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**Response by the Public Services Ombudsman for Wales to 'Arthritis and Long-term Musculoskeletal Conditions in Adults: Guidance for health and social care professionals relating to Arthritis and musculoskeletal conditions in Wales'**

I am pleased to have the opportunity to respond to the Welsh Government's consultation on Arthritis and Long-term Musculoskeletal Conditions in Adults: Guidance for health and social care professionals relating to Arthritis and musculoskeletal conditions in Wales'.

**Our role**

As Public Services Ombudsman for Wales (PSOW), I investigate complaints made by members of the public who believe they 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.

I am 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.

The 'own initiative' powers I have been granted under the Public Services Ombudsman (Wales) Act 2019 (PSOW Act 2019) allow me to investigate where evidence suggests there may be systemic failings, even if service users themselves are not raising complaints. The Act also establishes the Complaints Standards Authority (CSA) to drive improvement in public services by supporting effective complaint handling through model procedures, training and collecting and publishing complaints data.

## General Comments

The complaints I receive suggest that taking both whole-system and person-centred approaches in developing the new framework for healthcare professionals, will be an important step forward in the development and improvement of health and social care services for people who suffer with MSK and arthritic conditions. However, there are some areas where this holistic approach could be strengthened.

There is nothing in the guidance that explains what should happen when there is a failure in care, resulting in hardship for service users. The right to raise complaints when things go wrong is a fundamental tenet for well-functioning services and complaints play a key role in improving services and building public confidence in public services. However, there is no mention of community health councils, advocacy support, the new Citizens Voice Body nor my office in the Guidance. I consider this a significant void in the whole-system, person-centred approach that is being advocated.

Complaints received by health boards, local authorities and other health and social care providers, including the ones that are then forwarded on to my office or to community health councils, provide important evidence about the performance of MSK and arthritic services, and the views of those receiving treatment. Viewed individually, they provide intelligence about maladministration or failures in service delivery, and when analysed collectively, can identify systemic issues that may not be evident.

As such, I believe that action 8 in the list of actions in part 1, could be strengthened by reminding health boards that they also need to act on any recommendations that I make, should I uphold a complaint regarding their MSK and arthritic services. Local needs assessment procedures, as outlined in action 10, would also benefit by reviewing relevant complaints that are summarised on my website, as well as any relevant public interest and own initiative reports I publish about my casework. This information can be found on my website<sup>1</sup>.

A commitment to treating all people fairly is central to my role as an ombudsman. Whilst it is not my role to definitively find that someone's human rights have been breached or that there has been actual discrimination, I will comment if there is evidence that a public body has failed to have regard to someone's rights and as a result they have been compromised by actions or inaction of the body within my jurisdiction. I agree with the decision to publish a separate guidance document for children and adolescents, and it was helpful that the document recognises the bigger impact MSK and arthritis has on older people.

However, there is an absence in the guidance about the higher risk factors that people with some protected characteristics face. A literature review<sup>2</sup> conducted on behalf of Public Health England documents the higher prevalence of certain MSK conditions and co-morbidities among some ethnic minorities, and also highlights the

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<sup>1</sup> <https://www.ombudsman.wales/publications/>

<sup>2</sup> <https://raceequalityfoundation.org.uk/wp-content/uploads/2020/10/MSK-Report-Addressing-Health-Inequalities.pdf>

significant gap in research evidence for ethnic minorities with MSK conditions.

Other barriers to services that people with protected characteristics may face, such as socio-economic context, appear to have also been overlooked. These could include the availability of translation services, travel costs to access specialist services, such as the National Exercise Referral Scheme, digital inaccessibility for some people and the impact that intersectionality issues may have. In addition, lack of cultural awareness and unconscious bias is not highlighted as a particular workforce development need, despite the emphasis on the development of a working partnership between clinical staff and their patients.

### **Themes from my Casework**

My casework allows me to identify some general themes relating to the types of problems that people with MSK and arthritic conditions in Wales face. With one or two exceptions, the majority of complaints about MSK and arthritic care that we uphold typically relate to poor practices in record-keeping, poor communication between primary, secondary care and other care providers and poor-quality housing that exacerbates existing conditions. Many also demonstrate inadequate complaints handling by care providers. These types of concerns place additional unnecessary stress on MSK sufferers. I wish to draw attention to 3 cases, to provide insight into the stories of real people behind the complaint statistics.

#### [Abertawe Bro Morgannwg University Health Board - Clinical treatment in hospital Case Number: 201806766 - Report issued in February 2020](#)

Mrs C's daughter was concerned about the care and management of her late mother's Barrett's oesophagus diagnosis at the Princess of Wales Hospital and that the condition might have contributed to her mother's severe reaction when she had osteoporosis treatment. She was also concerned about a breakdown of communication with the family and her mother, during her mother's last inpatient admission. She also complained about the adequacy of the Health Board's complaint response. Whilst I found that the care was appropriate, I did identify communication shortcomings which were not helped by inadequate record-keeping. Additionally, the Health Board's complaint handling was insufficiently robust. This was an injustice to Mrs C's daughter and her family. I recommended that the Health Board should apologise to for the communication and complaint handling failings and, as requested by Mrs C's daughter, pay to her named charity the £250 complaints handling redress payment it had offered. The Health Board was also asked to consider providing its clinicians with communication training.

#### [Hywel Dda University Health Board – Clinical treatment in hospital Case Number: 201807683 – Report issued in April 2020](#)

Mrs A complained about her late husband's management and care by Hywel Dda University Health Board's Glangwili General Hospital. Mr A, who suffered from rheumatoid arthritis, had started taking the immunosuppressant drug methotrexate, for the condition. Mr A was admitted to the Hospital in November and died from methotrexate-induced pneumonitis (a life-threatening lung disease which is a rare

complication of methotrexate) in January 2018.

I found that Mr A's respiratory management and care during his inpatient admission was appropriate and reasonable so did not uphold this aspect of Mrs A's complaint. Administratively, I found failings around the Health Board's complaint handling process. These related to delay and the robustness of the investigation which extended to learning lessons. As these failings caused Mrs A an injustice, I upheld this part of her complaint and recommended that the Health Board should improve its consenting process when its rheumatology department prescribed methotrexate. Additionally, the Clinical Director for Primary Care was asked to write to GP Practices in the Health Board's area, setting out the risks, although rare, of methotrexate-induced pneumonitis, using Mr A's case as an example.

[Cynon Taf Community Housing Group - Repairs and maintenance \(inc dampness/improvements and alterations e.g. central heating, double glazing\) Case Number: 202003831 - Report issued in January 2021](#)

Miss X, a sufferer of rheumatoid arthritis and fibromyalgia, complained that, despite numerous contacts and visits from Cynon Taf Community Housing Group, and agreements from them to carry out the work required in regard to damp and mould issues in her property, her complaints remained outstanding and the issues had not been resolved. The Association had agreed to undertake the following in settlement of the complaint:

- Provide Miss X with an apology for the delay in responding to her complaint
- Provide Miss X with an explanation for the delay
- Provide Miss X with a formal complaint response

The Association agreed to carry out the actions above within 14 days of the date of my letter to them.

### **Closing remarks**

I trust that you will find my comments useful. Should you wish to discuss any of my points further, please do not hesitate to contact Tanya Nash, my acting Head of Policy ([tanya.nash@ombudsman.wales](mailto:tanya.nash@ombudsman.wales)).



**Nick Bennett**

**Public Services Ombudsman for Wales**

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