

Introduction

1. The Welsh Independent Healthcare Association (WIHA) welcomes the opportunity to respond to the Committee's call for evidence on this Bill and Explanatory Memorandum. As per the Committee's request, WIHA's response addresses the Bill's terms of reference.
2. WIHA is the representative association of independent healthcare providers in Wales. Providers are largely acute, mental health and learning disability hospitals in Wales. WIHA also represents a hospice provider and an oncology centre providing proton beam therapy.
3. Please find attached for reference the latest WIHA Credentials document which provides an overview of the independent healthcare sector in Wales.

Terms of Reference Comments

4. *The general principles of the Public Services Ombudsman (Wales) Bill and the need for legislation to deliver the stated policy intention.*
WIHA welcomes this Bill and believes it will be beneficial for patients who have a complaint spanning treatment across the NHS and independent healthcare sectors. It is right that the complaints process should follow the citizen and not the sector.
5. The Ombudsman already has jurisdiction over complaints made about NHS-funded treatment in WIHA member hospitals as well as treatment in hospices.
6. *Provisions of the Bill which set out the new powers for the Ombudsman to: accept oral complaints;*
This seems like a positive initiative to improve social justice and equal opportunities.
7. *Provisions of the Bill which set out the new powers for the Ombudsman to: undertake own initiative investigations;*
WIHA recognises the value of 'own initiative investigations' undertaken by Ombudsmen services to patients and hospital providers. It would appear the necessary checks and balances have been built into determining the criteria whereby the Public Services Ombudsman can undertake own initiative investigations.
8. *Provisions of the Bill which set out the new powers for the Ombudsman to: undertake a role in relation to complaints handling standards and procedures*
This seems a good initiative in reducing variation in effective complaints handling standards and procedures across public services in Wales. WIHA's understanding is that

this does not apply to the independent healthcare sector. Many WIHA members subscribe to the Independent Sector Complaints Adjudication Service (ISCAS), which provides annual training for members on complaints handling.

9. *Provisions of the Bill which set out the new powers for the Ombudsman to: investigate private medical treatment including nursing care in a public/private health pathway;*

As per WIHA's previous submission to the Finance Committee, we welcome this provision and believe it will be beneficial to patients in these circumstances. In practice, the number of complaints against WIHA members that reach an external review stage is relatively small. The number of complaints that involve both combined NHS and private treatment is even smaller. We note that the Ombudsman estimates that such cases represent one per cent of health sector complaints or seven cases each year (11.55).

10. *The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).*

WIHA recognises that the inclusion of investigations of the private health service element in a public/private health service pathway will have a small, but direct, financial impact on the Ombudsman, costing £17,535 over 5 years (Table 4, page 56). WIHA has calculated the cost of including such cases will make up less than 0.1% of the Ombudsman's yearly budget (using figures from 2017-18 found within the Summary Table on Page 45). We also note in Paragraph 11.11 of the Explanatory Memorandum that the Ombudsman could accommodate the additional cost within existing resources.

11. WIHA recognises the right of the Ombudsman to serve a costs recovery notice on a private health service provider as a means of recovering additional costs incurred by the Ombudsman where the provider has obstructed the Ombudsman or done something which would amount to contempt of court if the investigation were proceeding in the High Court.

12. *Section 34: Compensation for the person aggrieved*

WIHA represents a hospice provider for which this section presents significant concerns. Hospices receive very limited statutory funding and do not work on a commissioned or privately funded basis. Consequently, having to pay compensation to patients according to levels defined by the Ombudsman would present a financial risk to the organisation.

13. *Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them*

WIHA is not aware of any potential barriers to the implementation of the Bill's provision.

14. *Whether there are any unintended consequences arising from the Bill*

At this stage, WIHA cannot foresee any unintended consequences for independent healthcare providers arising from the Bill.

Conclusion

In summary, WIHA members support the extension of the PSOW's remit to investigate complaints that include an NHS and private health element of care.

We are also pleased to note that there will be a review of the legislation after five years from the date of the Act receiving Royal Assent and further reviews thereafter as Welsh Ministers deem appropriate.

WIHA look forward to providing oral evidence to the committee and responding to any further questions on the terms of reference.

22 November 2017