

Open Consultation

**Proposed Wider Own Initiative Investigation –
Carers: Needs assessments and complaints**

Consultation closing date and time: 6 February 2023, 23:59.

If you need this document in another format, please contact us at OwnInitiative@ombudsman.wales or one of the options shown under 'How to respond' below.

Overview

The Public Services Ombudsman for Wales (“PSOW”) has the power to undertake ‘own initiative’ investigations where evidence suggests that there may be systemic service failure or maladministration. The Ombudsman is now considering undertaking an investigation into the ease of access for carers to, and the effectiveness of:

- carer needs assessments
- health and local authority complaint processes.

The purpose of the investigation would be to identify barriers faced by carers in these specific areas.

Where evidenced, the investigation would identify recommendations for improvements to ensure carers receive effective and timely needs assessments and that carers are able to engage effectively with health and local authority complaints processes. The investigation would also share any good practice identified to drive improvement across public services in Wales.

Comments and responses on the proposed investigation are invited.

Purpose of the consultation

The Social Services and Well-being (Wales) Act 2014 (“the Act”) came into force on 6 April 2016 and created a legislative framework to bring together and modernise the law governing social care in Wales. The aim of the Act was to improve wellbeing outcomes for people who need care and support, and for carers who need support, through better co-ordination and enhanced collaboration between public bodies, including local authorities and the NHS.

The Act defines a carer as someone who provides or intends to provide unpaid care for an adult or disabled child. The cared for person may be a family member or a friend, who due to illness, disability, a mental health problem or an addiction cannot cope without their support.

Where it appears that a carer may have needs for support, Part 3 of the Act places a duty on local authorities to undertake proportionate assessments to establish whether a carer has needs for support (or are likely to have needs in the future) and if the carer has such needs, what those are (or are likely to be in the future). The matters which must be considered as part of the assessment process include whether the carer is able and will continue to be able to provide care for the person; the outcomes the carer is seeking and

to what extent the provision of support, preventative services, information, advice, assistance, or other matters could meet those needs.

Carers Wales has published key facts and figures¹ showing how many people are affected:

- There are 370,230 unpaid carers in Wales according to the 2011 census.
- The Office of National Statistics indicated that there are 487,000 carers in Wales in a 2019 survey.
- Every year in Wales 123,000 people become unpaid carers.
- Carers in Wales save the Wales economy £8.1 billion per year by providing unpaid care and support to their loved ones that would otherwise need to be provided by local authorities and the NHS.

Local authorities and health bodies have statutory complaints processes which are followed when a person wishes to raise a complaint. If a person is unhappy with the public body's response, they may make a complaint to the PSOW.

The consultation

In order to undertake an 'own initiative' investigation under section 4 of the Public Services Ombudsman (Wales) Act 2019 ("the PSOW Act"), the PSOW must have regard to its published criteria.² The PSOW Act and our criteria outline that we must have regard to whether:

- The matter is in the public interest
- There is a reasonable suspicion that there is systemic maladministration or that service failure has occurred, or may occur, that may cause any person to sustain injustice or hardship
- The matter impacts upon a wide group of citizens, to such an extent that they appear likely to sustain injustice or hardship in consequence of the matter being considered for investigation

A review of PSOW case records show a low number of complaints from carers or from those receiving care. The level of complaints received from carers or those receiving care falls below the number that may be reasonably expected given that 12% of the Welsh population are carers.³ It is reasonable to consider that carers **and** those being

¹ Carers Wales - [Facts and figures - Carers UK](#)

² [PSOW Own Initiative Investigations – Criteria for Investigation](#)

³ [Population and household estimates, Wales - Office for National Statistics \(ons.gov.uk\)](#)

cared for are more reliant on public services than those who are not, due to their own needs as carers or their needs as someone being cared for. The absence of such complaints suggests that carers and those being cared for may not be aware of the avenues available to them raise concerns, they may have more pressing priorities, or they may have lost confidence to pursue their complaints.

Outreach work completed by PSOW has provided evidence that carers have faced obstacles in receiving needs assessments and when trying to complain about maladministration and service failure. If and when their complaints were accepted, carers felt that they were provided with inadequate responses.

Recent discussions held with other regulatory bodies and advice and advocacy bodies demonstrated support for an investigation on this subject area. It was confirmed that none of the bodies spoken to were currently completing work in this area, nor did they intend doing so. This suggests that it would be in the public interest for PSOW to investigate this topic.

The role of carers within health and social care in Wales is fundamental; they are often described as the 'third leg' on a 'three-legged stool'. Their indispensable role further suggests that it would be in the public interest to investigate this topic.

The PSOW is seeking views on the proposed investigation and its suggested scope.⁴ Comments and evidence is invited on whether it would be in the public interest for PSOW to investigate issues relating to this matter, and whether PSOW is the appropriate body to undertake such an investigation.

Evidence or views would be particularly welcomed from:

- Those who are unpaid carers or are cared for by unpaid carers and have experienced the carer assessment process, and/or the complaint procedure of a health service and/or local authority.
- Those who have had experience in dealing with the carer assessment process and/or complaints from unpaid carers or those who are cared for.
- Those who have had experience in assisting people through these processes or have been through the complaints process themselves.
- Local authorities and local authority representative bodies.

⁴ In accordance with section 4(2)(c) of the PSOW Act.

- Health boards.
- Primary care providers.
- Advocates.
- Third sector organisations.
- Elected representatives.
- Those with an interest in this subject.

Consultation Questions

Needs assessments

1. Are needs assessments (for carers and those being cared for) being offered and completed appropriately and in a timely manner?
2. Do carers experience barriers and obstacles to receiving needs assessments (either for themselves or the person they care for)?
3. Where needs are identified, is the care and support provided as agreed and delivered in a timely manner?

Complaints processes

4. Are carers given relevant information about making a complaint and about the complaints procedure, including how to raise an informal complaint and signposting to Advice and Advocacy bodies?
5. Do carer's experience obstacles and barriers when raising concerns about the care provided to those they care for?
6. Do local authorities progress social services complaints to Stage 2 (formal investigation), including using Independent Investigators, if local resolution is unsuccessful?
7. Are local authorities and/or health service providers complying with procedures and timescales set out in their complaint handling procedures?

8. Are there particular difficulties in pursuing complaints that involve joint services delivered by both a local authority **and** a health board?
9. Are complaints from carers being adequately resolved? If not, are carers being informed of their right to bring their complaint to the Ombudsman if not resolved satisfactorily?
10. Are lessons being learned from carers' complaints (whatever their resolution) to inform learning and improve service delivery?

Other comments

11. What effects could this investigation have on the Welsh language and specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English? How could positive effects be increased, or negative effects be mitigated?
12. Do you have any other comments on our proposed investigation?

How to respond

Please share with us your views by 23:59 on **6 February 2023** in any of the following ways:

- Complete our [online form](#)
- Email your response to OwnInitiative@ombudsman.wales
- Post your response to:
Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae,
Pencoed
CF35 5LJ
- Call us on **01656 644238** and ask to speak to the Own Initiative Lead Officer.

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- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'

- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tell us.

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