

What happens if you can take legal action in respect of the matters you are complaining about

Factsheet



Introduction

This Factsheet explains how the Ombudsman considers complaints when you (or the person on behalf of you) may have a legal remedy available in the Courts.

Examples of legal remedies which may be available if you are unhappy with the way a public body in Wales has treated you include:

- a claim of clinical negligence in health cases
- a claim of breach of contract if a public body has failed to do something it is contractually required to do
- or a claim for damages if a public body (or someone carrying out works on its behalf) has caused damage to a person's property.

The law which applies when it appears that a complainant has the option of pursuing a legal remedy against a public body

The Public Services Ombudsman (Wales) Act 2019 says that the Ombudsman **cannot** investigate complaints of maladministration or service failure against public bodies if you (or the person on behalf of you) may have a legal remedy available through the Courts.

The **exception** to this rule is if the Ombudsman is satisfied that the circumstances of your case mean that it is not reasonable to expect you to take or to have taken legal action. If so, the Ombudsman may investigate complaints of maladministration or service failure about public bodies in Wales in the usual way. More information available at our ['What we do when we get your complaint about a public body in Wales'](#) Factsheet, on the 'Factsheet' page, under the 'About Us' tab.

What we will do if it appears from your complaint that you have a legal remedy available to you

For us to fairly decide whether or not it is reasonable for you to take legal action against the public body you are complaining about, we may need to ask you for more information about your circumstances, in addition

to the information you have provided on our complaint form.

The information we are likely to need to ask you about includes:

- your personal circumstances and the reasons why you do not believe you are able to take legal action against the public body
- the remedy or outcome you are seeking
- whether you have instructed a solicitor and/or have legal insurance or legal aid to help fund any legal action

Issues to bear in mind

More detailed information on what action the Ombudsman can ask a public body to take to resolve your complaint can be found in our [Remedies](#) factsheet on the 'Factsheet' page, under the 'Making A Complaint' tab.

If the remedy you are seeking is one which the Courts generally award, then the Ombudsman may conclude that Court action is the appropriate route for you to pursue. An example of this is significant financial compensation. If you are seeking a number of different remedies, for example, an apology, answers to your questions about the way in which you have been treated and financial compensation, then the Ombudsman will carefully consider the information you provide us when deciding whether it is appropriate for us to consider your complaint.

If you choose not to take legal action when this appears to have been an option which was available to you at the time of the events you are complaining about this will be taken into consideration.

Contact us

If you are unsure whether the Ombudsman would be able to look into your complaint, please [contact us](#) on 0300 790 0203 or ask@ombudsman.wales.

Also available in Welsh.

Easy Read

Putting things right - What happens if it is best to put your complaint right by going to court

 [Download](#)

This document is available in Welsh and English. You can write to us in Welsh and we will reply in Welsh. This will not lead to a delay in responding.

ask@ombudsman.wales

0300 790 0203 Our phone line is open 10am-12:30pm and 1:30pm-4pm Monday – Friday