



Care and Social Services Inspectorate Wales (CSSIW)

Written Submission in respect of the Public Services Ombudsman (Wales) Bill

General observations:

CSSIW has a positive and constructive relationship with the Public Services Ombudsman Wales (PSOW) based on a clear understanding and respect for each other's independent roles. We have a Memorandum of Understanding which is due for revision with the imminent introduction of the Regulation and Inspection of Social Care Wales Act 2016.

CSSIW registers and inspects a wide range of care services. CSSIW has no powers in relation to complaints about care services but is keen to follow up any concerns arising from complaints and where necessary will take enforcement action. Regulations expect care providers to have a clear complaints procedure. When people cannot get satisfaction from a care provider and the care is funded by a public authority they can take their complaint to the public authority.

In Wales, where the care is not funded, people can turn to the PSOW. Although the take up has been low we believe the PSOW provides a very important route for achieving resolution.

We are aware that there are some issues which are contractual (e.g. fees) and where CSSIW has no provenance. We also know that some providers give notice to residents and their relatives when complaints are made. The extent to which these matters are Trading Standards issues or matters for the PSOW is an area for determination. The importance of providing a safeguard in these matters will be highlighted in the imminent Competition and Markets Authority report on the care home market.

CSSIW also inspects Local Authorities. There are specific regulations setting out how complaints about Local Authorities must be handled with ultimate recourse to the PSOW. CSSIW has no powers in relation to complaints about Local Authorities but we do use the learning from complaints to inform our inspections and to require improvement.

CSSIW has also been the subject of a small number of complaints raised with the PSOW. We have found the PSOW to be clear when deciding which cases will and will not be investigated and to be fair and where necessary challenging in reaching its findings and making requirements of us.

The committee asked for comments on the following:

- *The general principles of the Public Services Ombudsman (Wales) Bill and the need for legislation to deliver the stated policy intention;*

These seem sound and build upon the arrangements currently in place.

- *the provisions of the Bill which set out the new powers for the Ombudsman to:*
- *accept oral complaints;*

We believe this is important for the reasons stated.

We note that people using care services are more likely to be vulnerable and lack the ability and confidence to initiate a written complaint.

Promoting accessibility to the PSOW enables greater equality and is supportive of people's rights.

The inclusion of electronic communication is sensible going forward.

- *undertake own initiative investigations;*

As explained in the Bill, issues may surface for which no individual has locus, insight or the intention to make a complaint but where a failure in administration has resulted in poor outcomes. It will be important for the PSOW to have clear criteria so PSOW responsibilities do not overlap those of regulatory bodies. For example anonymous complaints about care services. The strength of the PSOW function is that it can look across public systems and at the interconnectivity and systems failures where as regulatory bodies are commonly concerned with constituent parts. This is also an issue considered in the White Paper, *Services Fit for the Future, Quality and Governance in Health and Care in Wales*

- *investigate private medical treatment including nursing care in a public/private health pathway;*

We do not have a particular view on this. Clearly co-ordination and working closely with Health Inspectorate Wales and the Community Health Councils would need to be considered.

- *undertake a role in relation to complaints handling standards and procedures;*

This would seem sensible. The PSOW has much to contribute from the learning reflected in the PSOW's "casebook". There is an "invest to save" argument here. The more the PSOW can do to promote better complaint handling upstream the less the PSOW should need to do to investigate complaints at a later stage.

- *any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them;*

We do not have a particular view on this.

- *the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 6 of Part 1 of the Explanatory Memorandum);*

These seem reasonable to enable future proofing of the Act and to provide a mechanism to respond to changes and learning from PSOW activity.

- *whether there are any unintended consequences arising from the Bill;*

We do not have identified any intended consequences.

- *the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum);*

We do not have a particular view on this.



David Francis
Assistant Chief Inspector CSSIW