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**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE COMMUNITY HEALTH COUNCILS IN WALES**

**&**

**THE PUBLIC SERVICES OMBUDSMAN FOR WALES**

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| **October 2016** |  |
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ii. Revision History and Approval

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| 4 March 2016 | Initial draft | Geraint Jones |
| 8 July 2016 | Revised draft | Clare Jenkins |
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### 1 Introduction

* 1. The aim of this Memorandum is to set out the agreement reached by the Community Health Councils in Wales (CHCs)[[1]](#footnote-1) and the Public Services Ombudsman for Wales (PSOW) in relation to co-operation and the exchange of information. This Memorandum does not affect the existing statutory functions of the respective organisations or the exercise of those functions; neither does it amend any other policies or agreements relating to their activities. It does not imply any transfer of responsibility from one to the other, nor does it imply any sharing of statutory responsibilities except where this is permitted by statute.
  2. PSOW has statutory powers in relation to CHCs in that they are a listed authority under the Public Services Ombudsman (Wales) Act 2005 but in accordance with the Act this will be limited to considering whether or not an individual member of the public has suffered an injustice as a consequence of maladministration or service failure. The PSOW will respond to any complaint about CHCs in accordance with the Act and its own policies and procedures. Complaints about or involving the action or inaction of CHCs are therefore unaffected by this Memorandum and such complaints will be investigated in the same way as complaints to the PSOW about other bodies.
  3. It is not intended that this Memorandum should be legally binding. However, CHCs and PSOW agree to adhere to its principles and to show proper regard for each other’s activities and work together to promote improvement in public services in Wales.

### Co-operation and statutory powers

* 1. The overarching aim of both bodies is to contribute to the development of excellent public services in Wales that respect and promote the human rights of citizens and are sensitive to the needs of the most disadvantaged and vulnerable members of society.
  2. Both bodies have an interest in the performance of Health Boards and Trusts in Wales and both bodies may be involved in considering the NHS care provided by independent service providers.
  3. CHCs are independent statutory organisations that represent the interests of the patient and the public in the National Health Service. It is the duty of each CHC to scrutinise the operation of the health service in its district and to make recommendations for the improvement of that service.
  4. Where the Ombudsman concludes that an aggrieved person has sustained injustice or hardship as a result of a complaint that he has considered then he normally makes recommendations to address any concerns identified.
  5. PSOW and CHCs agree to work together to ensure that necessary improvements are highlighted and implemented by public bodies in Wales.

### Equality and Human rights

* 1. The need to act in a manner that is compatible with Convention Rights, as described in s. 1 of the Human Rights Act 1998, is fundamental to the work of CHCs and PSOW. Each organisation seeks to promote the human rights of those who fall within its remit.
  2. The Equality Act 2010 prohibits unfair treatment of people because of protected characteristics they have and helps achieve equal opportunities.
  3. The co-signatories to this Memorandum believe that the arrangements as set out in the Memorandum are compliant with the Human Rights Act 1998 and the Equality Act 2010.

### Data protection and freedom of information

* 1. CHCs and PSOW will in their joint activities and co-operation with each other ensure compliance with the Data Protection Act 1998.
  2. CHCs and PSOW will in their joint activities and co-operation with each other ensure compliance with the Freedom of Information Act 2000.

### The relationship in practice

* 1. CHCs and PSOW commit themselves to a principled way of working, as set out below:
  2. The working relationship between CHCs and PSOW will be characterised by regular, on-going contact and appropriate open exchange of information between them within the parameters of their respective legal frameworks.
  3. Formal meetings will be held between the Chief Executive of the Board of CHCs in Wales and the Ombudsman as required but no less frequently than every 12 months. This will be an opportunity to consider the effectiveness of this MoU and to pick up key themes. The Chief Execuitve or the Ombudsman may delegate this task to an appointed representative.
  4. Formal meetings to discuss matters of mutual interest will also be held between a nominated representative from the CHCs and one from PSOW on a six monthly basis.
  5. There will also be regular meetings between Chief Officers and PSOW Organisational Improvment Officers. These meetings should take place on a six monthly basis unless there are reasons to indicate otherwise. Both organisations will maintain and share a list of Improvement Officers and Chief Officers for individual Health Boards
  6. In the spirit of co-operation CHCs and PSOW agree to:
* Share information about trends, data, policy and initiatives which relate to the shared aim of ensuring that service users are provided with high quality services;
* Proactively share electronic copies of reports following reviews and inspections or investigations that may be relevant to both organisations. Anonymity will be protected in line with organisational policies and procedures;
* Consult in relation to guidance or reports produced by one co-signatory that refers to the responsibilities or functions of the other co-signatory;
* Co-operate in disseminating information about good practice where that good practice is relevant to the principal aims of the other co-signatory;
* Ensure that enquirers and potential or actual complainants are given helpful and accurate information about the functions of the other co-signatory, where that information could be helpful to them.
* Co-operate and share general information in relation to complaints and concerns in respect of healthcare provided or commissioned by the NHS or privately arranged palliative care services.
  1. CHCs and PSOW will share details of their internal policies and procedures.
  2. CHCs and PSOW will distribute to the other (under embargo) press releases in order to determine how any media interest relating to a matter of mutual concern might be handled.
  3. CHCs and PSOW will share any media statement which refers to the other to ensure that the statement is accurate.
  4. CHCs and PSOW will ensure that members of staff are aware of the content of this Memorandum and the principles for joint working.
  5. CHCs will ensure that their staff are aware of the role of PSOW and the statutory framework within which it is required to operate.
  6. PSOW will ensure that staff are aware of the role of CHCs and the statutory framework in which they are required to operate.

### Referral in individual cases

CHCs and PSOW will direct concerns or cases from one co-signatory to the other co-signatory where it is appropriate to do so. For example, PSOW may refer a matter to CHCs where individuals consider they would benefit from support and advocacy in pursuing their concerns. CHCs may refer to PSOW where a complaint is raised in relation to a service provided by any body which falls within its jurisdiction and the requirements set out in the Public Service Ombudsman (Wales) Act 2005 are met.

### Reconciliation of disagreement

Both co-signatories will look to resolve any disagreements amicably at an operational level. If a disagreement cannot be resolved at that level, senior managers from both organisations will try to resolve any issue.

### Review

This Memorandum of Understanding will be reviewed and updated as required but no more than one year after being signed and every two years thereafter.

### Signatures

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| **Clare Jenkins**  Acting Chief Executive, Board of CHCs in Wales on behalf of;  Abertawe Bro Morgannwg CHC  Aneurin Bevan CHC  Cardiff and Vale of Glamorgan CHC  Cwm Taf CHC  Hywel Dda CHC  North Wales CHC (Betsi Cadwaladr)  Powys CHC  Signed………………………………….  Date | **Nick Bennett**  Public Services Ombudsman for Wales  Signed………………………………...  Date |

### Appendix A

Roles and responsibilities

The role of CHCs

CHCs represent the interests of patients and the public in Wales regarding their NHS services. They fulfil these functions by:

* Continuously engaging with the populations they represent and the health service providers serving those populations:
* Scrutinising local health services
* Supporting the public to engage in consultations about major NHS service changes that have an impact on them; and
* Enabling users of the NHS to raise concerns about the services they receive, primarily by providing an Independent Advocacy Service.

There are seven CHCs across Wales, each serving the populations residing within the catchment areas of the seven Local Health Boards across Wales.

The Board of CHCs in Wales has a statutory duty to advise and assist the CHCs regarding the performance of their functions, to represent the collective views and interests of CHCs to Welsh Ministers and to monitor and manage the performance of CHCs.

**The role of the PSOW**

PSOW has a statutory role to look into complaints about public services and independent health and social care providers in Wales. He also investigate complaints that members of local government bodies have broken their authority's code of conduct. He is independent of all government bodies. PSOW’s role is to:

* To consider complaints about public bodies, including family Health Service providers and privately arranged or funded social or palliative care services.
* To consider complaints that members of local authorities have broken the code of conduct.
* To put things right and put people back in the position they would have been in if they had not suffered an injustice and work to secure the best possible outcome where injustice has occurred.
* To work with bodies so that lessons from investigations are learnt.
* To promote continued improvement in the standards of public services in Wales by helping bodies to get it right first time – to work to reduce complaints by helping service providers to improve their decision making.

### Appendix B

**Contact Details**

1. Contact details

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| **CHCs** | **PSOW** |
| Clare Jenkins  Acting Chief Executive  Board of Community Health Councils in Wales  Third Floor  33-35 Cathedral Road  Cardiff  CF11 9HB  Telephone: 02920 235558  [www.communityhealthcouncils.org.uk](http://www.communityhealthcouncils.org.uk) | Chris Vinestock  Chief Operating Officer & Director of Investigations  Public Services Ombudsman for Wales  1 Ffordd yr Hen Gae  Pencoed  Bridgend  CF35 5LJ  Telephone: 0300 790 0203  [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk) |

1. Named contacts between the **CHCs** and **PSOW for MoU management purposes** are as follows:

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| --- | --- |
| **CHCs** | **PSOW** |
| Jenna Hodges  Business Manager  Board of Community Health Councils in Wales  Third Floor  33-35 Cathedral Road  Cardiff  CF11 9HB  02920 235558  [Jenna.hodges@waleschc.org.uk](mailto:Jenna.hodges@waleschc.org.uk) | Geraint Jones  Assistant Investigation Manager  Public Services Ombudsman for Wales  1 Ffordd yr Hen Gae  Pencoed  Bridgend  CF35 5LJ  01656 641185  [Geraint.Jones@ombudsman-wales.org.uk](mailto:Geraint.Jones@ombudsman-wales.org.uk) |

1. . [↑](#footnote-ref-1)