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# What we do when we get a complaint about your practice

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## Introduction

This factsheet seeks to answer some frequently asked questions that often arise when we receive a complaint about a GP or the services provided by a GP Practice. It does not cover every detail about what we do but more information is available at [www.ombudsman.wales](http://www.ombudsman.wales). If you have any questions which are not covered in this factsheet, please contact the person who is dealing with the complaint, who should be able to help you.

## Contact from our office before an investigation starts

All new complaints are considered by our Assessment Team, who will be responsible for the initial assessment of a complaint. At this stage one of the Team may contact your Practice about the

complaint requesting additional information about the complaint. Please note that we would not be expecting your practice to contact the complainant at this point.

## **Do we have the authority to request a patient's complaint information at this stage?**

Our formal power to require your Practice to provide information only takes effect once an investigation has been started (see below). However, we also have powers to take action in addition to, or instead of conducting an investigation, which may include obtaining information required to determine whether to start an investigation.

Where we request information from your Practice, which may include clinical records, this information will be required for the performance of the statutory function set out in the Public Services Ombudsman (Wales) Act 2019 ("the Act"). In line with Data Protection legislation, we do not normally obtain the individual's consent on the basis that we are performing our public task, as set out in our governing legislation. The individual is informed of this approach in the relevant Privacy Notice, provided at the outset for their complaint.

Where an individual is complaining on behalf of a third party, and we are seeking the third party's information, we will be able to provide proof of authorisation upon request.

## **Why do we ask for a copy of the complaint correspondence?**

We do this because we need to be sure that your Practice has had an opportunity to respond to the complaint. This is an expectation

under our legislation if we are to eventually investigate the matter.

## **Why do we sometimes request a patient's records?**

It is often possible to determine at an early stage, and with the assistance of one of our GP Advisers, whether there is any value in investigating a complaint or not. However, in order to do so we will need to have access to the relevant part of the clinical records. It should be emphasised that we would only do this when we expect the information to be easily accessed.

## **Why do we ask to have sight of the Practice's contract with the Health Board?**

We do this because under our legislation, we can only investigate complaints against a medical practitioner or two or more individuals practicing in partnership who have entered into a general medical services contract with a Local Health Board. For most Practices it is readily apparent who holds the GP contract at the time of a complaint but there have been instances where changes to the contract arrangements have complicated investigations.

## **What happens when an investigation starts**

The Assessment Team may determine that it is appropriate to transfer the complaint to an Investigation Team to further consider the merits of conducting an investigation. The Investigating Officer may then contact your Practice to discuss the matter or to commence an investigation.

## **What information will we ask for at the start of an investigation?**

Generally speaking an Investigating Officer will not ask for any information that has already been provided. However additional information being requested could include patient records if not previously provided; Practice policies; an account of actions taken by the Practice following its own complaint review; relevant Practice meeting notes and so forth.

## **Will your Practice have to provide the information we request?**

During an investigation we have the same powers as the High Court to require any person to provide documents relevant to the investigation or attend as a witness.

## **What are the clinical standards we will apply when considering the complaint against your practice?**

We will consider whether the care and treatment your Practice provided is appropriate in the circumstances at the time of the matters that led to the complaint. More details on the clinical standards we apply can be found on the 'Clinical Standards' page, under the 'For Service Provider' tab (<https://www.ombudsman.wales/clinical-standards/>). We will ask your Practice for comments about the standards your Practice applied in delivering the care complained about, at the outset of any investigation. If the complaint relates to clinical care and treatment, we will usually ask one of our GP Advisers to provide a professional opinion on the care provided.

## **Why do we sometimes invite your Practice to settle the complaint?**

Sometimes it is possible that some action on the part of the Practice (such as a more comprehensive explanation) may resolve the complaint without proceeding to formal investigation.

## **What happens if your Practice decides to seek assistance from a defence organisation or similar?**

Sometimes some of those involved may decide to seek advice from their defence union. This is welcomed as it can improve responses. We do however, ask that the involvement of such organisations does not unduly delay any response or information your Practice has been asked to provide. It is also important that any evidential response we receive is from the individual we have approached.

## **What should your Practice do when we ask for information about a patient who is no longer a patient of your Practice or is deceased or is about a matter unrelated to your Practice?**

At the outset of the investigation, we may not know what information your Practice retains and what information has been transferred to another Practice or the Health Board (in the case of a deceased patient). If your Practice holds the information, then we have the power to require your Practice to provide it regardless of whether it is your Practice that is subject to the complaint. If on the other hand your Practice does not hold the information, please let us know as soon as possible and indicate who the information has been transferred to.

## **Will we interview those involved?**

Generally speaking it is possible to investigate a concern on the basis of documents alone. However, the Investigating Officer may consider it necessary to speak with those involved in the complaint. There is an additional explanatory leaflet for those we have asked to attend an interview. It is available from our website.

## **Will we give your Practice an opportunity to comment on our findings and conclusions?**

Yes – before concluding the investigation your Practice will be given the opportunity to comment on the findings and conclusions of the investigation, and if any recommendations are made your Practice is invited to agree them. It is important when commenting on a draft report, that your Practice makes it clear whether you are prepared to accept any recommendations made as this will determine how the investigation is concluded (see below). It is important in considering any recommendations that your Practice is confident that you are able to implement them when agreeing.

## **What will happen if your Practice is unwilling to accept our recommendations**

The clinical recommendations we make are normally endorsed by our experienced GP advisers. Generally, we find that organisations tend to accept our recommendations without significant challenge. However, if your Practice is unwilling to accept any recommendations we make (and we disagree with the reason you provide for that refusal) the Act is clear that in such cases, the Ombudsman will publish her report of the investigation under Section 24 of the Act which may be made available to the public.

## **Will we name the individual GPs in the final report?**

Whilst we do not usually identify medical practitioners who have entered into the general medical services contract with the Health Board in investigation reports, it is likely that they may be identified in covering correspondence to the Practice, complainant and relevant Health Board. It is also open to us to determine, that in certain circumstances it is in the public interest to identify such practitioners. Our reports and decision letters are redacted so that the complainant and other individuals are not identified.

## **Why do we sometimes recommend financial redress?**

It is not our role to act as a compensatory body and our recommendations in terms of providing redress to an individual who has suffered an injustice are geared as much as possible, towards returning the individual or their family to a position they would have been in if the service failure had not happened. This can include redress for worry, distress or uncertainty as to the effect of any shortcoming identified.

## **Supporting you throughout the complaint process**

Our service is independent and impartial, and this will be reflected in the tone of our correspondence with you. That said, we do understand that receiving contact from us can be daunting, particularly if you have not dealt with the Ombudsman before or if you are a small Practice. Please do feel free to contact the officer dealing with your complaint if you have any questions about what is

involved or what we are asking you to do. If we start an investigation into a complaint against your Practice we would be willing to arrange a telephone call or meeting with you to discuss the concerns being investigated and our process in more detail. Please contact the Investigating Officer if you wish to arrange this.

Each health board has a liaison officer who acts as a point of contact with our service. They may also be able to help you with any questions you have. We are required under our legislation to notify the relevant health board if we start an investigation into a GP Practice in their area and also to share the final report with them. If you feel it would be helpful for us to involve the health board, please let us know and we can discuss that with you.

## Contact us

If your Practice would like to know more about our process or our approach, please [contact us](#) on 0300 790 0203.

Also available in Welsh.