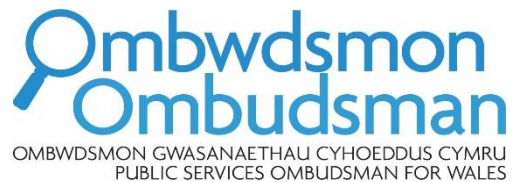


Mae'r ymateb yma hefyd ar gael yn Gymraeg.

This response is also available in Welsh.



**Response by the Public Services Ombudsman for Wales:
Adoption and Fostering (Specified Complaints) (Miscellaneous Amendments
and Revocations) (Wales) Regulations 2020**

We are pleased to respond to the consultation on Adoption and Fostering (Specified Complaints) (Miscellaneous Amendments and Revocations) (Wales) Regulations 2020.

[Our role](#)

[Our comments](#)

[Closing remarks](#)

Our role

As Public Services Ombudsman for Wales (PSOW), we investigate complaints made by members of the public who have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction, which essentially includes all organisations that deliver public services devolved to Wales. These include:

- local government (both county and community councils)
- the National Health Service (including GPs and dentists)
- registered social landlords (housing associations)
- the Welsh Government, together with its sponsored bodies.

We are also able to consider complaints about privately arranged or funded social care and palliative care services and, in certain specific circumstances, aspects of privately funded healthcare.

We also consider complaints that elected members of local authorities have breached their Codes of Conduct, which set out the recognised principles of behaviour that members should follow in public life.

Our comments

The proposed changes focus on removing the role of the Independent Review Mechanism (IRM) of reviewing “qualifying determinations” and strengthening in its place the complaint handling processes of the fostering and adoption providers.

We acknowledge the proposed steps to ensure the independence of the providers' complaint handling procedures. We'd argue, nevertheless, that it would be beneficial and in line with good practice to enable the complainants to progress their complaint regarding "qualifying determinations" further if they remain dissatisfied with how it has been handled by the providers.

This final stage could be provided by our office. We already perform a similar function in relation to complaints about school admissions and the exclusions appeals process and the operations of the panels that deal with these appeals. In this function, we consider whether correct processes and procedures were followed in considering an appeal. If we find failings, we will make recommendations aimed at putting the complainant back in the position they would have been had the failings or maladministration not occurred. For example, we could recommend that a public body undertakes an entirely fresh assessment. We could perform a similar function in respect of the complaints about "qualifying determinations".

However, whilst social services provided by Local Authorities fall within our jurisdiction, we can currently consider complaints about independent providers of social care only if they are performing functions on behalf of Local Authorities. Unlike in the health setting, independent providers of social services are not in our jurisdiction in their own right. We would be happy to discuss further how this issue could be addressed to ensure that all bodies making "qualifying determinations" are subject to the same level of scrutiny – and that the complainants have the same rights, no matter which provider they complain against.

Finally, we note that the proposed steps to strengthen the complaint handling processes of fostering providers or adoption agencies are formulated in the consultation document in quite general terms. We would suggest that the requirements for the providers should, at the least, also specify that their complaints processes should be:

- accessible to all and well publicised and visible
- committed to continuous improvement of service for the benefit of all users.

We would also like to highlight that, using our new powers as Complaints Standards Authority (CSA), we already engage closely with Local Authorities to improve their complaint handling procedures. We would expect that their complaint handling procedure in relation to "qualifying determinations" would be in line with the [model process, principles and guidance](#) formulated by our office. We would also welcome an opportunity to offer advice directly to the providers as they develop more detailed procedures under the proposed Regulations.

Closing remarks

I trust that you will find this response useful. Should you wish to discuss any of the above points further, please do not hesitate to contact Ania Rolewska, our Head of Policy (ania.rolewska@ombudsman.wales).



Nick Bennett

Public Services Ombudsman for Wales

November 2020
