

Mae'r ymateb yma hefyd ar gael yn Gymraeg.

This response is also available in Welsh.



**Response by the Public Services Ombudsman for Wales
to the Welsh Government's consultation 'Proposed changes to legislation
on social care and continuing health care'**

Thank you for the opportunity to respond to this consultation.

Our role

As Public Services Ombudsman for Wales (PSOW), we 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.

We can 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 investigate 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.

The 'own initiative' powers we have been granted under the Public Services Ombudsman (Wales) Act 2019 (PSOW Act 2019) allow us to investigate where evidence suggests there may be systemic failings, even if service users themselves are not raising complaints. The Act also established 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.

Introducing direct payments for continuing health care

We have considered complaints in the past where service users have been dissatisfied by the loss of choice and autonomy when they transferred from local authority direct payments to CHC package managed by the NHS. We have not had such complaints recently, which could suggest that this is not a pressing issue for the Welsh public. However, based on the past casework we are supportive of this proposal in principle.

Extending mandatory reporting of children and adults at risk

If this duty is placed on individuals, there must also be a clear procedure to complain that a person has not reported children and adults at risk.

It is important that the Welsh Government considers whether such complaints could be investigated under the Social Services Complaints Procedure (Wales) Regulations 2014.

Furthermore, it is important to underline that our office would not be able to investigate such complaints. This is because we are empowered to consider complaints about organisations. Whilst the actions of individuals who are employed or contracted by public bodies fall within our remit, we may only make recommendations to remedy injustice or improve services to organisations and matters relating to personnel type issue are not within our remit.

Although professional regulatory bodies will have a key role in maintaining professional standards and any fitness to practice issues raised, these bodies are not able to consider complaints of injustice or harm from individual members of the public.

Therefore, we suggest that the Welsh Government considers this issue and confirms whether these complaints could be considered under the 2014 Regulations or whether an alternative route for complainants would be needed. If the 2014 Regulations are the appropriate route, it is also important to confirm the options available to complainants who are not satisfied with how their complaint has been resolved at Stage 2 (Formal Investigation).

Closing remarks

We trust that you will find these comments useful. Should you wish to discuss any of my points further, please do not hesitate to contact Ania Rolewska, our Head of Policy (ania.rolewska@ombudsman.wales).

A handwritten signature in black ink that reads "M.M. Morris." The signature is written in a cursive, slightly slanted style.

Michelle Morris

Public Services Ombudsman for Wales

November 2022