation Trust went into Special Measures last month, on which date did the Head Of Public Relations review the feedback she received about the Trust from the audience on 7th October 2014? 4. In light of the KIRKUP report due for publishing today; <ol style="list-style-type: none"> a) Are there plans afoot for The Parliamentary Health

			Service Ombudsman to revisit that feedback that it was given about The Norfolk and Suffolk Foundation Trust? b) What of those complaints against the Trust that were not investigated by The Parliamentary Health Service Ombudsman?
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- s 40(2)

Ref	Rec'ved	Target	Request
FDN-214775	13.02.2015	13.03.2015	<p>In reply to a question from Mr. Flynn regarding PHSO capacity and capability during the PASC inquiry on 10.2.14 Dame Julie Mellor stated that:</p> <p>"...I would be the first to say there is lots to improve about our services, particularly about the way we communicate with our customers and the transparency of our methods and actually we need to address the 'why' question with training for all our staff who do our most serious investigations in root cause analysis and human factors science but our decision making is sound ..."</p> <p>1. Can you provide data from external audit of PHSO decision making for the last 12 months (or suitable time depending on financial constraints) which confirms that decision making is sound?</p> <p>2. Can you provide data from internal quality control which confirms that decision making is sound for the same time period?</p> <p>3. Can you provide information concerning the percentage of cases which are reviewed external each year to check the quality of decision making?</p> <p>4. Can you provide information concerning the percentage of cases which pass through internal quality control to confirm that decision making is sound?</p> <p>5. If PHSO are failing to communicate effectively with their customers, if the methods are not transparent and if staff carrying out serious investigations are yet to be trained in root cause analysis and human factors, how can Dame Julie Mellor confidently confirm that the decision making is sound? Evidence please.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-215536	23.02.2015	23.03.2015	<p>You have revealed that Bernard Jenkin MP made 36 referrals to you between June and November 2014: https://www.whatdotheyknow.com/request/which_ten_elected_mps_seem_to_be#incoming-620843</p>

			<p>1. How many of these referrals concerned his constituents?</p> <p>2. How many of these referrals concerned health service complaints?</p> <p>3. How many of these referrals, if any, were previously referred to you from another MP?</p> <p>4. How many of these referrals, if any, did you previously:</p> <p>i. decide not to investigate; or</p> <p>ii. investigate.</p> <p>5. How many of these referrals have you finished dealing with?</p> <p>6. Please specify the outcomes of the referrals that you have finished dealing with.</p> <p>7. How many telephone calls has Mr Jenkin made to you office concerning these referrals, if any?</p> <p>8. Please specify the amounts of compensation awarded to the complainants in each of the referrals made by Mr Jenkin that you have finished dealing with.</p>
FDN-215538	23.02.2015	23.03.2015	<p>1. How many compromise agreements have been signed by staff leaving your employment for 2011/12, 2012/13, 2013/14 ?</p> <p>2. Please give details of total costs associated with such agreements for the following years 2011/12, 2012/13, 2013/14 and the current year so far</p> <p>3. Please break down these figures by Directorate and Department</p> <p>4. Has any former employee broken any such compromise agreement, if so what action has been taken?</p> <p>5. i) How many 'special severance payments' were made in 2011/12, 2012/13, 2013/14 ? ii) and Ex Gratia payments to staff in 2011/12, 2012/13, 2013/14 ?</p> <p>6. PHSO guidance used for compromise agreements (if none specific to PHSO, please provide the link for what you refer to)</p>
FDN-215539	23.02.2015	23.03.2015	<p>1. Please provide "ANNEX A" as referred to in the PHSO Risk assessment in casework - http://intranet.opca-hsc.com/casework/1131681/casework-policy-guidance/general-guidance/risk-assess-casework/annexa/</p> <p>2. Can you provide the number of PHSO cases risk rated "low", "medium" and "high"</p>

			for 2012, 2013, 2014, 2015 (currently) or if you cannot break the data down by year, a total for each risk category?
FDN-215540	23.02.2015	23.03.2015	<p>1. Please provide the typology of injustice codes (PHSO searchable database of upheld or partly upheld investigations) 2. investigation closure codes and confirm whether these codes are also used for closing internal reviews or "complaints about us" (PHSO)</p> <p>http://intranet.opca-hsc.com/pdfs/casework-pdfs/MIMP-Investigation-closure-codes-list</p> <p>3. If they differ - please provide closure codes for internal review/ "complaints about us".</p> <p>4. Please provide outputs from the recommendations and outcomes panel for 2011, 2012,2013,2014 http://intranet.opca-hsc.com/casework/recommendations-panel/work-pract-recomm-panel/</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDN-215520	23.03.2015	23.03.2015	<p>You have revealed that Bernard Jenkin MP made 36 referrals to you between June and November 2014: https://www.whatdotheyknow.com/request/which_ten_elected_mps_seem_to_be#incoming-620843</p> <ol style="list-style-type: none"> 1. How many of these referrals concerned his constituents? 2. How many of these referrals concerned health service complaints? 3. How many of these referrals, if any, were previously referred to you from another MP? 4. How many of these referrals, if any, did you previously: <ol style="list-style-type: none"> i. decide not to investigate; or ii. investigate. 5. How many of these referrals have you finished dealing with? 6. Please specify the outcomes of the referrals that you have finished dealing with. 7. How many telephone calls has Mr Jenkin made to you office concerning these referrals, if any? 8. Please specify the amounts of compensation awarded to the complainants in each of the referrals made by Mr Jenkin that you have finished dealing with.

FDN-216161	28.02.2015	27.03.2015	<p>You recently provided details of the 11 Members of Parliament (MPs) who made the most referrals between June and December 2014:</p> <p>https://www.whatdotheyknow.com/request/which_ten_elected_mps_seem_to_be#incoming-621858</p> <p>Please provide the names of all other MPs who made referrals during the same period together with the number of referrals each made. I would like the information provided in a similar manner to how it was provided in the request to which I have linked. In each case specify the number of referrals that concern parliamentary complaints.</p>
Follow up to FDN-210031	28.02.2015	27.03.2015	<p>Thank you for your assistance in how I could narrow my request to make it fall within the cost limits. You wrote:</p> <p>"However, there is no indicator that can be marked for the way a draft report is shared. In order to identify this information each of the 550 records would have to be manually reviewed. In the same way, there is no indicator to identify whether a full or partial draft decision was shared in relation to your second query, and again, this would require the manual review of all 550 draft reports."</p> <p>Please provide details of how the 152 draft reports for August were shared. If costs allow, please also provide details of how many of the 152 draft decisions were shared in full.</p>
FDN-216899	07.03.2015	07.04.2015	<p>You responded:</p> <p>"Between December 2014 and January 2015, we recorded two calls where the call handler considered that the call was about where we had done something well. Collecting data regarding the nature of the call relies on members of staff recording call correctly, the call handler and not the caller will select the option / outcome at the end of the call."</p> <p>Please provide all recorded information available to call handlers that assists them to select the option/outcome at the end of a call. Please also include all relevant screenshots.</p>
FDN-216901	10.03.2015	09.04.2015	<ol style="list-style-type: none"> 1. Please provide a copy of the standard information you provide in your final decision letter to complainants inviting them to give feedback - upheld and not upheld complaints, if different. 2. Please provide details of all changes you have made to

			the information provided to complainants regarding feedback in the past 3 years.
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Other Complainants

- s 40(2) (Not from WDTK)

Ref	Rec'ved	Target	Request
FDC-213727	27.02.2015	27.03.2015	<p>I am unhappy with your decision not to give me all the information I requested. Please accept this email as a formal request for you to review your decision. The reasons I am unhappy are as follows:</p> <p>a) The template is dated 12 August 2013. Please supply the templates that were used prior to this and after this, and therefore include the terms in force from January 2013 onwards showing any changes during the year up to December 2013. Alternatively if this template dated 12 August 2013 was used throughout the whole of 2013 please could you just clarify that. Thank you.</p> <p>b) I disagree with your decision to not disclose the GMC reference numbers of the advisers to me. My reasons are as stated in my original request and in addition, in response to your letter, I have the following to add:</p> <p>i) It is not clear from your letter whether you have asked the clinical advisers in my case whether they consent to disclosure of their GMC reference numbers to me. Please could you clarify whether you have asked them? If you have not asked them for their consent please could you do so and give me their response please? You may disclose to them my reason for wishing to know their numbers and disclose that the GMC have advised me to contact you for disclosure of their numbers.</p>

- s 40(2)

Ref	Rec'ved	Target	Request
FDC-216410	24.02.2015	24.03.2015	<p>Additionally, from a conflict of interest point of view you failed to ask important questions about research interests and more importantly whether there are current or past connections to institutions allied to SLAM, University of London, IOP or other.</p> <p>Getting away with a simple tick box is unsatisfactory and FOI must be more proactive in collating this information to avoid an ICO referral as it is in the public interest to find</p>

			<p>out what these links are for both psychiatrists. Additionally, I do not see whether a list indicating a connection at a past hospital for both psychiatrists is personal data as some of this information may already be in the public domain and it is imperative that any link has been ruled out which you have failed to do robustly in this case. No name can be applied to each list.</p> <p>I need to again anonymously request for both psychiatrists specifically the names of research institution, NHS and private organisations connections with RCPsych including duties and paid consultancy fees that may have also lead to a conflict of interest and reassurance that a lay person or legal representative has the competency to make sure that the one tick box has not been designed to hide other links not previously disclosed as probity, dishonesty and deficient assessments are under question this is now very much in the public interest.</p> <p>Of course if you let the GMC investigate there would be no need for such request as the official regulators could look into this independently.</p>
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- s 40(2)

(Not from WDTK)

Ref	Rec'ved	Target	Request
FDN-215542	22.02.2015	20.03.2015	<p>The information I seek is non-exempt information pertaining to my request.</p> <ol style="list-style-type: none"> 1) How many complaints relating to '<i>maladministration on the part of UK Visas and Immigration (Home Office) of applications for a residence card as the spouse of a European Economic Area citizen</i>' have you received? 2) In how many of these complaints did you intervene? 3) How many of these complaints did you investigate? 4) In how many complaints which had an appeal outstanding did you investigate nonetheless? 5) How many of these complaints did you uphold? 6) In how many complaints pertaining did you instruct a compensatory award from the Home Office? 7) What is the highest compensatory award you have recommended in relation to these complaints? 8) What is the average length of time it has taken you to resolve those complaints which you have upheld?

- s 40(2)

(Not from WDTK)

FDN-215363	19.02.2015	19.03.2015	<p>Under the Freedom of Information Act under the Environmental Information Regulations 2004, I seek disclosure from the Ombudsman of the following information: -</p> <p>Between the period 01st January 2009 to 31st December 2014 can you confirm of those CSA complaints that were reviewed by the Independent Case Examiner (ICE) and were not upheld, how many were subsequently referred to the Ombudsman for review.</p> <p>Over this same period, can you confirm how many ICE decisions have been overturned by the Ombudsman and of those, how many of those overturned complaints were raised by the non resident parent</p>
	19.02.2015	19.03.2015	<p>Freedom of Information Request</p> <p>Under the Freedom of Information Act under the Environmental Information Regulations 2004, I seek disclosure from the Ombudsman of the following information: -</p> <p>Between the period 01st January 2009 to 31st December 2014 can you confirm how many CSA complaints have been upheld by the Ombudsman and of those upheld how many were in respect of the Non Resident Parent (NRP)</p> <p>Over the same period, can you also confirm how much has been awarded to NRP and how much has been awarded to Parents with care</p>

- s 40(2) (Not from WDTK)

Ref	Rec'ved	Target	Request
FDN-216724	05.03.2015	02.04.2015	<p>Q1. In last 2 years has your organisation used external recruitment agencies to hire for permanent or contract roles?</p> <p>Q2. In list format what are the five highest paid external recruitment agencies with the total amount paid in the last 2 years?</p> <p>Q3. What is the fee structure charged for the five highest paid vacancies by the above five external recruitment agencies and the roles that were hired for? Example: Office Manager - Salary £20,000 Fees paid 15% of salary = Total recruitment fees paid £3000.</p> <p>Q4. For the coming year what live vacancies does the organisation currently have for permanent or contract roles, please list these vacancies with the following;</p> <ul style="list-style-type: none"> • Current or future positions and an exact salary figure • What type of positions are they? (Contract or Permanent) • Who is the hiring manager, please provide their full

			<p>details: Full name, Telephone number, Email, Job Title and Department</p> <p>Q5. On which websites are these jobs advertised? Please clearly provide a link/list to where these jobs are advertised.</p> <p>Q6. What is the process to selecting new recruitment agencies? Please provide the procurement process for selecting new recruitment agencies and what date is this conducted and by whom? Please provide full contact details.</p> <p>Q7. Is there a purchase threshold below which allows the organisation to use external recruitment agencies which are not on any preferred supplier arrangements or contracts without going through a formal tender process?</p>
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- s 40(2)

FDN-214724	11.02.2015	11.03.2015	<p>As I can't see that the perk of personal phone calls is in the T&C's of PHSO employment , I would like to know if employees are still allowed to make personal phone calls - using PHSO telephone equipment.</p> <p>The request arises since I would expect that - since most people now have mobile phones - this perk has been removed in an age of austerity, where the government is directing careful housekeeping in public office.</p> <p>So I would like to read any files - of any sort - available under FOIA:</p> <ol style="list-style-type: none"> 1. The PHSO policy of allowing (or not) employees to make personal phone calls on PHSO phones. 2. Any monitoring procedures in place... Especially those which ensures that employees are not making long , personal phone calls abroad . 3. How many employees have been warned about making unnecessary personal phone calls on PHSO equipment in the last year? 4. Are phone calls abroad logged and monitored by the PHSO, since cases are almost always UK centred? And employees ever charged for personal phone calls abroad? 5.If employees are still allowed to make personal phone calls on PHSO equipment, has there been a estimate or costing of how much this perk is costing the taxpayer? 6. If the PHSO is considering the removal of this perk, if it still exists. 7 To what country telephone destinations abroad has the PHSO made telephone calls in one month ...say in December 2014? How many calls abroad were made? <p>Nb Clarification:The last (7) request just covers the countries</p>
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			involved- and not individual telephone numbers. If it is easier for the PHSO just to provide the codes used, that is acceptable
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- s 40(2) (Not from WDTK)

Ref	Rec'ved	Target	Request
FDN-215094	16.02.2015	16.03.2015	Under the Freedom of information Act please advise me if you do investigate yourself and what steps are taken to ensure investigation is unbiased

- s 40(2) (Not from WDTK)

Ref	Rec'ved	Target	Request
FDN-215946	24.02.2015	24.03.2015	<p>Today is the anniversary of my mothers death in 2012 and reflecting on all of the events regarding her treatment and after reading many negative reports in the National Press over the past year concerning your organisation I have decided it is my duty to inform other people of the surprising conclusions to your investigation.</p> <p>The three major points of concern I want to raise are :-</p> <ol style="list-style-type: none"> 1. A doctor can lie under oath at an inquest and no one is concerned about this and there are no penalties 2. A patient can be sent home as medically fit from hospital and re-admitted as an emergency less than two days later with the same symptoms and problems and this is deemed as acceptable 3. A hospital can inform the coroner that a patient was placed on the LCP but later deny this and imply that there are different types of LCP <p>I would therefore like an answer to the question of how many cases of complaints you find in favour of the complainant each year and how many cases in total are reported to you so that I can provide these facts and figures to the press.</p>

Other Requesters

- s 40(2) (Not from WDTK)

Ref	Rec'ved	Target	Request
FDN-216115	20.02.2015	20.03.2015	<p>I have received correspondence ostensibly from Aimee Gasston but which is, no doubt, heavily influenced by Sarah Fox-Bose. The most pertinent information has been withheld.</p> <p>My request for contact details of PHSO's non-executive</p>

			<p>Board members has been refused again.</p> <p>She has also refused to provide an indication of the costs, thus far, of the four cases.</p> <p>She also states:"Finally you also mention the costs of the return flights from London to Manchester for the same two individuals on two consecutive days. It is not clear what information you are seeking here. Please provide us with some clarification so that we can understand what information you are looking for."</p> <p>If, as you say, all four cases have been considered, it would be perfectly clear that the information request relates to s 40(2) extravagant travel arrangements in HS 71912.</p> <p>I have previously mentioned that the letter dated 4 February 2015 supposedly from you appears to have been written by Sarah Fox-Bose. It is now apparent from information unearthed pursuant to the Freedom of Information Act 2000 that the letter supposedly from Steve Brown (Head of Risk and Assurance) was also written by Sarah Fox-Bose. Presumably she will also deal with my complaint against her and Suzannah Beazley and then pretend that you have responded.....</p> <p>Four weeks ago, I received an out of office reply from your executive assistant s 40(2) stating that she was not in the office that day and that Suzannah Beazley should be contacted. Does this mean that Suzannah Beazley has been moved from her position as Head of the Review Team to your office? If so, do you really think that it is possible for either you or Sarah Fox-Bose to make an independent, unbiased assessment of my complaint against Suzannah Beazley? PHSO is corrupt not only by design but also by intent.</p> <p>In the letter dated 4 February 2015, supposedly from you, Sarah Fox-Bose stated that we would receive a response within four weeks, i.e by 4 March 2015 at the latest. Please ensure that you provide the promised comprehensive response together with s 40(2) External Review report.</p>
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2014-2015 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 2014-2015 Quarter 4 summary findings from the Information Governance compliance programme. This includes compliance with the access to information provisions under the Freedom of Information Act (FOIA) and Data Protection Act (the DPA) legislation, and compliance with Information Security requirements, including under the DPA and compliance with general records management practice in PHSO systems.

2 Action required

- 2.1 The Committee is asked to:
- review this paper;
 - accept the findings and recommendations in sections 4, 5 and 6; and
 - note the risks and next steps outlined in sections 7 and 8.

3. Background

- 3.1 PHSO is required by law to comply with FOIA, the 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 fourth quarter of 2014-2015.
- 3.2 Due to the potential for incidents to have a high level of impact on PHSO's reputation, business continuity and compliance with the Information Assurance Maturity Model, this report also includes PHSO's activity and compliance with internal information security requirements for the fourth quarter of 2014-2015.
- 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. Good Records Management is a requirement under section 46 of the FOIA.
- 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 number of requests received in Q4 2014-15 was broadly consistent with the number of requests received in Q2 and Q3 this year. In Q4 2014-15 we received 177 information requests compared to 167 in Q3 2014-15, 168 in Q2 and 215 in Q1. All but 6 of the requests we resolved (158) this quarter were responded to within the statutory deadlines. Please find at Annex A the figures from previous quarters and years for comparison.
- 4.1.2 Though the number of requests received during 2014-15 increased by 13% (635-718), much of this increase was in Q1 when we had several very active requestors. By comparison, during the rest of the year the number of requests fell slightly and levelled out as PHSO opened other channels of communication for longstanding complainants and the PHSOthefacts group.
- 4.1.3 However, the challenging external environment has meant that in addition to the increase in volume, the requests received have been for more sensitive information on more sensitive topics. This has in turn made some requests more complex to process and respond to. To meet these challenges, during the year we have recruited an additional full time FOI/DP Officer to the team and the team as a whole has continued to receive regular specialist training to build, develop, and maintain its knowledge. Overall, we have continued to meet our corporate service standard of responding to 90% of FOI and DP requests within the statutory deadlines and during the year we have effectively manage the risks associated with the requests we receive.

4.2 Organisational learning from FOI/DP Requests

- 4.2.1 At the end of the last business year the Audit Committee asked that an annual report on organisational learning from FOI/DP be added to the Committee's forward programme. I provide an update to the Committee below.
- 4.2.2 Information requests have been one of the ways that our customers have provided feedback on PHSO's service both in terms of what information has been requested but also what they have said in asking for it. Through the year, the Executive Team has received a regular updates on the information requests in hand and the themes arising from them. They have also been directly involved in deciding how to respond to some of them and have been well placed to listen to the issues being raised in requests.
- 4.2.3 Longstanding complainants have used information requests to make plain their unhappiness with PHSO's decisions on their cases. Those associated with PHSOthefacts have also been clear that they have wanted PHSO to continue a dialogue with them about their cases and to listen to what they have had to say about their experiences and PHSO's service.

- 4.2.4 In response, during the last year PHSO reengaged with longstanding complainants to see if there was anything more that could be done to resolve their complaints. As part of this, senior staff met with complainants to discuss their cases and hear about their experience of our service. As part of this listening work, there was the workshop with the PHSOthefacts campaign group at the start of the year and a review of their cases by directors followed. The dialogue has continued as part of the work being carried out in development of the customer charter and, as a result, we are receiving fewer requests from these customers.
- 4.2.5 Listening to feedback (much of it from our regular FOI requestors), PHSO has also changed the way it manages complaints about our service and has created a customer care team to ensure we continue to provide good customer service even after we have reached a final decision on a case. The formation of this team has really helped the FOI/DP Team manage information requestors whose underlying issue is the decision PHSO has taken on their case. It means they don't have to make an information request to get a response or make a point about their case and we now have someone who we can refer a complainant to who we know will talk to them and listen to their concerns.
- 4.2.6 Finally, the increase in requests has demonstrated that more information about our organisation, what we do, how we do it, and what we spend our money on needs to be readily available and accessible online without people having to request it.
- 4.2.7 To begin to address this, we have reviewed PHSO's publication scheme, looking for 'quick wins' in terms of information that could be easily added to the website. We have also put forward proposals for other changes and additions to the information available online which have been fed into the digital strategy project that EA&S is leading on to review online content and procure a new website.
- 4.2.8 In addition, we have just finished work on a disclosure log. It provides a searchable archive of the responses we have provided under FOI where we have disclosed information during the course of the business year. Our responses will be uploaded on a quarterly basis and the log will be reviewed on a 6 monthly basis and information that is out of date will be removed.

4.2 Information requests - Non-case-related (FOIA)

- 4.2.1 In Q4 of 2014-15 we received 85 non case related requests for information under the Freedom of Information Act 2000. This compares to 85 in Q3, 98 in Q2, 132 in Q1. The vast majority of FOI requests received were made via the 'whatdotheyknow' website.¹
- 4.2.2 In Q4 2014-15 95% of FOI requests resolved (81 of 85) were closed within the statutory deadline. At year end, 95% of non-case related requests resolved (378 of

¹ 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.

401) were resolved in time, exceeding our corporate service standard of responding to 90% of FOI requests within 20 working days.

- 4.2.3 During the year we've received and managed information requests about a number of sensitive topics including requests for internal emails about the NAO report from the Health Service Journal, requests for the NAO report itself (prior to publication), audit committee minutes relating to it and PHSO audits for the past three years, correspondence between PHSO and the Patients Association, information held about phsothefacts, recorded information about Jeremy Hunt's criticisms of the office, the award of the board development contract, Dame Julie's involvement in the recruitment of the Clerk of the Commons, and PASCs visit to listen to calls on our helpline.
- 4.2.4 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 the local area or project manager.

4.3 Further analysis of FOI requests resolved

- 4.3.1 Annex B provides the number of requests made during the year alongside the number of requesters that made them. The 401 cases we resolved during the business year were made by 139 people. However, seven people made 54% of the requests for non-case related information under FOI we resolved (217 of 401). All except one have been regular requestors in previous years and four of them are part of the PHSOthefacts campaign group.
- 4.3.2 Generally, these requestors have focused on asking us for evidence to back up public statements PHSO has made about our service and the improvements we are making. They also have often made FOI requests about topics appearing in the press and in response to news stories/public criticisms of PHSO.
- 4.3.3 Beyond this, ten people made 43 of the requests we resolved. The majority of these requestors were also longstanding complainants. Tellingly, almost all of these requests were received in the first part of the year and it's reasonable to assume that opening other communication channels with these requestors PHSO has taken them away from making FOI requests.
- 4.3.4 Looking at the other end of the scale, 101 requestors made only one non-case related request for information under the FOI Act. Twenty requestors made two requests. Of these twenty requestors, six had made requests in previous years. What we generally see from someone making only one or two requests for information though is that it relates to a specific organisation and/or issues related to their substantive complaints to PHSO. First time requestors don't generally go on to make more than one or two requests.

- 4.3.5 Overall then, it's of no surprise that the majority of requests we have resolved this year have been from relatively few, longstanding complainants, who have, over the past few years regularly made information requests to PHSO.
- 4.3.6 The signs are, however, that engaging with longstanding complainants is having an impact on the number of requests we are receiving. Going forward, that doesn't mean that our most frequent requestors will stop making requests altogether but I would expect to see a reduction in the number of requests they make in the coming year.
- 4.3.7 As relatively few people who make a new request of PHSO will make more than one or two requests under the FOI Act, reducing numbers of requests we receive from our regular requestors should mean that, for the first time in several years, the numbers of requests may begin to fall over the next business year.

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

- 4.4.1 83 of the 168 information requests received in Q4 2014-15 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 2000 for non-personal information. This compares to 82 in Q3, 70 in Q2 and 87 in Q1.
- 4.4.2 97% of the case-related requests we resolved (71 of 73) in Q4 2014-15 were resolved within the statutory time limits. At the end of the business year we had resolved 97% (318 of 327) of case related requests in the statutory timeframe, exceeding our corporate service standard of responding to 90% of DPA requests within 40 days.
- 4.4.3 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; communication 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.

4.5 Internal reviews

- 4.5.1 During the course of the business year 87 cases went to internal review.² Nine complaints about service (principally delay) were upheld either partially or in full. Two cases were upheld because of an error in our decision (principally the interpretation of the request rather than a technical application of the legislation). Given the volume of requests we process, the number of cases where an error is identified at review is impressively low and indicates that the knowledge sharing, case discussions and QA processes within the team are robust.

² 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 have done under our casework review process.

4.6 Information Commissioner (ICO)

- 4.6.1 In Q4 2014/15 one complaint about an FOI request was referred to the ICO. The original request was for our clinical advisers' names and GMC references. This is the only open complaint we have with the ICO at the end of the business year.
- 4.6.2 The increase in information requests we received during the year did not translate into more complaints to the ICO. None of the 13 complaints referred to the ICO were upheld by them. Of the six case related complaints, only one was about the application of the statutory bar and 31(4) DPA (a source of tension historically between our offices).
- 4.6.3 The remaining seven complaints related to information withheld under FOIA, covering topics such as declarations of interest by our clinical advisers, requests for an adviser's name and details, notes of a meeting between Dame Julie and Bernard Jenkin MP, and whether or not some information was in our annual report.

4.7 Tribunal cases

- 4.7.4 Three of the complaints considered by the ICO about the application of the FOI Act were appealed to the Information Tribunal. All of them were by the same requestor. One about 'the ethics of the review team manager' was struck out with no real prospect of success. However, one case relating to Dame Julie's telephone numbers and email address, and another relating to staff telephone numbers in the Executive Office and the application of s14 (1) (vexatious requests) went to hearing.
- 4.7.5 The first appeal relating to the request about Dame Julie's contact details was not upheld and the Tribunal accepted that this was personal information which if disclosed would cause disruption.
- 4.7.6 However, the second appeal was upheld by the Judge who, following an oral hearing, overturned the application of s14 (1). Though the Judge concluded the person had been very persistent he did not agree that they had been obsessive (one of the criteria for applying the exemption). He also concluded that the person had received a poor service from PHSO (their complaint about PHSO's decision on their substantive complaint was not initially accepted by the review team but was subsequently upheld at internal review) and that they therefore had a legitimate motive in trying to bypass the review team to escalate their complaint to Executive Office. As we had opted not to act as a 'listed party' to the proceedings, we had no route to appeal the decision.
- 4.7.7 The Tribunal's decision came as a disappointment but it does not have a significant impact on our day to day work. There is though learning for the team about how and when we decide to defend a case at Tribunal and things that we will do differently in the future. With hindsight, we didn't control what we could control. We assumed the ICO would attend and we assumed that this was a case they would defend with the vigour that we would have. Concerns that acting as a 'listed party' might count against PHSO and generate adverse publicity held sway when the decision making should have primarily centred on the reputational risks associated with an upheld tribunal case. In future decisions about whether or not to join an appeal will be

taken outside the team by the SIRO/Chief Executive. Options will be provided along with the risks associated for discussion and a formal decision.

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

5.1 In total, there was 5 'Major Incidents' and 27 'Minor Incidents' reported during Q4. Details of the incidents that took place can be found in Annex C.

5.2 The number of total 'Major' incidents in Q4 has increased compared to previous quarters, however 'minor' incidents remain fairly static and often due to the same issues (breaches of policy rather than actual lost information):

Q3 1 major; 23 minor

Q2 1 major; 36 minor

Q1 1 major; 33 minor

Four of the 'major' incidents this quarter involved human error by PHSO staff. Two incidents where the wrong report was sent to the wrong complainant (both in Investigations with one staff member hitting their 5th incident since January 2014; the other was his first incident); one sensitive HR document saved in the wrong part of the Meridio fileplan (first incident for staff member); and one casefile where medical records have been lost (presumed misfiled and still in the process of ascertaining where it went missing). We have reported the latter incident to the Information Commissioner's Office as they involve sensitive medical records and have not been found, although there is a strong indication they have been misfiled internally rather than lost externally. The complainant has been apologised to and has been understanding in the matter. The fifth incident resulted in TNT losing 5 casefiles during transit. This has also been reported to the ICO. Following discussions with Legal and Procurement we have begun to look for a new supplier to take over the contract when it ceases in three months; in the meantime we are also looking to use a different supplier as our TNT contract does not bind us to use them solely.

5.3 The number of major incidents this quarter is a concern; the number of minor incidents while consistent with previous quarters still remains high. The primary cause of incidents this quarter is staff not checking their work (ie password protecting; sending out the incorrect report; not checking all papers with a file). All are high risk areas for PHSO especially as information could be inappropriately disclosed to third parties. Staff are regularly being reminded of how to handle information. Discussions have been taking place with Mick Martin as SIRO to improve on methods by which we can hold staff and managers to account for incidents, including those caused by human error. Mick will host a meeting with all of the Information Asset Owners in May 2015 (postponed from February/March) to discuss what we can learn from these incidents and what steps we need to take to continue to minimise the number of incidents.

5.4 It is regrettable that two of the Major incidents this month have resulted in reporting to the ICO as they met the notification criteria (set out in the Information Security Breach Policy). Searches for the files continue while we wait to hear from the ICO.

- 5.5 ICT/IRM continue to work closely with the LGO following a gap analysis against ISO27001:2013 to ensure we are working to the same information security standards making it easier to work together in the future. We are carrying out an exercise to compare similar policies and procedures around information security to determine any major differences that will need to be rectified. Work is currently taking place to review our retention and disposal schedule and our protective marking scheme to ensure further alignment with the LGO.
- 5.6 ICT/IRM continues to work on the Information Assurance Maturity Model (IAMM), which seeks to ensure that PHSO is managing its information assets and risks appropriately. As part of this work we are reviewing our training around Data Protection and Information Assurance for all staff to complete. Demonstrating that PHSO staff are aware of their responsibilities in Data Protection is a key requirement of the IAMM and the ICO expects this of all organisations handling personal data. We will revisit the IAMM as an additional level of assurance once we have focused on the ISO 27001 compliance; we will also assess ourselves against the Cyber Essentials scheme.
- 5.7 The Head of ICT/IRM meets with Mick Martin as PHSO's Senior Information Risk Owner (SIRO) on a monthly basis to discuss Information Management/Security related issues. Throughout January and February they will be undertaking a programme of SIRO training and mentoring to support them in their roles. This will be particularly useful as PHSO moves away from the GSi and begins to work more closely with organisations like the LGO, who may adopt a different approach to information risk.

6. Findings - Records Management

- 6.1 A compliance check on how staff are managing information (i.e. in Meridio and Visualfiles) was carried out at the end of Q4. This included checking that staff are using our systems to store information in a manner which enables the key requirements of good records management (naming conventions, correct storage/system, protective markings, appropriate access controls, appropriate versioning).
- 6.2 The following elements of records management scored very highly in our checks:
- Correct use of Access Controls in Meridio
 - Naming of documents on Meridio and Visualfiles
 - Documents and emails are being stored in the correct locations in Meridio
 - Large majority of staff are complying with the Clear Desk Policy however we now have evidence of the same names starting to appear so we will tackle that with the Information Asset Owners.
 - Spot checks in Finance and HR found that their paper filing was good
 - Completion of the Meridio induction checklist has improved significantly with 82 out of 107 checklists returned in Q4 (the shortfall is due to 21 staff members leaving before training; and 4 checklists not returned to date)
 - 84 members of new staff have received Information Governance training, and training is booked in for the remaining new joiners (11 at the time of writing)

PROTECT

- 7 members of staff have the DPA e-learning as an outstanding training need, however they are all within their first month of employment.
- Folders on Meridio are generally being closed and disposed of in line with our Retention and Disposal guidance; an annual review has taken place to close those that should have been closed already so we are up to date.

- 6.4 Work will continue to ensure staff remain knowledgeable in good records management practice, with the following areas identified as requiring further work:
- Understanding the Protective Marking Scheme (we are simplifying the Protection Marking Scheme to encourage greater compliance)
 - Version Control and Declaring Records (Meridio)
 - Case file structure (Paper filing is poor but as we are moving to new CMS with digital files it is seen as disproportionate to tackle; electronic records are good)
 - My Workspace – appropriate use
 - The G Drive project is close to completion following the successful deletion of several folders of legacy information being reviewed and transferred to Meridio where necessary. Unfortunately, HR were unable to meet the deadline of 1st April to review their legacy information and therefore a new deadline of 1st May 2015 has been agreed – HR are aware that failure to review this information poses a risk that PHSO are keeping information for longer than necessary.
 - SharePoint/Website/Intranet still need retention policies applied
 - Due to an IRM staff member leaving and not being replaced at the end of Q3 we had a backlog of casework cases waiting to be disposed. These are being tackled during Q1 2015-2016 using existing staff resources and re-prioritising. We hope to be back on track by the end of April.
- 6.5 The IRM team will continue to use the existing LIRA network meetings to discuss how they can help improve practice in their areas. The IRM team will use existing communication methods to explain and demonstrate examples of best practice. Work continues to ensure appropriate records management policies are applied to information in SharePoint, Website and Intranet, the latter has improved significantly with better governance and linkage with Meridio. We have found approaching LIRAs to assist us with the work around individuals' My Workspace has been beneficial and we will continue to use this network to improve office practice in this area. We will be renaming the LIRA network (which stood for Local Information and Records Advisors) to the SIMA network (which stands for Systems and Information Management Advisors) to better reflect the broader role they have to play in helping to manage our information across all systems (not just Meridio as was the original intention).
- 6.6 Very few staff are following the paper elements of the case file structure that was introduced in 2013. The electronic (VF) elements are quite good. As the office is moving towards electronic working a review of the paper case file structure is disproportionate.

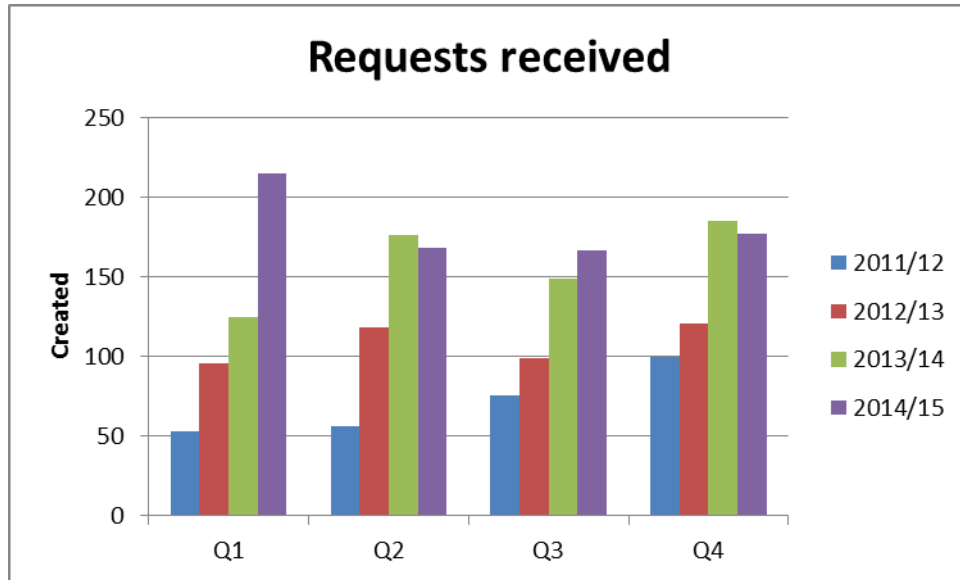
7. Risk Assessment

- 7.1 PHSO is largely complying with the FOIA 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 and over the 2014-15 business year as a whole for both FOI and DPA. The risks associated with FOI requests and the mitigation is outlined at 4.2. The risks associated with complaints to the ICO and tribunal about individual cases are explained in 4.4-4.6 and will be monitored through the business year.
- 7.2 The number of Information Security incidents has risen during Q4 compared to Q3, where there is evidence that staff are still not checking their work before transmitting information (i.e. email addresses, not password protecting information going to unsecure email addresses, selecting wrong body; sending wrong information entirely). The main risk, and cause of most incidents, is human error, but by working with the Quality and Service Integrity Directorate, along with staff and managers when mistakes do happen, helps to decrease the likelihood of mistakes happening again. We expect to roll out of further training on Data Protection and Information Security during the roll out of the new CMS which we hope will have a positive impact on the number of incidents over the coming months.
- 7.3 Records Management remains relatively good at PHSO, with only minor training needs identified. It must be noted however that it has been over three years since we last assessed our records management process against the Lord Chancellor's Code of Practice on Records Management (Section 46 FOIA) and this will be picked up on during 2015-2016. There will be an opportunity with the introduction of the new Case Management System to improve our electronic records management processes within the system's functionality itself, but also in the behaviours of staff in creating and storing records through training. On returning from maternity leave I have returned to the CMS Project Board and made records management functionality requests to the developers to ensure our system is not only set up to support our casework process but also meet the requirements of section 46 FOIA on Recordkeeping.

8 Next steps

- 8.1 The IRM team will continue to raise awareness of what staff should be doing to use and manage our information in accordance with Records Management guidelines and Information Security requirements. The IRM team will be assisting in the development of new training for the CMS which will mean that key messages, skills and behavioural requirements around records management and information security will be included and aid good practice from the beginning. We are also in the process of ensuring IAO's are aware of what is expected of them and looking to improve their general awareness of information security risks in their areas.

Annex A- Information requests received 2011/12-2014-15



	2011/12	2012/13	2013/14	2014/15
Q1	53	96	125	215
Q2	56	118	176	168
Q3	76	99	149	167
Q4	100	121	185	168
Total	285	434	635	718

Annex B - Requestors and requests resolved

Number of Requesters	Requests
1	64
1	49
1	41
1	29
1	17
1	9
1	8
3	6
2	5
5	3
20	2
101	1

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Annex C – Information Security Incidents - further details

5 Major Incidents:

Definition of Major: *Personal Data or Protectively Marked PHSO information lost and not recovered; or recovered but still compromised (i.e. shared inappropriately)*

Reference	Summary	RAG rating
2014-2015_105 TNT (Post)	TNT consignment containing 5 case files picked up from Associate 12/01/15 but not arrived at Millbank. Complainants and Bodies informed. TNT have carried out an investigation but not found the files. Preparation to look for new postal supplier has begun as too many incidents involving TNT have now taken place	<ul style="list-style-type: none"> • High • Significant amount of sensitive personal data lost • Casework affected, new copies of material evidence requested • Reported to ICO in January but not yet heard response other than confirmation of receipt
2014-2015_107 (Investigations)	Wrong report belonging to another case accidentally sent to wrong complainant. Complainant understanding. Sent SAE to wrong complainant to return report which was received on 12 February 2015.	<ul style="list-style-type: none"> • Medium • Sensitive personal data shared inappropriately • Complainant was understanding and the report returned to us
2014-2015_115 (Finance)	Sensitive HR document saved in an open area of Meridio resulting in staff access	<ul style="list-style-type: none"> • Medium • Access quickly removed but 5 people had accessed it
2014-2015_127 (Investigations)	Draft report belonging to another case accidentally sent to wrong complainant. Complainant understanding. Sent SAE to wrong complainant to return report (still pending)	<ul style="list-style-type: none"> • Medium • Sensitive personal data shared inappropriately • The complainant was understanding and the report is being returned to us
2014-2015_131 (unknown TBC)	File 2/2 missing, containing medical records. Thorough search of both offices and the external clinical adviser and reviewing the TNT archive lists has not found the file. Complainant and body notified. Search continues but likely to have been misfiled rather than lost externally	<ul style="list-style-type: none"> • High • Sensitive medical records lost • Reported to ICO in April 2015

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27 Minor (or near miss) incidents

Definition of Minor: *Incidents where information (whether personal data or protectively marked PHSO information) has been recovered (a 'near-miss') or breaches of internal policies and procedures but where information is not believed to have been compromised (i.e. not password protecting documents in emails)*

Reference	Summary
100	Email sent without password protecting the document
103	Password Protected disk missing from casefile. No evidence the Trust sent the disk but if it was they say it was password protected.
104	Decision letter sent to wrong address but it was returned unopened
106	Email sent to DWP email address instead of PHSO member of staff
108	Update letter sent to incorrectly addressed third party (but correct organisation)
109	Update letter sent to incorrectly addressed third party (but correct organisation)
110	3 rd party name (Ms Smith) accidentally included in a final report sent to a Trust. No other details relating to Mr Smith included
111	Incorrect email address given and subsequently used; now updated (NHS.net email address)
112	Email sent without password protecting the document
113	Incorrect email address given and subsequently used; now updated (NHS.net email address)
114	Email sent to wrong address with nhs.net
117	Email sent without password protecting the document
118	Email sent without password protecting the document
119	Draft report sent to wrong body
120	Email sent without password protecting the document
121	Letter sent to wrong body
123	Covering letter from Trust missing from file (very little personal data)
124	Complaint from EPA that PHSO have released personal email address; no evidence to suggest we did; available online
125	Various letters sent to wrong address (as given by complaint)
126	Email sent to wrong address (NHS.net)
128	Email sent without password protecting the document
129	File of medical records thought to be missing but found in a cupboard
130	Letter sent to wrong body
133	6 Emails sent without password protecting the document
134	Email sent to wrong email address (bounce-back received)
135	Material evidence received but not on paper file. Missing. Low level corporate information, Trust has resent.
136	NEDs received letter from complainant to their home address; no evidence of PHSO releasing details; available online

*116, 122 and 132 are physical security incidents.



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Monthly Management Information

Review Team

June 2014

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Summary

- In June, we received and accepted less complaints about our service than previous months. We have also received and upheld less service complaints about delay.
- In June, there was a reduction in the number of **requests** for review of decisions not to investigate. We did however, continue to **accept** more requests for review on decisions not to investigate than we did on requests for review of investigation findings.
- A higher proportion of **requests** for review of our **decisions not to investigate** are put to us on the basis that the complainant simply disagrees with our decision. In June, though the numbers of upheld reviews is proportionality very low, we **upheld** more complaints about decisions not to investigate on the basis of new information - this relates to complaints where we have applied the statutory time limit, but have failed to ask the complainant for the reasons for their delay in approaching us - those reasons are then put to us as new information when requesting a review.
- A higher proportion of **requests** for review of our **investigation findings** are on the basis that the complainant simply disagrees with the findings, or they believe we have misunderstood their complaint. In June, though the number of upheld reviews is proportionality very low, we **upheld** more complaints about investigation findings on the basis that we had based those findings on inaccurate facts.
- Our handling lessons are reflecting issues in the way that **Customer Services** are applying our statutory time limit on cases. We have seen a noticeable number of cases where we have failed to give consideration to, or record our consideration of, the scale of the claimed injustice and the potential wider public interest of the case (factors that should be considered and recorded when looking to see whether there are reasons to put the limit to one side).
- Our review process has also identified handling lessons around communication. Specifically, lack of empathy in letters; failing to clarify the complaint with the complainant; failing to issue update letters; failing to respond to contact. **Managers need to remind their staff about the importance of building these factors into our communication with our customers.**
- Year to date, the Allocations Team and the Clinical Advice Directorate have had the highest number of upheld complaints against them. CST2, CST1, CST3, H6 and H2 have raised the highest number of handling lessons. **More detailed information on the reasons why are available from the Review Team.**

Upheld/Partly Upheld Reviews by Team

Decision					Service			
Position	Team	YTD	Jun-14	Total	YTD	Jun-14	Total	Overall Total
1	Allocation	0	0	0	2	1	3	3
1	Clinical Advice	1	1	2	1	0	1	3
3	H3	2	0	2	0	0	0	2
3	CST6	1	0	1	1	0	1	2
3	H2	1	1	2	0	0	0	2
3	CST1	1	0	1	0	1	1	2
3	CST2	0	1	1	1	0	1	2
3	CST3	0	2	2	0	0	0	2
3	CST7	0	1	1	0	1	1	2
10	PHSO	0	0	0	1	0	1	1
10	H8	1	0	1	0	0	0	1
10	H9	0	0	0	1	0	1	1
10	H1	0	0	0	1	0	1	1
10	C1	0	0	0	1	0	1	1
10	Analytics, Insight & Research	0	0	0	0	1	1	1
10	C2	0	1	1	0	0	0	1
10	H5	0	0	0	0	1	1	1
10	P3	0	0	0	0	1	1	1

*The numbers in this table will not equate to the total number of upheld complaints because the reasons for upholding can be attributed to more than one team

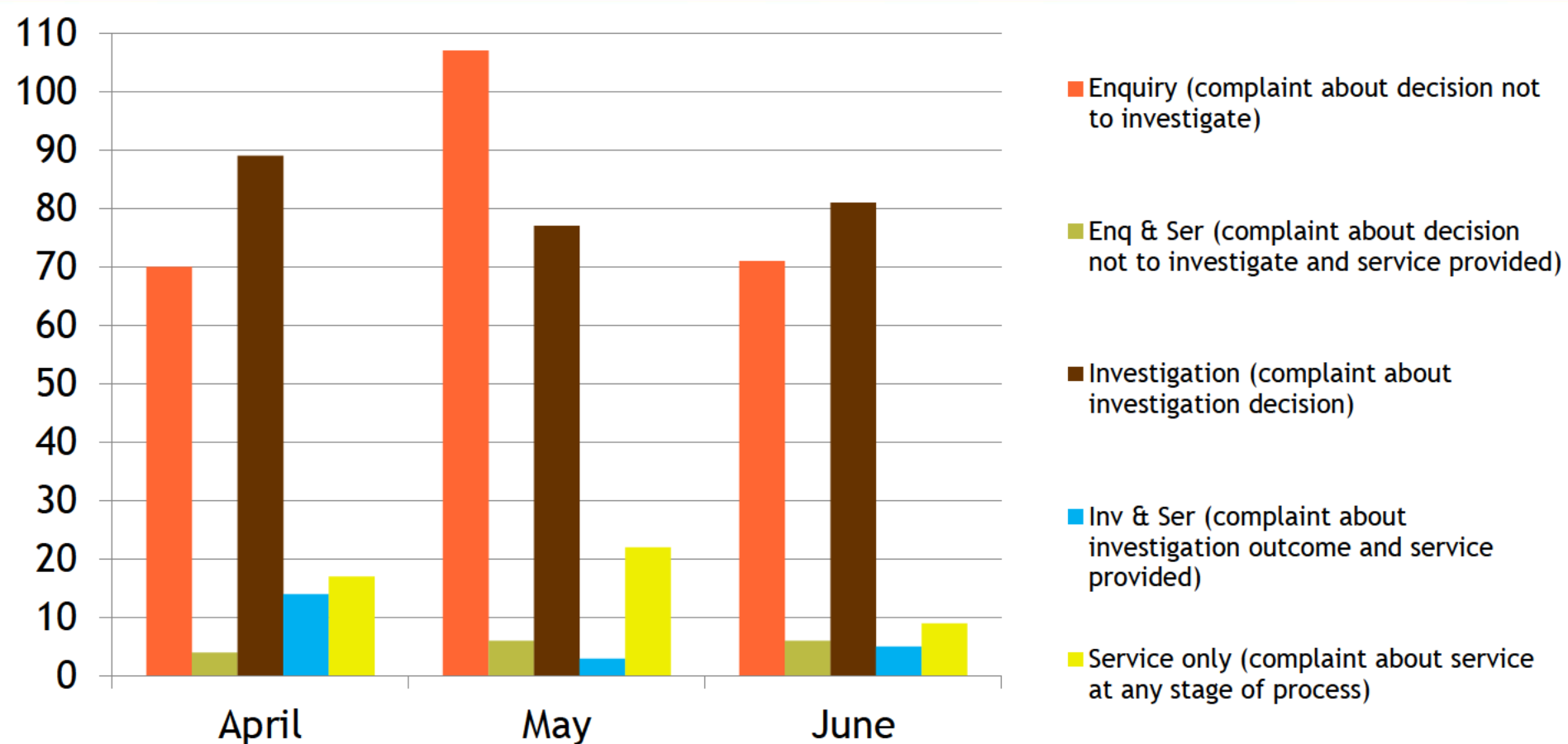
Handling Lessons by Team

(handling lessons can be identified on both upheld and not upheld reviews)

Position	Team	YTD	Jun-14	Total
1	CST2	6	3	9
2	H6	7	1	8
2	CST1	5	3	8
2	CST3	1	7	8
2	H2	6	2	8
6	CST6	5	2	7
7	CST5*	4	2	6
7	Clinical Advice	4	2	6
9	H8	2	3	5
9	P1	2	3	5
9	PHSO	5	0	5
12	H11	3	0	3
12	Allocation	2	1	3
12	C1	2	1	3
12	H3	3	0	3
12	Review Team	2	1	3
17	H7	1	1	2
17	H1	1	1	2
17	C2	0	2	2
17	CST7	0	2	2
17	H5	0	2	2
22	H9	1	0	1
22	Legal Team	1	0	1
22	Analytics, Insight & Research	0	1	1
22	CST4	0	1	1
22	P2	0	1	1
22	P3	0	1	1

*2 CST5 handling lessons were identified (in May) while assessing request for review. We declined the review request because it did not meet the review criteria (case EN-180175).

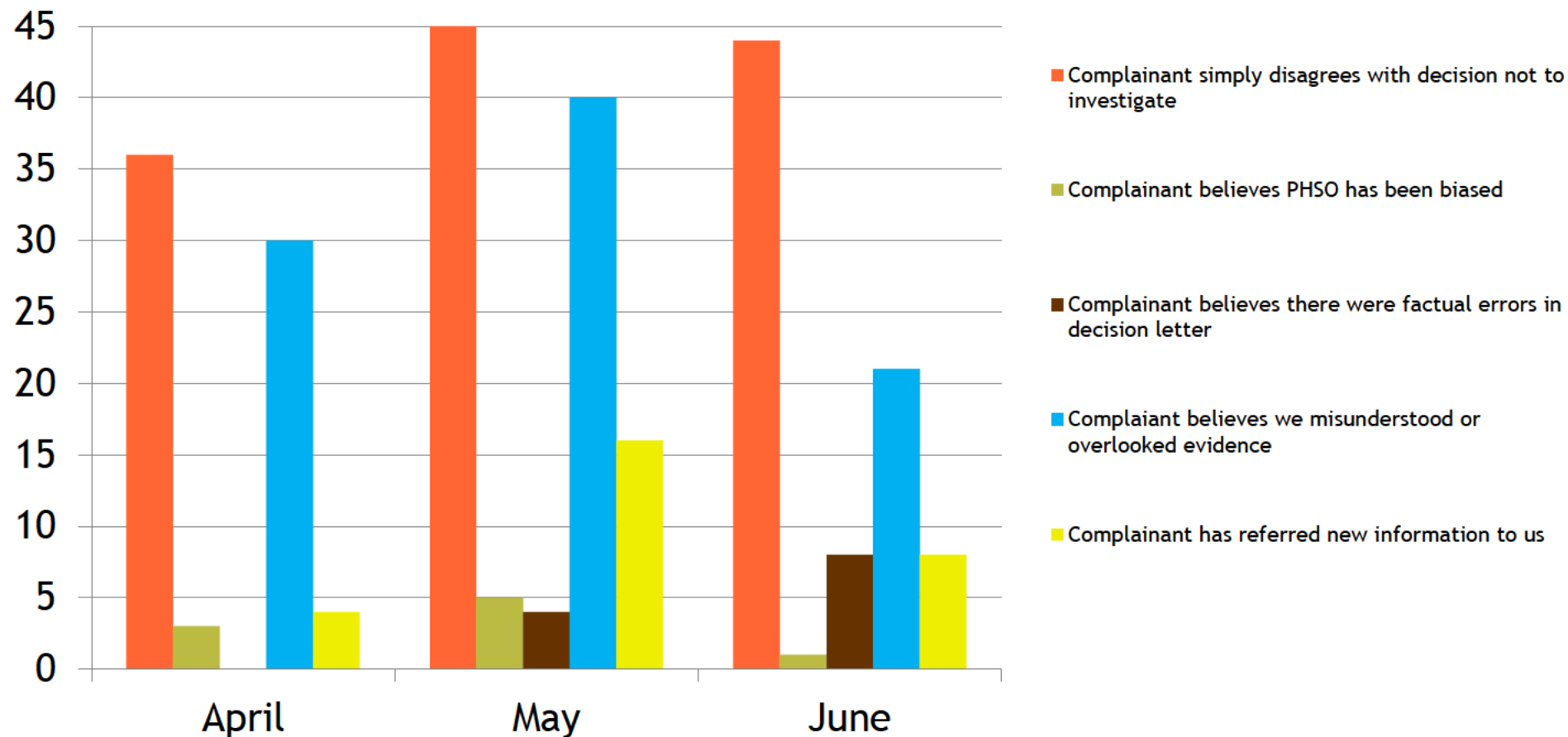
Type of Review Requests



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Basis of Review Requests

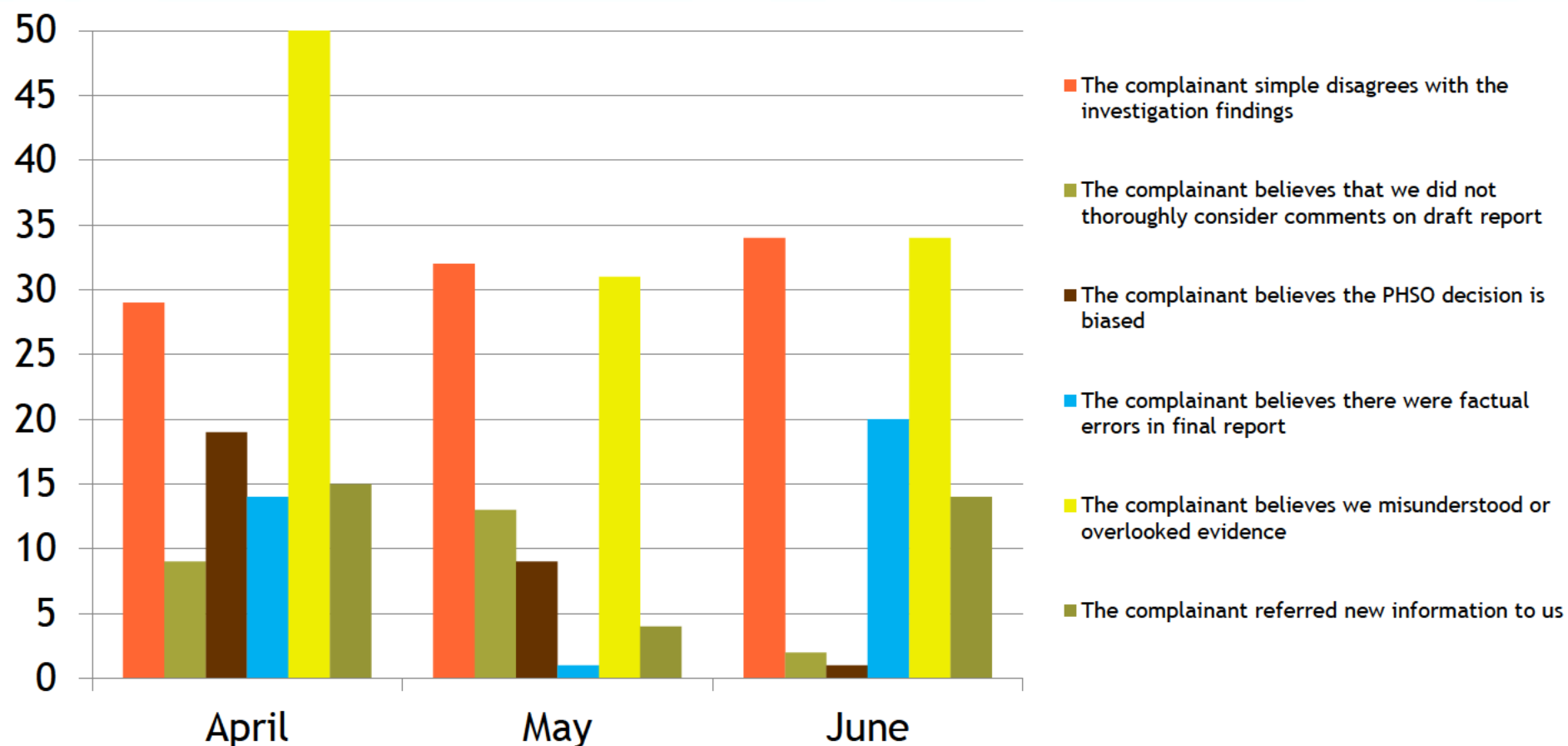
Enquiry Stage (preliminary & assessment)



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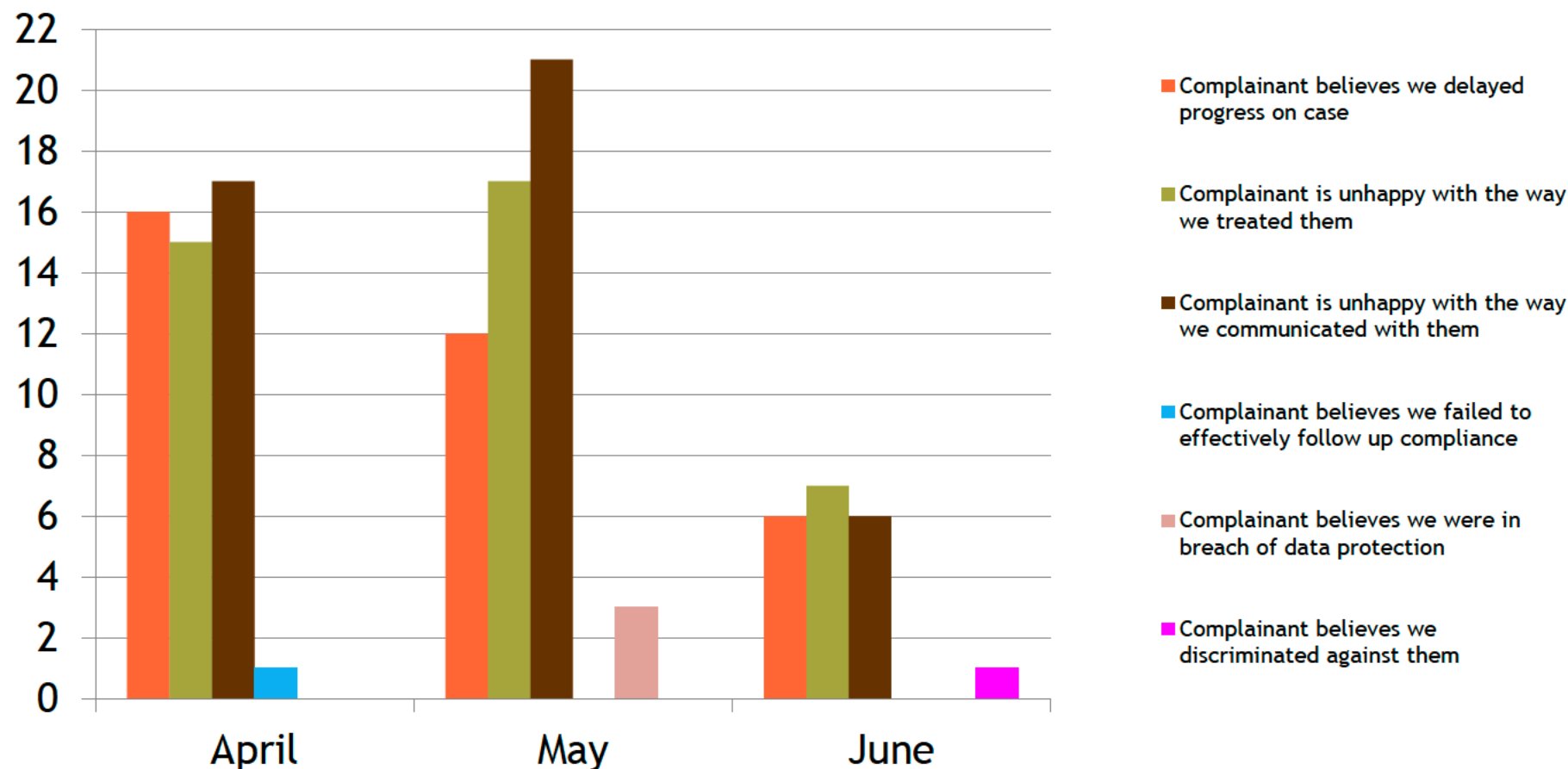
Basis of Review Requests

Investigation Stage



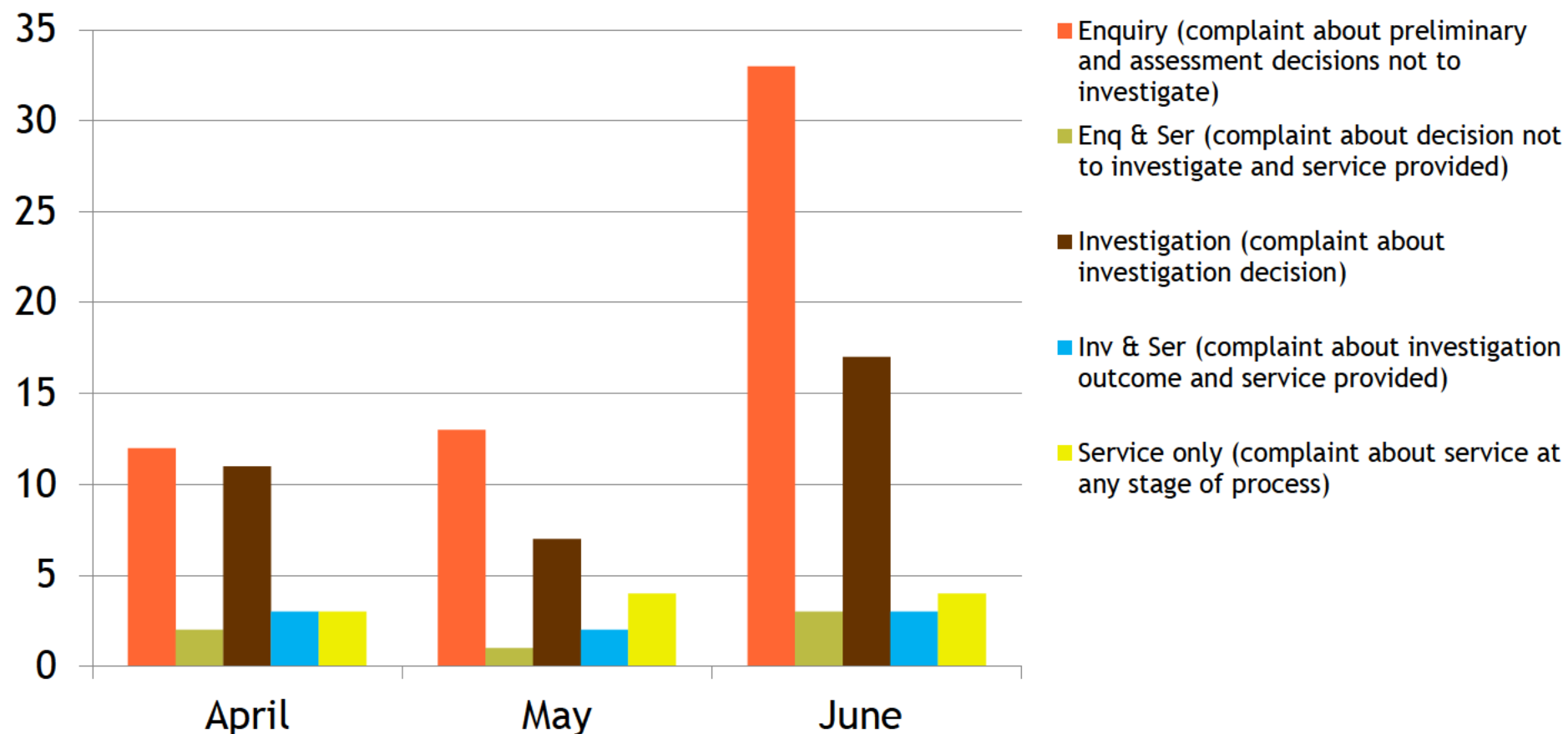
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Basis of Review Requests in respect of Service Provided



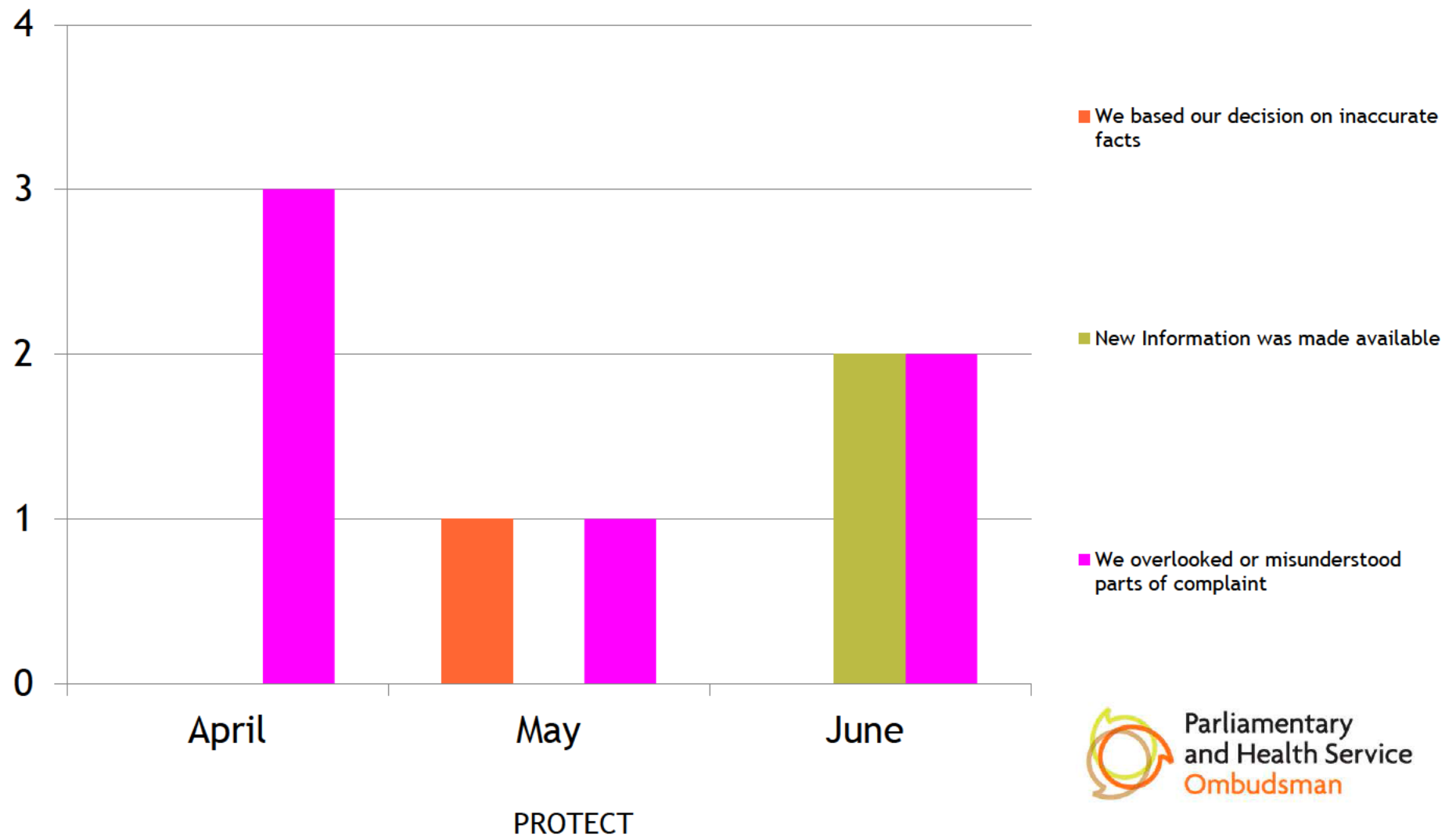
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Accepted Reviews

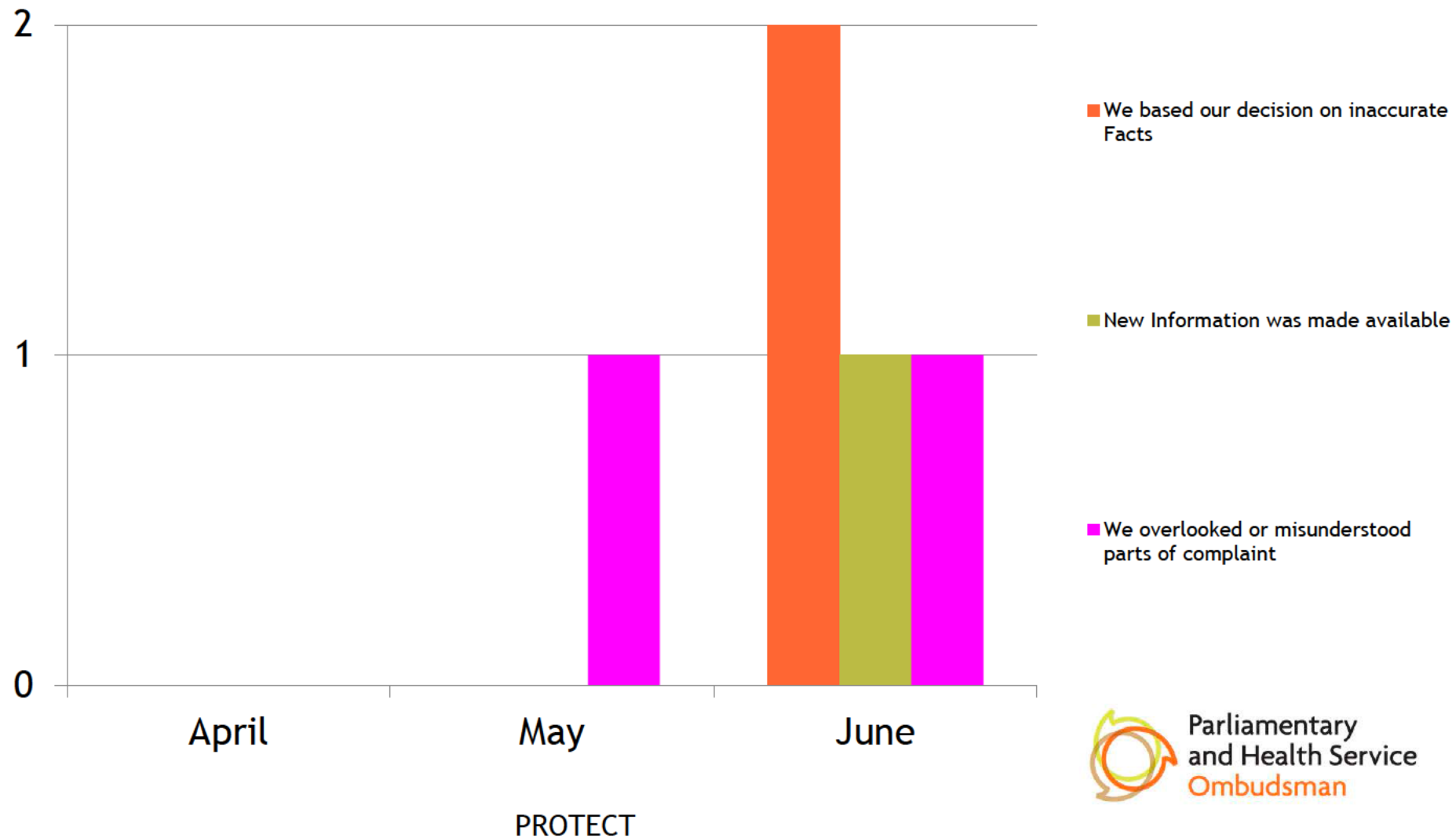


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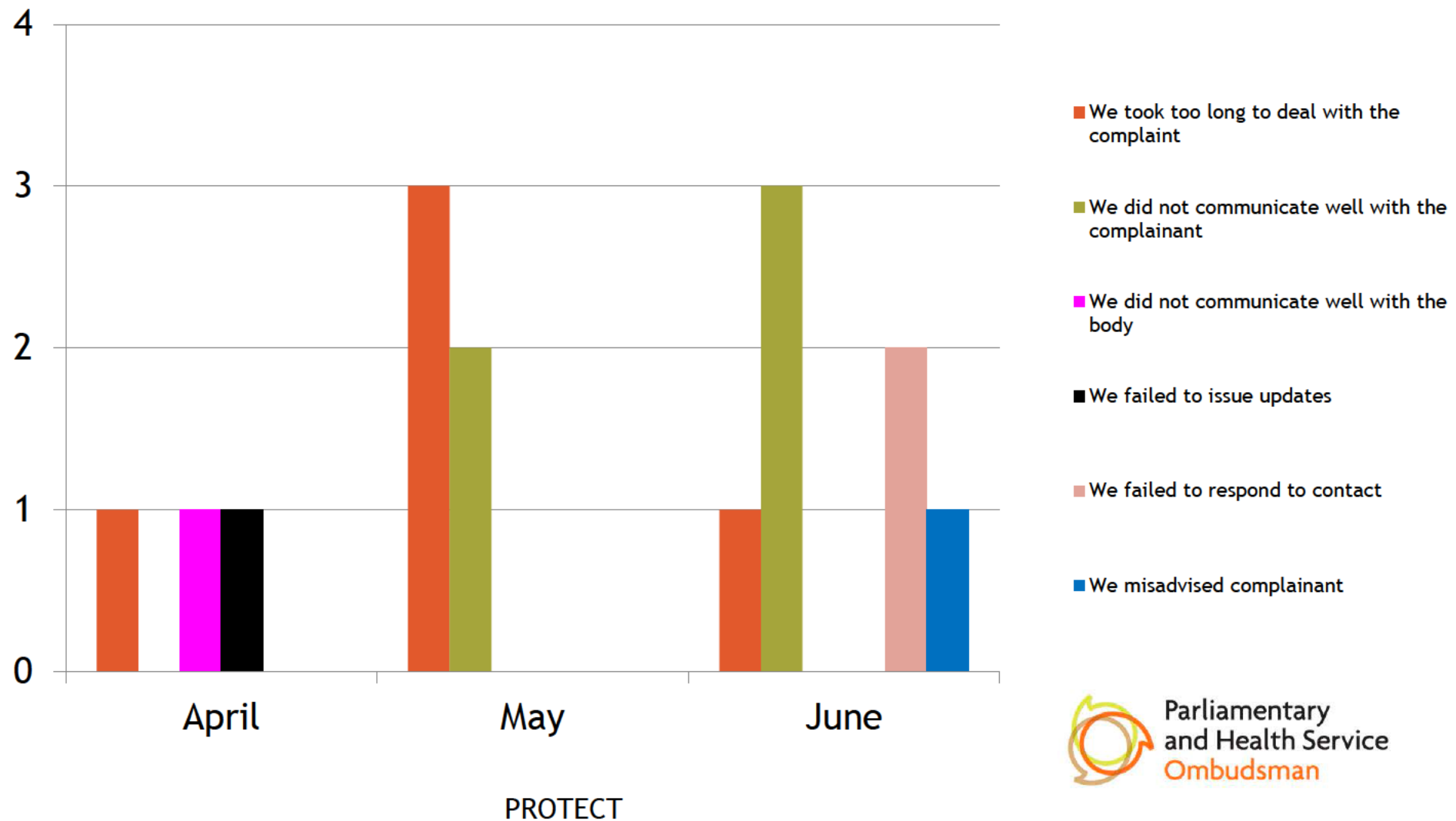
Reasons for Upholding/Partly Upholding Enquiry (preliminary & assessment) Reviews



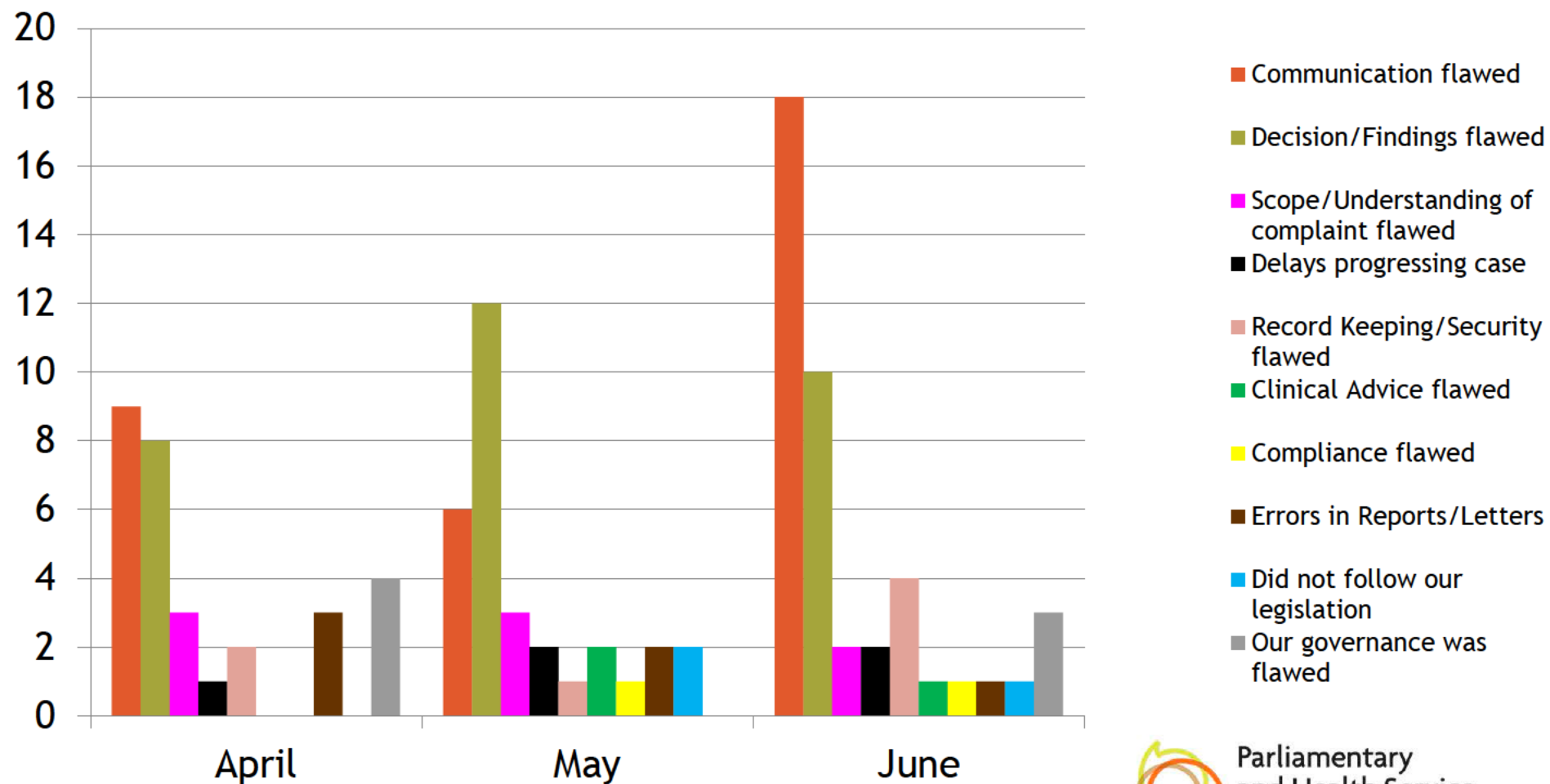
Reasons for Upholding/Partly Upholding Investigation Reviews



Reasons for Upholding/Partly Upholding Service Reviews



Type of Handling Lessons

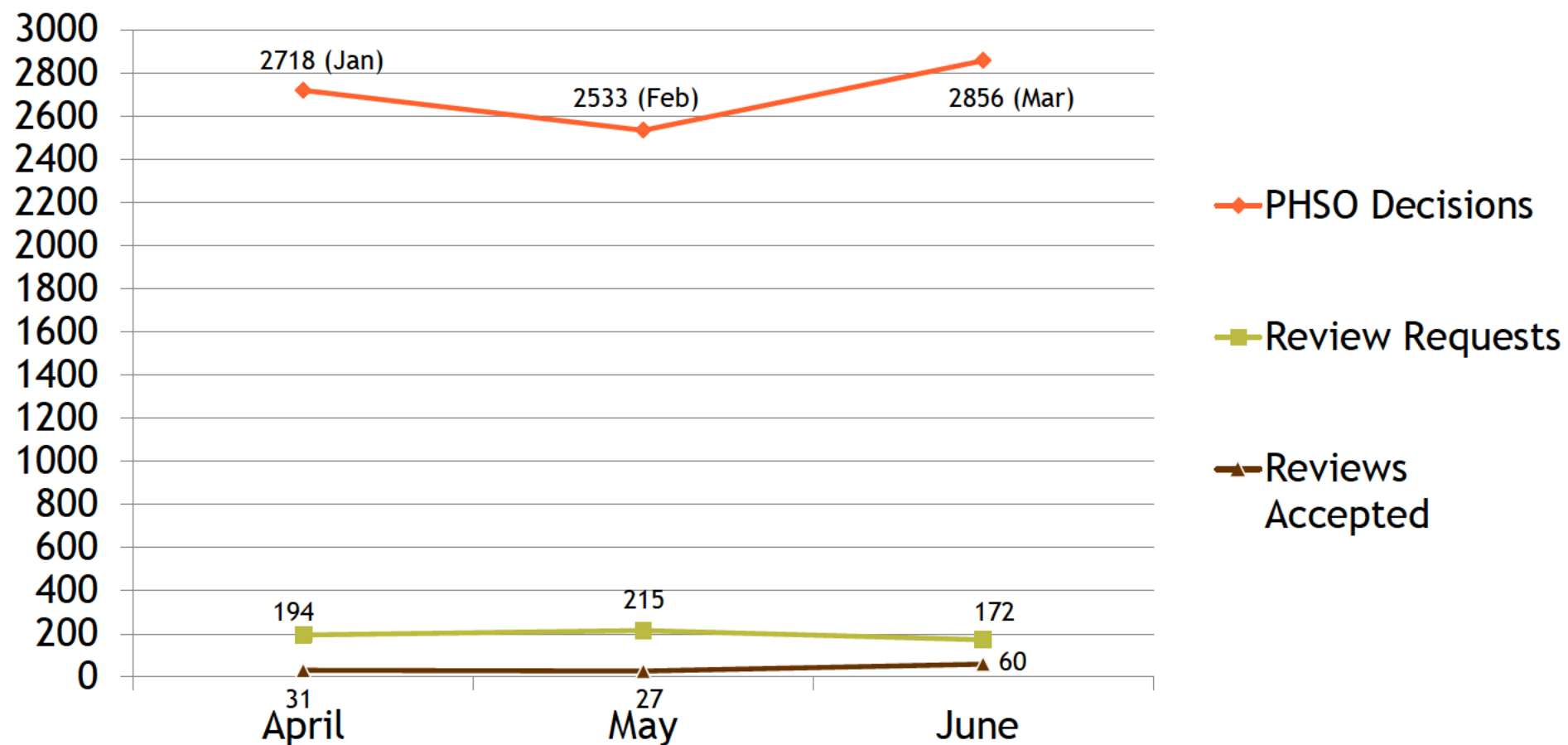


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Review Requests



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Year to Date Figures

	Work Numbers Volume	Enquiry (includes preliminary & assessment)	Investigation		Service provided by PHSO	
Total	7501 (assessments & investigations)	6495	1006		3316 (all cases in hand/waiting)	
Decisions	7501 (assessments & investigations)	6459	Upheld 384	Not upheld 541	N/A	
Requests	581	248	247		Service 48	Service & Decision 38
Accepted	118	58	10	25	11	14
Upheld (total)	24	9	0	4	7	4
Upheld (%)	0.32% (against total decisions)	0.14% (against total assessment decisions)	0.4% (against total investigation decisions)		0.21% (against all cases in	0.12% (against all cases in

Recommendations for Intervention

<u>Recommended intervention</u>	<u>Intervention to be co-ordinate and recorded by Quality and Service Integrity Directorate</u>
Staff need to be equipped to direct incoming queries from our customers to the relevant part of the office. It would therefore be helpful to have a staff directory that explains who does what. We need to be able to tell customers who will respond, and by when.	
Caseworkers need to be equipped to explain accurately and positively any delays in progressing a case.	
Caseworkers need to be equipped to explain to our customers our complaints process, and what the next steps will be in processing their complaint.	
Caseworkers need to be equipped to explain to our customers our approach to remedy.	
A reminder to line managers to make arrangements for correspondence received while a staff member is away from the office.	
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.	
Consider whether guidance for staff is required for when customers request to speak to a senior manager. Our approach currently is inconsistent.	
The words stress and distress are used in our decision letters/reports as default terms for someone who is annoyed, upset or put out by an action, but they are not always applicable/appropriate. Perhaps we should advise staff to consider more variety in our use of nouns.	
Staff need to be informed that ICO intend to take a more 'classic' regulator approach to complaints about data protection issues (using complaints to gather information about overall compliance with the legislation) rather than looking at the issues of the individuals.	s 40(2) [redacted] has been working on this in his capacity as ICO liaison. Information has been cascaded via Andy Medlock to Customer Services and s [redacted] is in the process of arranging for the ICO to come to PHSO and speak to Customer Services about it.

Recommendations for Intervention

[illegible]



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Monthly Management Information

Review Team

July 2014

Summary

- This month, the report provides data information on the levels of post review correspondence that receive, and the proportion of that correspondence that has required a substantive. We received 19 items of post review correspondence in July, of which more than half concerns cases closed between 2007 and 2013 (page 17).
- The reduction in the number of complaints received about delay continues (page 7).
- Despite an increase in the number of requests for review of decisions not to investigate, there has been a significant decrease in the number of those requests that are accepted. This is because a large number of requests are put to us simply on the basis that there is disagreement with the decision. They therefore do not meet our criteria for review (pages 7 & 11).
- For the first time, we have accepted more requests for review of investigation findings than we have for decisions not to investigate. A higher proportion are accepted on the basis that we misunderstood the complaint, which correlates closely with the reasons identified for upholding (pages 9, 11 & 12).
- The percentage of upheld complaints is increasing on reviews of decisions not to investigate and on investigation findings. There has been a reduction in the percentage of upheld complaints about our service (page 18).
- Last month, we reported on the number of handling lessons we had identified around aspects of our communication. There has been a significant reduction this month in this type of handling lesson. We have however, identified more errors in our letters/report, which were not picked up through the quality assurance process (page 15).
- Year to date, H3 and the Allocations Team have had the highest number of upheld complaints against them. CST2, CST3, CST5 and CST6 have raised the highest number of handling lessons (page 5). All but one related to decisions to close a case as out of time. There were also four separate cases that identified factual errors in our decision letters, which the quality assurance process failed to pick up. More detailed information on the reasons why is available from the Review Team (page 6).

Recommendations for Intervention

<u>Recommended intervention</u>	<u>Intervention to be co-ordinate and recorded by Quality and Service Integrity Directorate</u>
Staff need to be equipped to direct incoming queries from our customers to the relevant part of the office. It would therefore be helpful to have a staff directory that explains who does what. We need to be able to tell customers who will respond, and by when.	At present, most calls are able to be directed by CS but there have been some issues with calls about cases awaiting allocation. Rachael Russell is monitoring these issues and will advise if further action is needed.
Caseworkers need to be equipped to explain accurately and positively any delays in progressing a case.	s 40(2) will be sharing a draft text from Neil Armstrong with Assistant Directors for comment; then refer all comments back to NA for consideration.
Caseworkers need to be equipped to explain to our customers our complaints process, and what the next steps will be in processing their complaint.	A new flowchart has now been agreed and published on Ombudsnet. It has also been included in the new induction packs.
Caseworkers need to be equipped to explain to our customers our approach to remedy.	s 40(2) has drafted text for caseworkers which should be available by end of September.
A reminder to line managers to make arrangements for correspondence received while a staff member is away from the office.	An article was included on the Casework News page (22 August).
The PHSO website needs to contain information about investigation timeframes.	Issue raised with Chris Morgan.
Generic update letters need to contain information that is meaningful to the individual customer.	An article was included in Casework News/Casework News flash (22 August).
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.	Pending policy work.
Consider whether guidance for staff is required for when customers request to speak to a senior manager. Our approach currently is inconsistent.	Neil raised the issue at the Safeguarding meeting of 29 July. This issues will be added to the behavioural training on safeguarding.
The words stress and distress are used in our decision letters/reports as default terms for someone who is annoyed, upset or put out by an action, but they are not always applicable/appropriate. Perhaps we should advise staff to consider more variety in our use of nouns.	s 40(2) has drafted text for caseworkers which should be available by end of September.
Staff need to be informed that ICO intend to take a more 'classic' regulator approach to complaints about data protection issues (using complaints to gather information about overall compliance with the legislation) rather than looking at the issues of the individuals.	ICO liaison visit took place on 6 August and was well attended. Staff now have a better understanding of ICO's role in relation to the DPA and of what they can and can't achieve for individuals. They have a better idea of the things to think about when looking at a complaint

Recommendations for Intervention

[illegible]

Upheld/Partly Upheld Reviews by Team

Position	Team	Decision			Service			Overall Total
		YTD	Jul-14	Total	YTD	Jul-14	Total	
1	H3	2	1	3	0	1	1	4
2	Allocation	0	0	0	3	0	3	3
	Clinical Advice	2	0	2	1	0	1	3
	CST1	1	0	1	1	1	2	3
	CST3	2	1	3	0	0	0	3
6	CST6	1	0	1	1	0	1	2
	H2	2	0	2	0	0	0	2
	CST2	1	0	1	1	0	1	2
	CST7	1	0	1	1	0	1	2
	H1	0	1	1	1	0	1	2
	P4	0	2	2	0	0	0	2
12	PHSO	0	0	0	1	0	1	1
	H8	1	0	1	0	0	0	1
	H9	0	0	0	1	0	1	1
	C1	0	0	0	1	0	1	1
	Analytics, Insight & Research	0	0	0	1	0	1	1
	C2	1	0	1	0	0	0	1
	H5	0	0	0	1	0	1	1
	P3	0	0	0	1	0	1	1
	CST5	0	1	1	0	0	0	1
	Departed Users	0	1	1	0	0	0	1
	H4	0	0	0	0	1	1	1
	H6	0	1	1	0	0	0	1

*The numbers in this table will not equate to the total number of upheld complaints because the reasons for upholding can be attributed to more than one team

Handling Lessons by Team

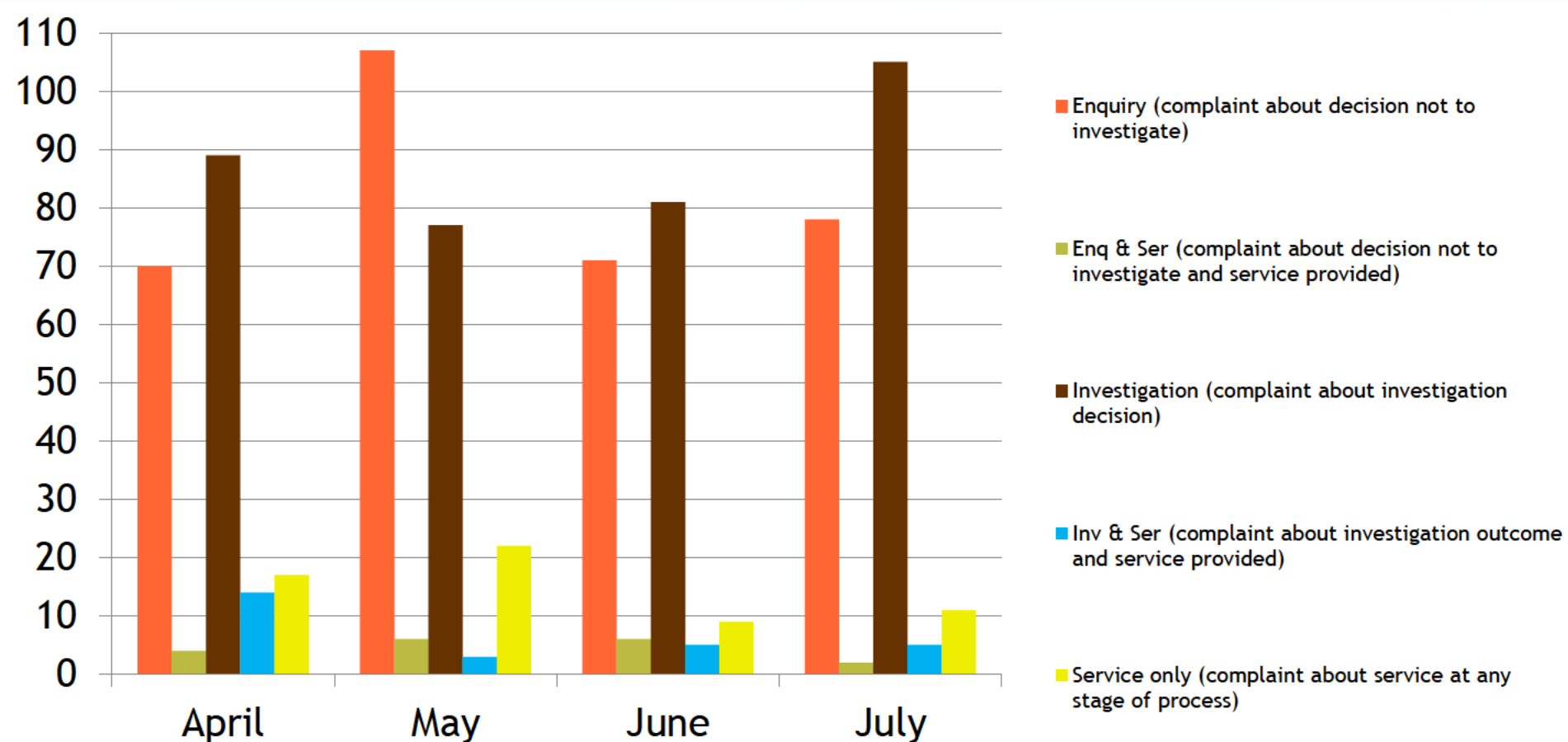
(handling lessons can be identified on both upheld and not upheld reviews)

Position	Team	YTD	Jul-14	Total
1	CST3	8	5	13
2	CST5*	6	5	11
3	CST2	10	0	10
	CST6	7	3	10
5	CST1	8	1	9
	H6	8	1	9
7	H2	8	0	8
8	Clinical Advice	6	1	7
	H3	3	4	7
	H8	5	2	7
11	H1	2	3	5
	P1	5	0	5
	PHSO	5	0	5
14	CST7	2	2	4
	P4	0	4	4
16	Allocation	3	0	3
	C1	3	0	3
	H11	3	0	3
	Review Team	3	0	3
20	C2	2	0	2
	H5	2	0	2
	H7	2	0	2
23	Analytics, Insight & Research	1	0	1
	CST4	1	0	1
	H4	0	1	1
	H9	1	0	1
	Legal Team	1	0	1
	P2	1	0	1
	P3	1	0	1
	Associate Investigation Team	0	1	1

*2 CST5 handling lessons were identified (in May) while assessing request for review. We declined the review request because it did not meet the review criteria (case EN-180175).

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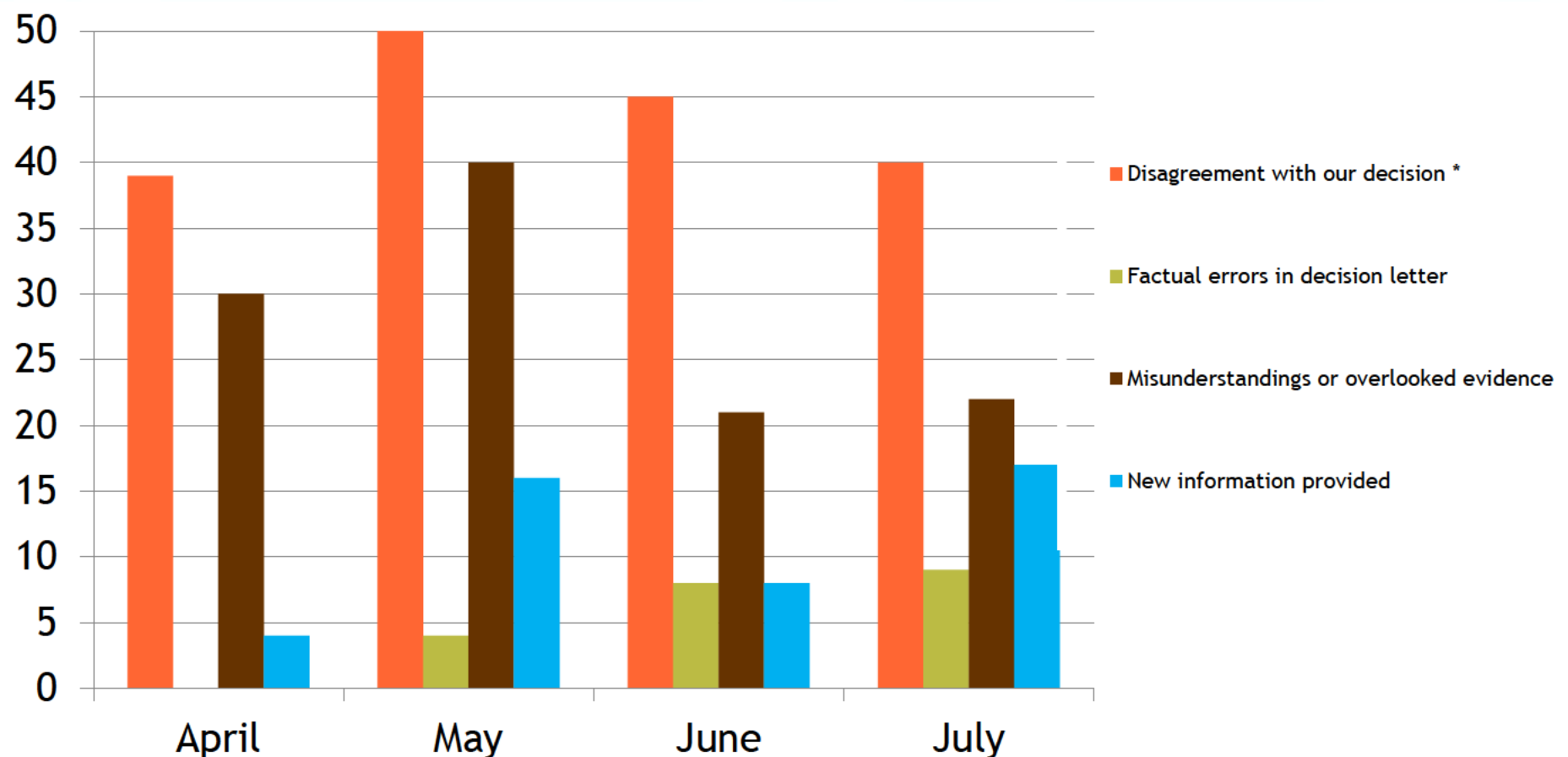
Type of Review Requests



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Basis of Review Requests

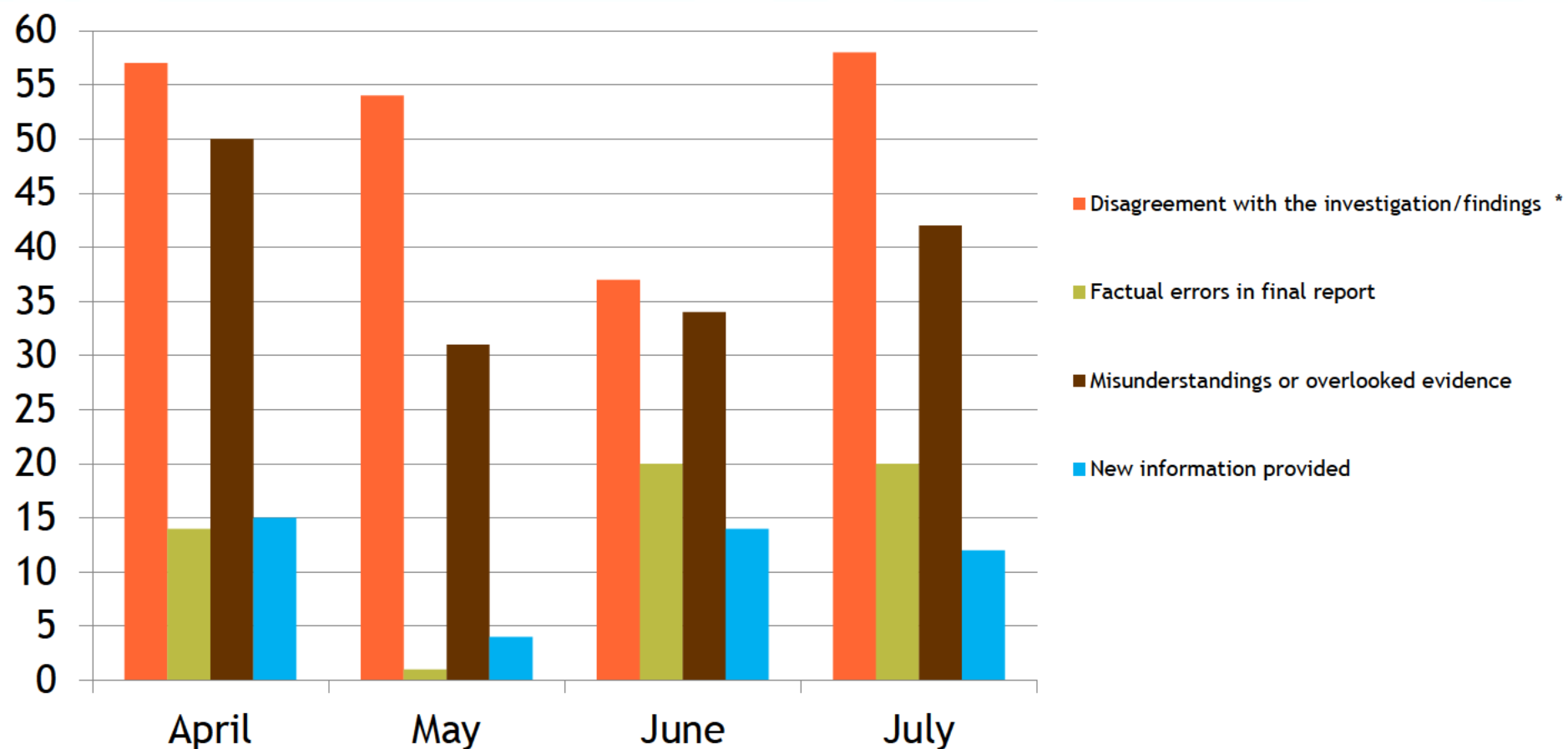
Enquiry Stage (preliminary & assessment)



* Previous reports included a separate category for 'decision biased'. For clarity, this is now combined with 'disagreement with our decision'.

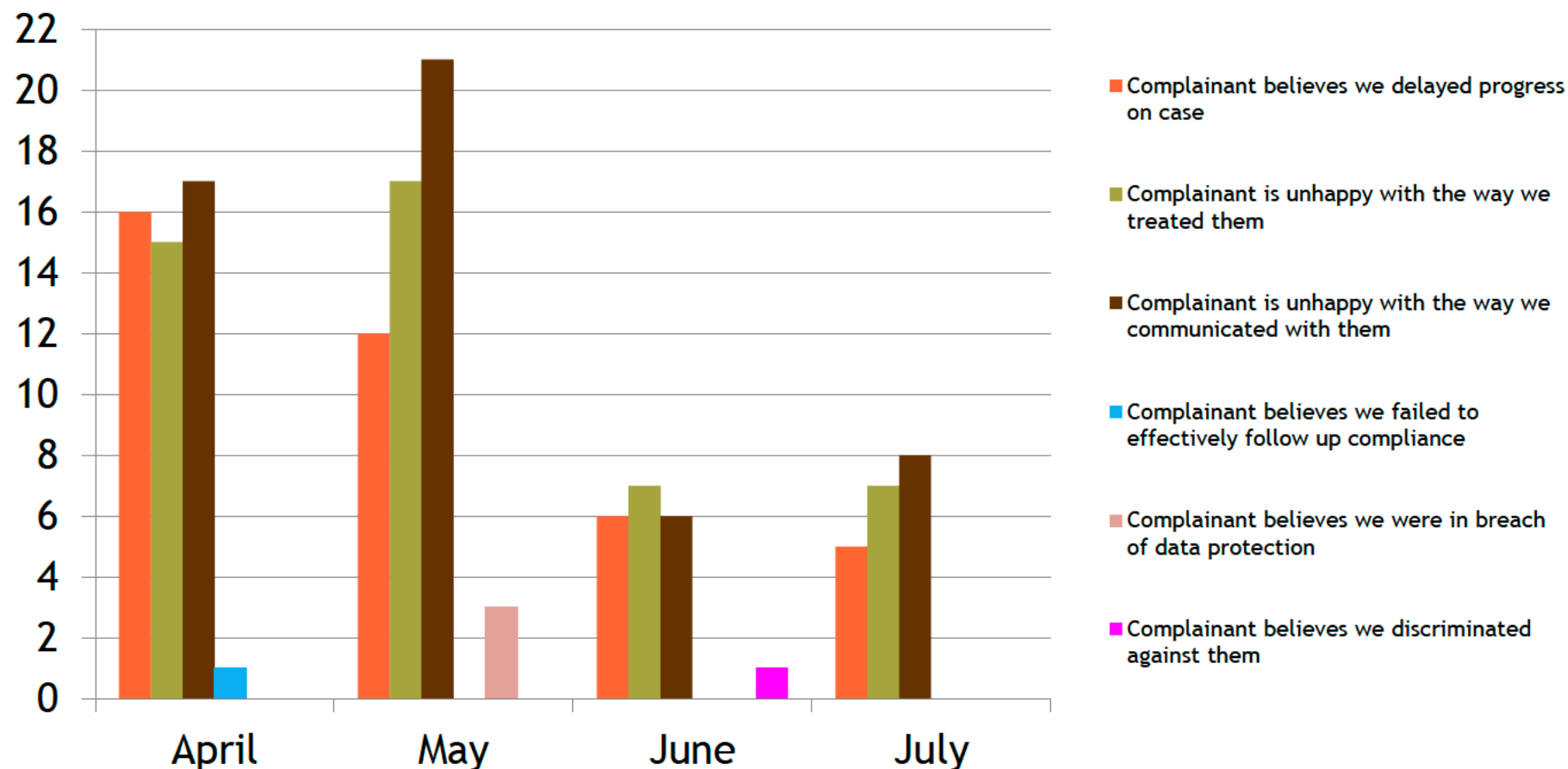
Basis of Review Requests

Investigation Stage



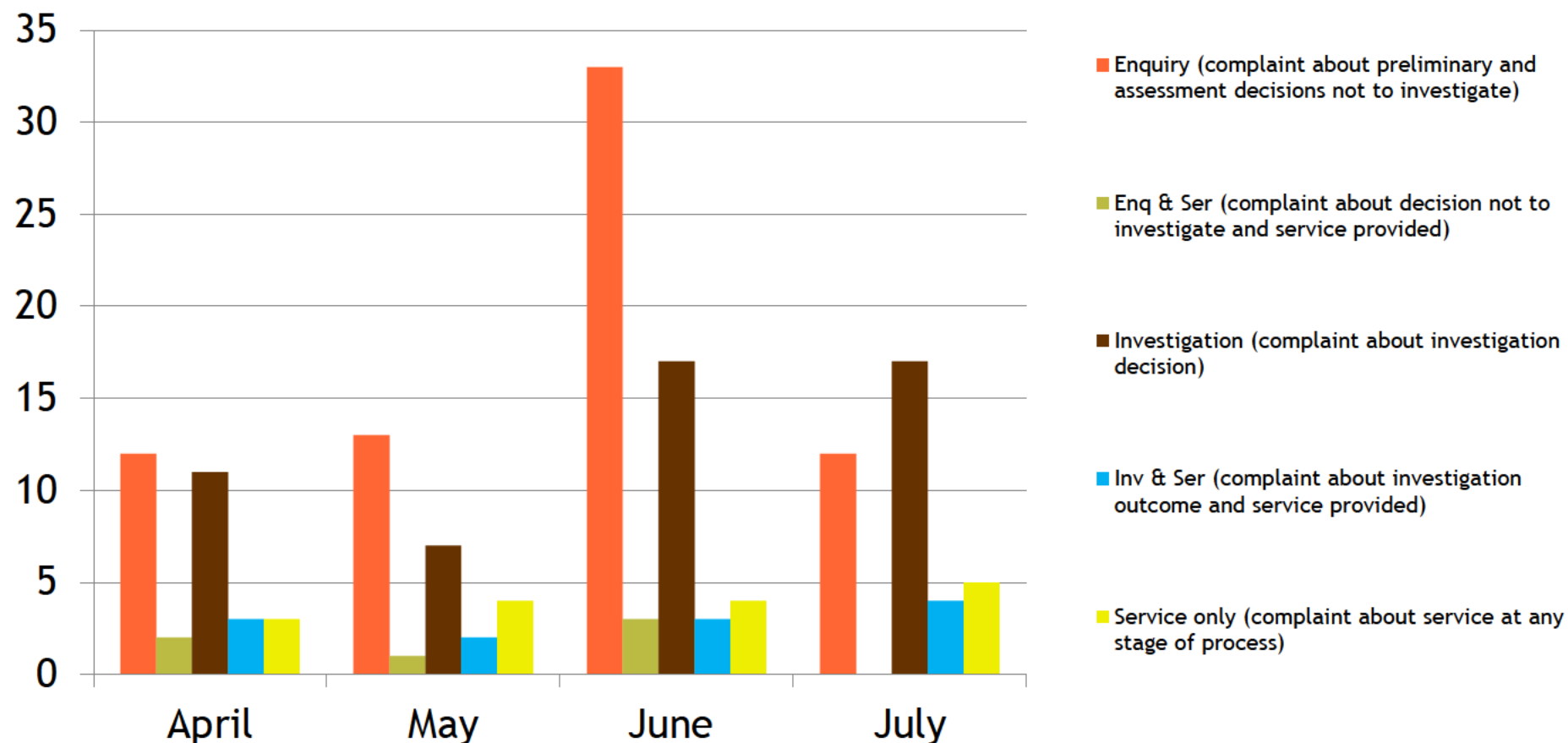
* Previous reports included separate categories for 'comments on draft report not thoroughly considered' and 'decision biased'. For clarity, these are now combined with 'disagreement with the investigation/findings'.

Basis of Review Requests in respect of Service Provided



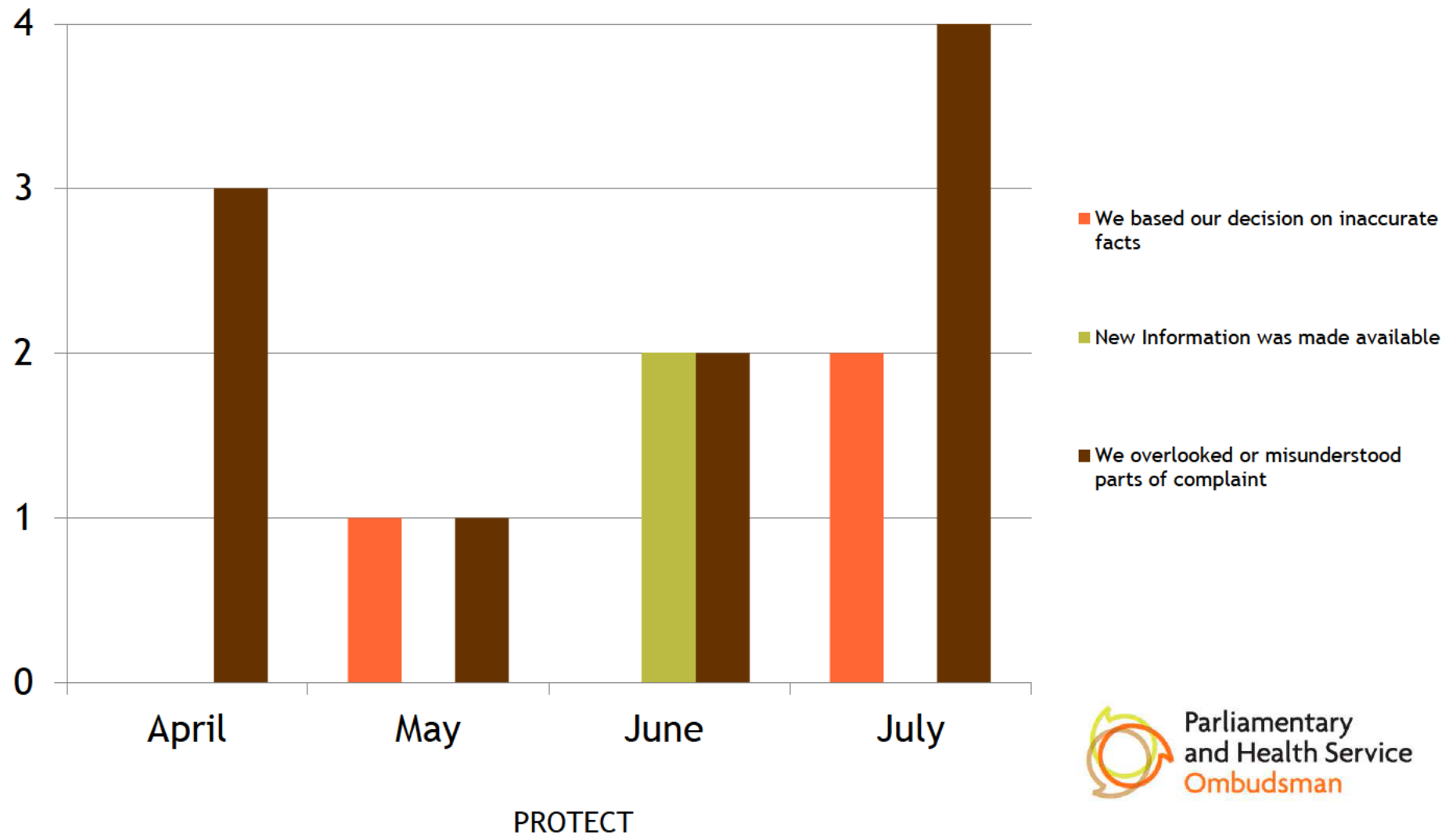
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Accepted Reviews

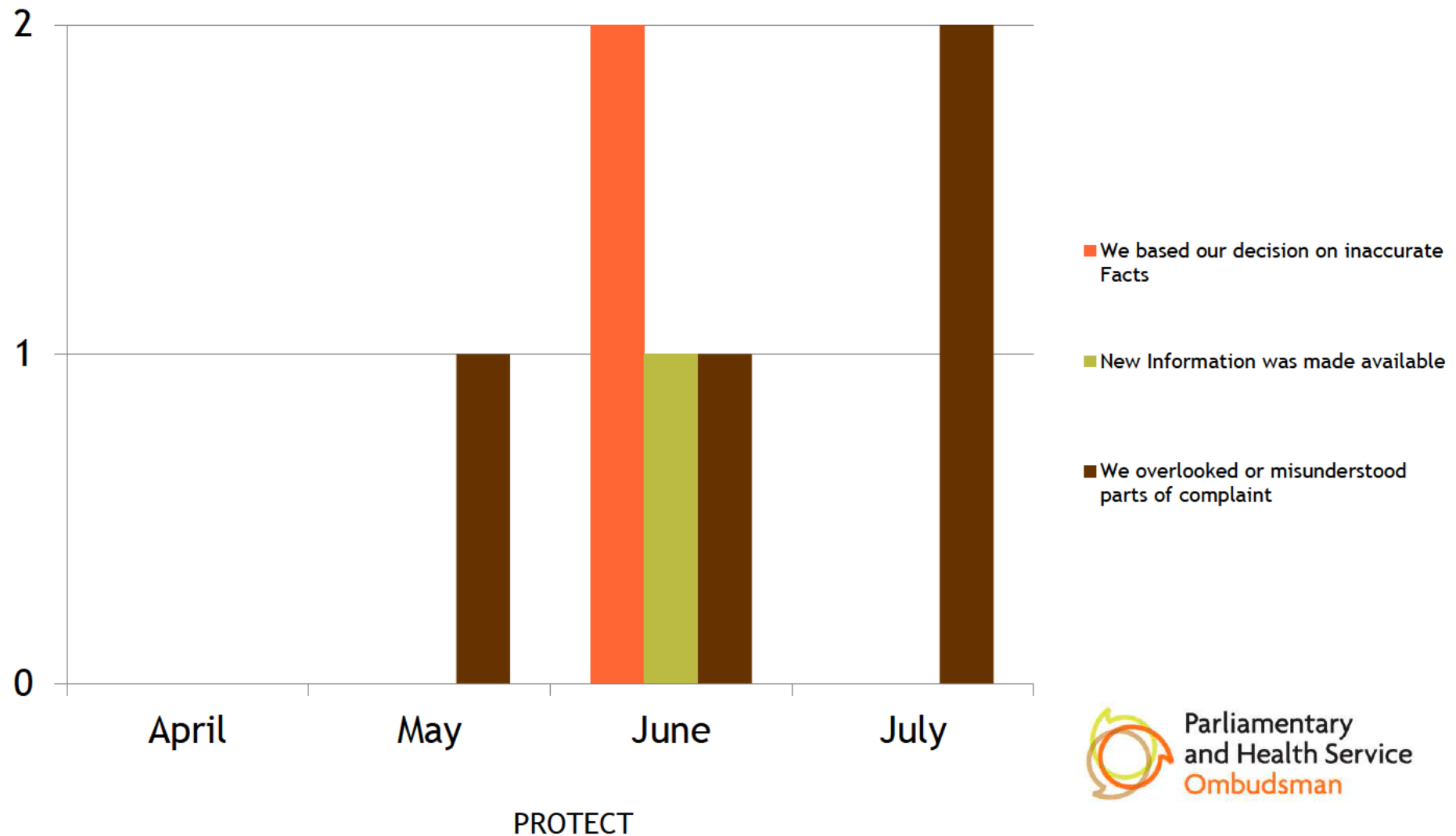


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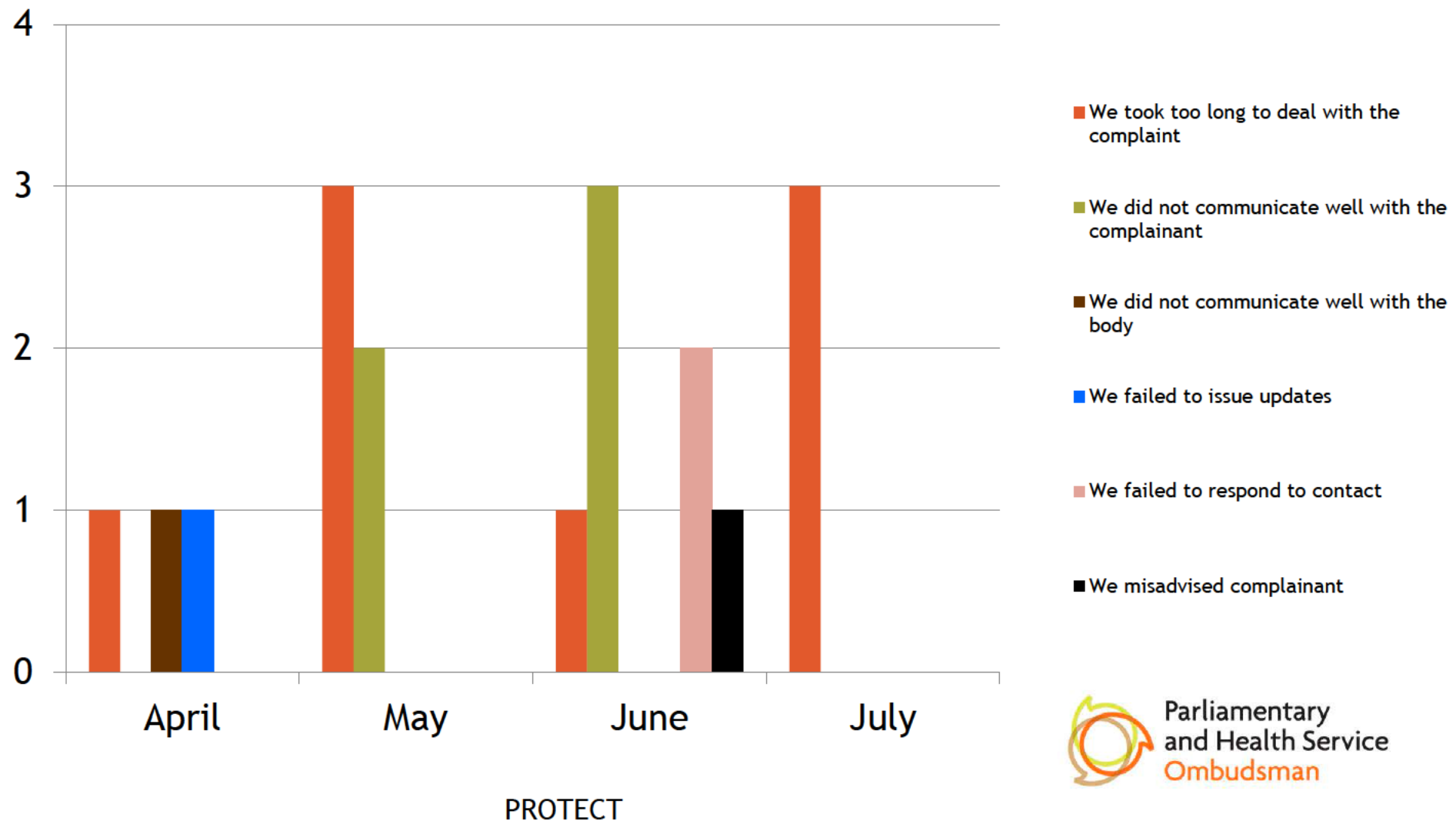
Reasons for Upholding/Partly Upholding Enquiry (preliminary & assessment) Reviews



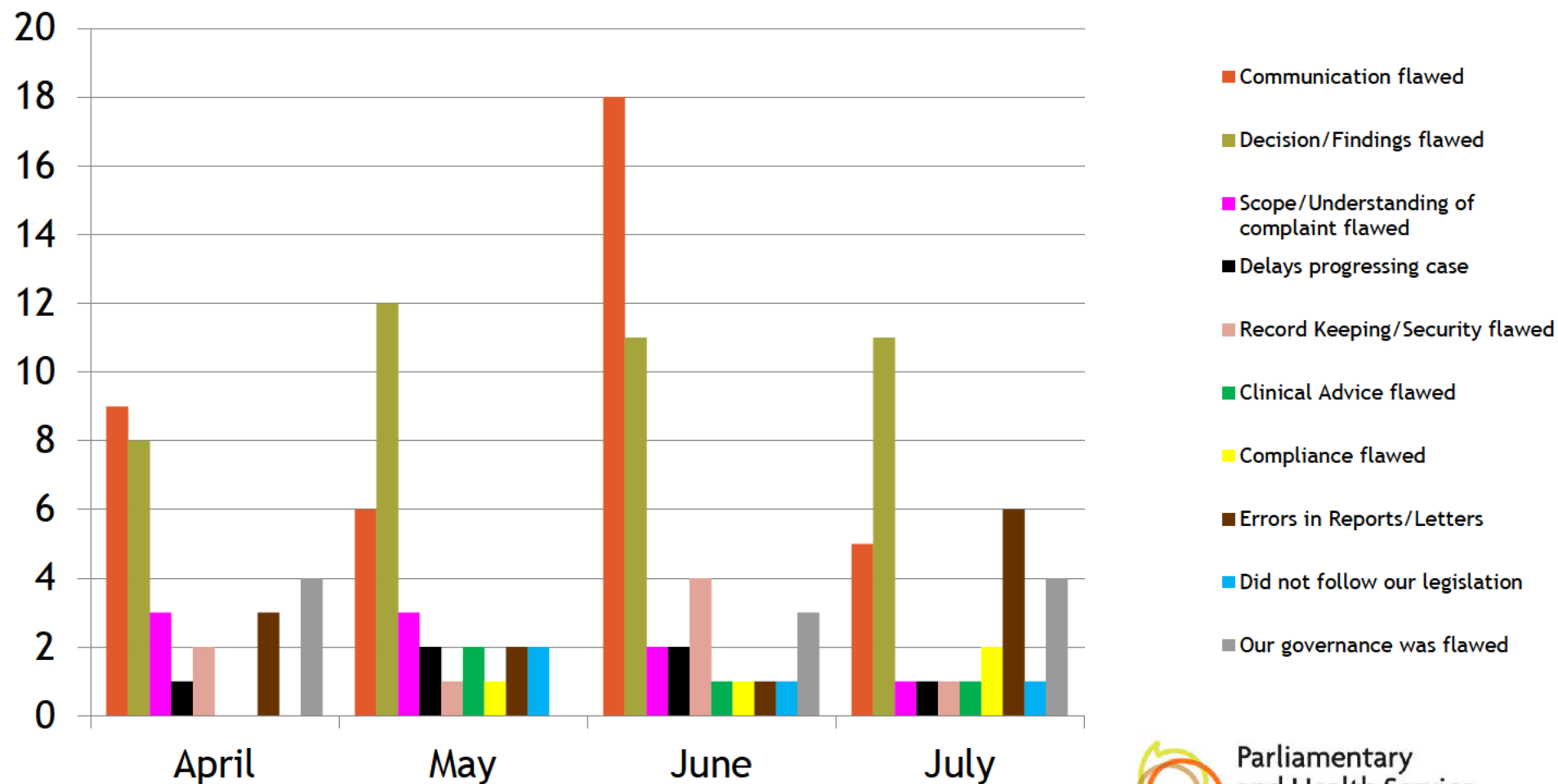
Reasons for Upholding/Partly Upholding Investigation Reviews



Reasons for Upholding/Partly Upholding Service Reviews

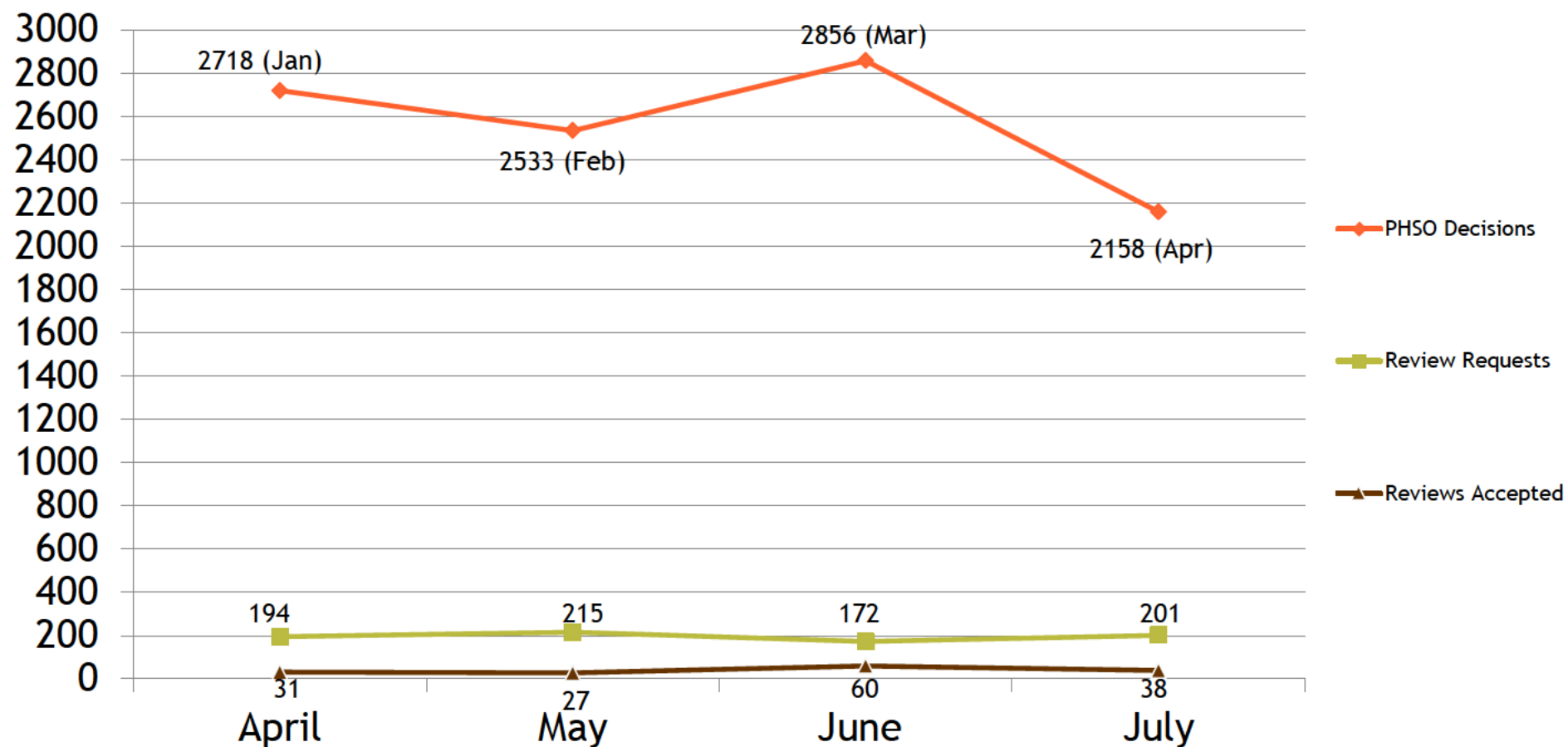


Type of Handling Lessons



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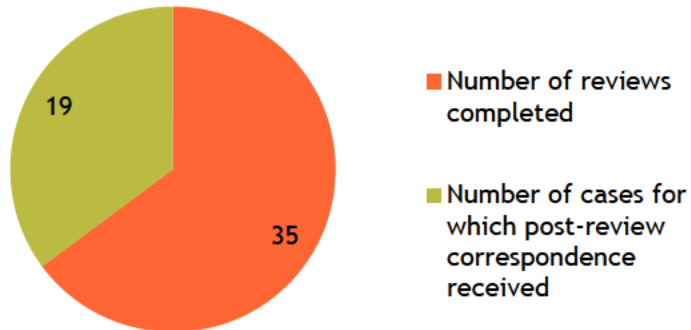
Review Requests



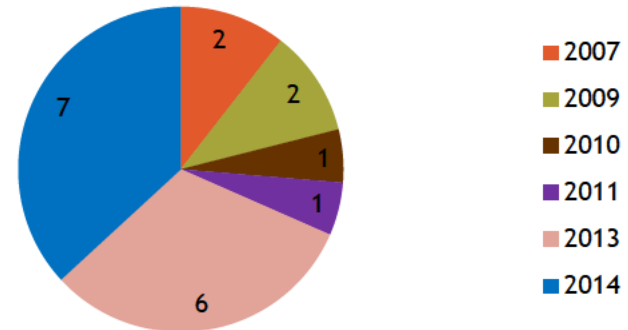
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Post-review correspondence

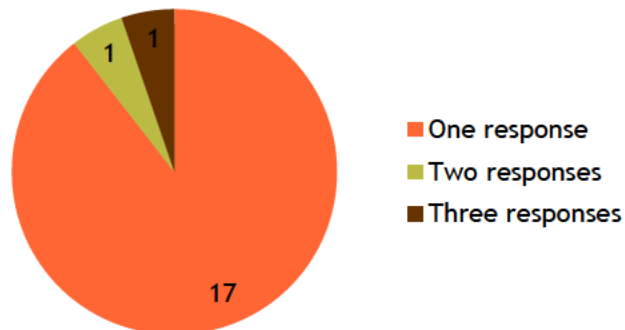
Amount received compared to reviews closed since 1 July 2014



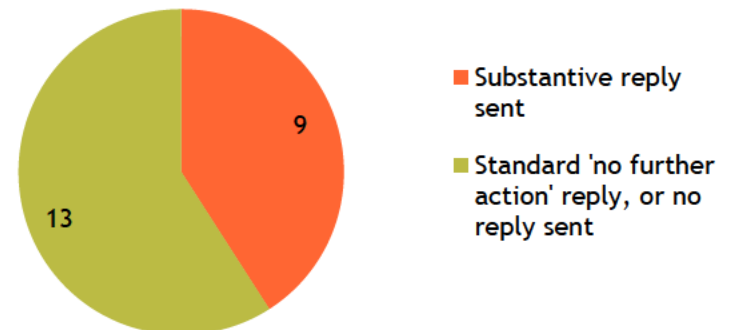
Closure dates for each case we've received correspondence on



Amount of correspondence received per case *



Action taken



* These figures do not reflect that we will have received post-review correspondence on some of these cases prior to 1 July 2014

Year to Date Figures						
	Work Numbers Volume	Enquiry (includes preliminary & assessment)	Investigation		Service provided by PHSO	
Total	10,386 (assessments & investigations)	9,044	1,342		3,291 (all cases in hand/waiting)	
Decisions	10,386 (assessments & investigations)	9,044	Upheld 513	Not upheld 716	N/A	
Requests	782	326	352		Service 59	Service & Decision 45
Accepted	156	70	16	36	15	19
Upheld (total)	35	16	1	4	8	6
Upheld (%)	0.34% (against total decisions)	0.18% (against total assessment decisions)	0.37% (against total investigation decisions)		0.24% (against all cases in hand/waiting)	0.18% (against all cases in hand/waiting) ¹⁸



Parliamentary
and Health Service
Ombudsman

Monthly Management Information

Review Team

August 2014

Summary

- August saw the lowest number of review requests so far this year.
- Though the number of requests for review of decisions not to investigate remains high, the downward trend continues for those that are accepted for review.
- August saw a reduction in the number of requests for review of investigation findings and the number of those that are accepted for review has plateaued over the last three months.
- The most common reason for upholding service complaints is because we took too long to deal with the case (though we are looking at very low numbers in proportion to the number of cases we deal with).
- From 1 October 2014 we are recording the number of requests for review we receive of time limit decisions.
- From 1 October 2014 we are recording the number of review requests received per team.
- Of the five service complaints upheld against the Allocations Team since 1 April 2014, four have been for failing to issue update letters to complainants within the timeframes stated in their correspondence.
- Customer Services Team 6 had ten handling lessons raised against them in August, to add to the ten already raised against them this business year. In August, five of the handling lessons pointed out a failure to apply all the relevant criteria ahead of closing a case as out of time. Prior to August, seven of the ten handling lessons raised against the team related to their application of the time limit. The Quality and Service Integrity Directorate are looking into providing guidance and training to staff in this area.

Recommendations for Intervention

<u>Recommended intervention</u>	<u>Intervention to be co-ordinate and recorded by Quality and Service Integrity Directorate</u>
Caseworkers need to be equipped to explain accurately and positively any delays in progressing a case.	s 40(2) has shared a draft text from Neil Armstrong with Assistant Directors for comment; comments back to NA for consideration in early October.
Caseworkers need to be equipped to explain to our customers our approach to remedy.	s 40(2) has drafted text for caseworkers which should be available in early October.
The PHSO website needs to contain information about investigation timeframes.	Issue raised with Chris Morgan.
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.	Pending policy work.
Consider whether guidance for staff is required for when customers request to speak to a senior manager. Our approach currently is inconsistent.	Neil raised the issue at the Safeguarding meeting of 29 July. This issues will be added to the behavioural training on safeguarding that is being planned for later in Q3/early Q4.
The words stress and distress are used in our decision letters/reports as default terms for someone who is annoyed, upset or put out by an action, but they are not always applicable/appropriate. Perhaps we should advise staff to consider more variety in our use of nouns.	s 40(2) has drafted text for caseworkers which should be available in early October.

Recommendations for Intervention

[illegible]

Upheld/Partly Upheld Reviews by Team

Position	Team	Decision			Service			Overall Total
		YTD	Aug-14	Total	YTD	Aug-14	Total	
1=	Allocation	0	0	0	3	2	5	5
2=	CST1	1	1	2	2	0	2	4
	CST3	3	1	4	0	0	0	4
	CST6	1	2	3	1	0	1	4
	H3	3	0	3	1	0	1	4
6=	Clinical Advice	2	0	2	1	0	1	3
	CST2	1	1	2	1	0	1	3
	H2	2	1	3	0	0	0	3
	H6	1	1	2	0	1	1	3
10=	CST5	1	1	2	0	0	0	2
	CST7	1	0	1	1	0	1	2
	H1	1	0	1	1	0	1	2
	P4	2	0	2	0	0	0	2
	PHSO	0	0	0	1	1	2	2
	Review Team	0	0	0	0	2	2	2
16=	Analytics, Insight & Research	0	0	0	1	0	1	1
	Associate Caseworker Team	0	1	1	0	0	0	1
	C1	0	0	0	1	0	1	1
	C2	1	0	1	0	0	0	1
	Departed Users	1	0	1	0	0	0	1
	H4	0	0	0	1	0	1	1
	H5	0	0	0	1	0	1	1
	H8	1	0	1	0	0	0	1
	H9	0	0	0	1	0	1	1
	H11	0	1	1	0	0	0	1
	P2	0	0	0	0	1	1	1
	P3	0	0	0	1	0	1	1

*The numbers in this table will not equate to the total number of upheld complaints because the reasons for upholding can be attributed to more than one team

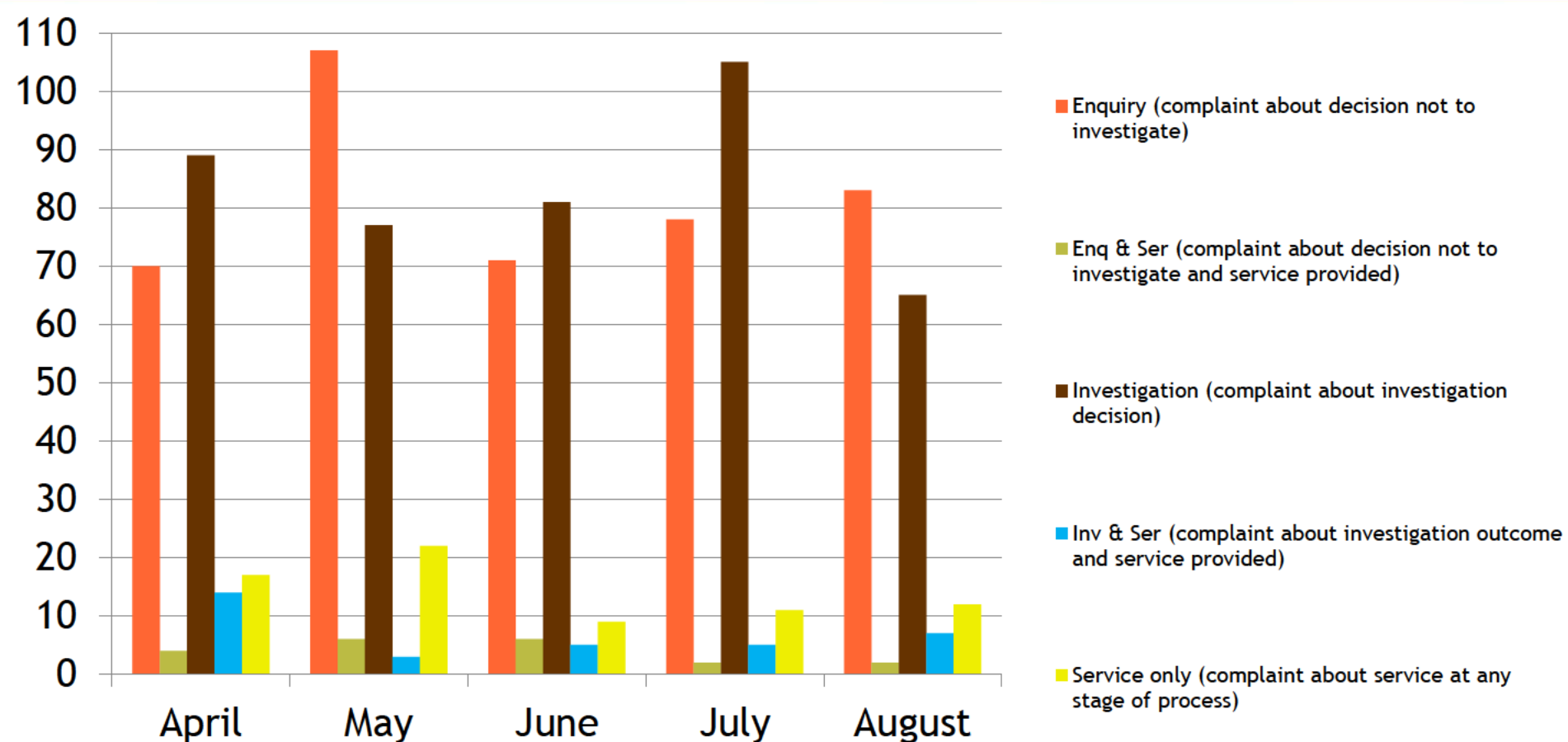
Handling Lessons by Team

(handling lessons can be identified on both upheld and not upheld reviews)

Position	Team	YTD	Aug-14	Total
1	CST6	10	10	20
2	CST3	13	2	15
3	CST5*	11	4	15
4	H6	9	5	14
5=	CST1	9	3	12
	CST2	10	2	12
7	H2	8	1	9
8=	Clinical Advice	7	1	8
	H3	7	1	8
	H8	7	1	8
11=	H11	3	5	8
	Review Team	3	5	8
13	PHSO	5	1	6
14=	Allocation	3	2	5
	H1	5	0	5
	P1	5	0	5
17=	CST7	4	0	4
	H4	1	3	4
	P2	1	3	4
	P4	4	0	4
21	C1	3	0	3
22=	C2	2	0	2
	H5	2	0	2
	H7	2	0	2
	H9	1	1	2
	H10	0	2	2
27=	Analytics, Insight & Research	1	0	1
	Associate Caseworker Team	0	1	1
	Associate Investigation Team	1	0	1
	CST4	1	0	1
	Legal Team	1	0	1
	P3	1	0	1

*2 CST5 handling lessons were identified (in May) while assessing request for review. We declined the review request because it did not meet the review criteria (case EN-180175).

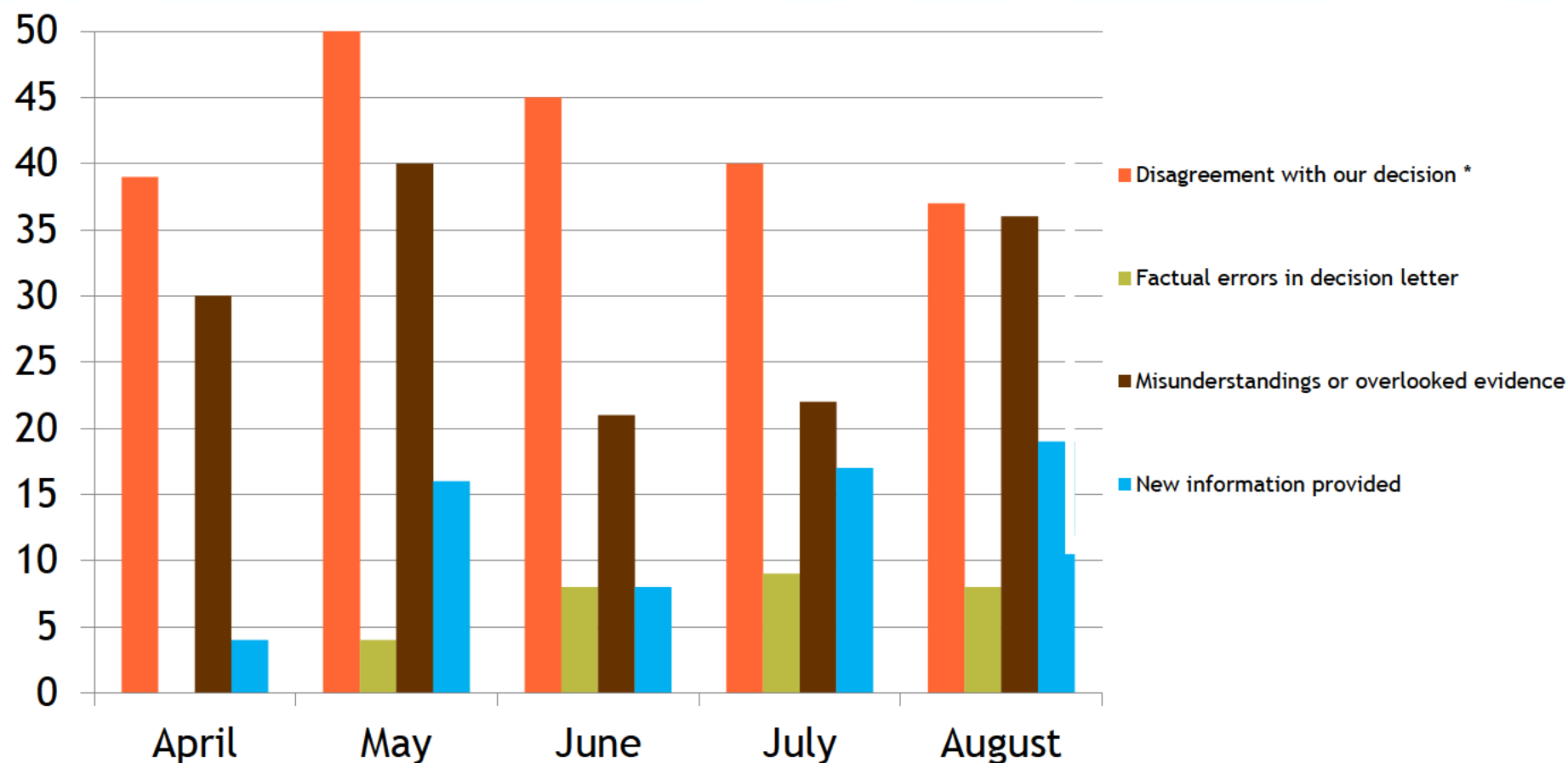
Type of Review Requests



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Basis of Review Requests

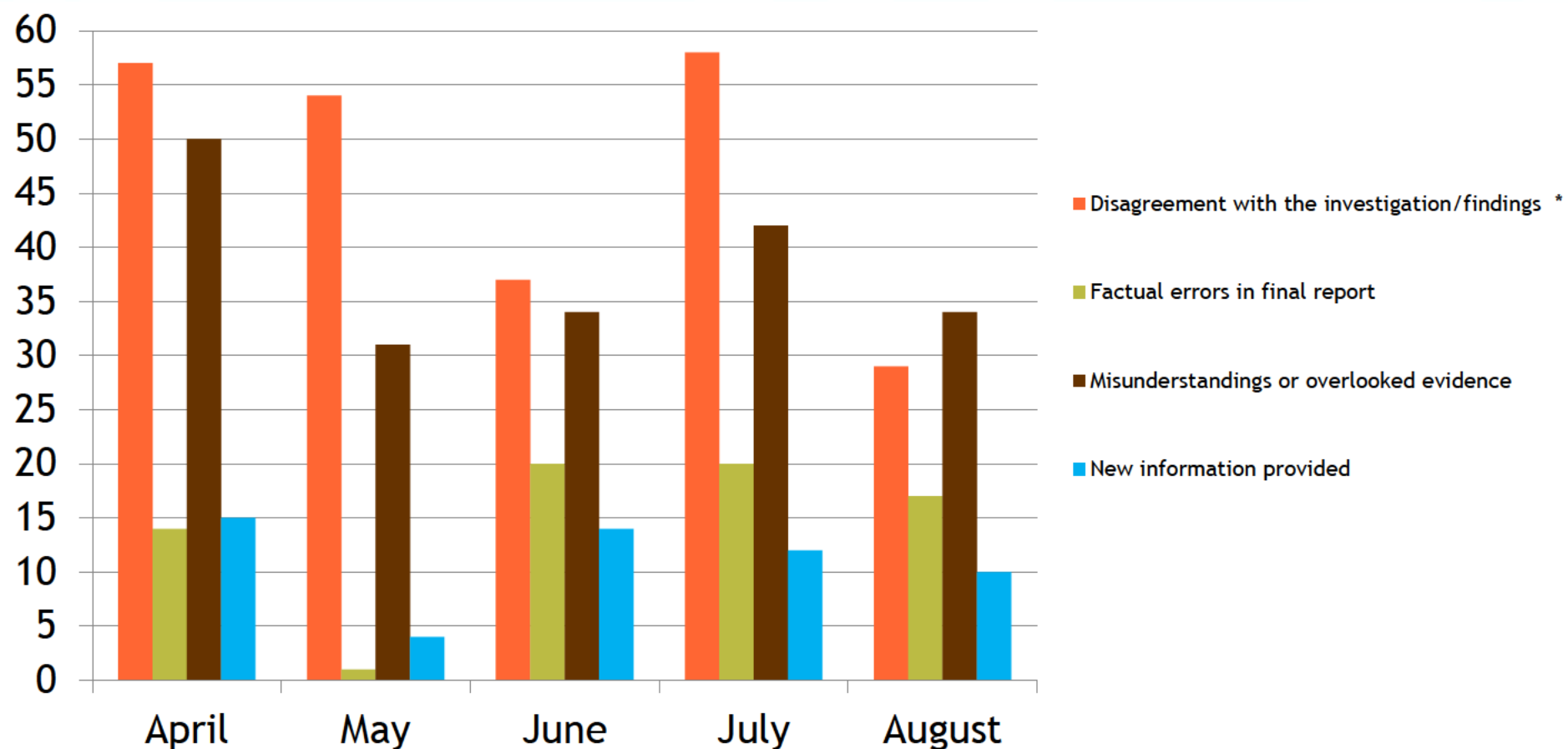
Enquiry Stage (preliminary & assessment)



* Previous reports included a separate category for 'decision biased'. For clarity, this is now combined with 'disagreement with our decision'.

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Basis of Review Requests Investigation Stage



* Previous reports included separate categories for 'comments on draft report not thoroughly considered' and 'decision biased'. For clarity, these are now combined with 'disagreement with the investigation/findings'.