

Human Rights Act Factsheet



This Factsheet is about The Human Rights Act 1998 (HRA) and how it relates to the Ombudsman service. It should be read together with our general information booklet about our service.

How the Human Rights Act affects the work of the Ombudsman

The Ombudsman considers complaints of maladministration or service failure on the part of public bodies which causes hardship or injustice to members of the public. When deciding whether to investigate a complaint he must consider whether the public authority concerned has acted in a way which is incompatible with a Convention right.

What the Ombudsman can do

If you think that a public authority's decision has impacted on your human rights, the Ombudsman may be able to look at your complaint.

The Ombudsman can:

- consider whether it appears that the authority may not have considered the HRA and whether this would amount to maladministration;
- ask the authority to reconsider its decision based on this view;
- recommend the actions that the authority needs to take to put things right.

The most common complaints are that a public authority has not considered -

- Article 2: The right to life – *protection and promotion of safety, refusal of life saving medicine, excessive restraint, do not resuscitate orders.*
- Article 3: The right not to be tortured or treated in an inhuman or degrading way – *issues of dignity and privacy, physical/psychological abuse, poor conditions in hospitals/care homes.*
- Article 5: The right to liberty – *ability of people to make their own decisions, excessive restraint.*
- Article 8: The right to respect for private and family life – *Social Care decisions, treatment of people in a group protected under the Equality Act, housing conditions not suitable for a family member.*

What the Ombudsman cannot do

The Ombudsman cannot:

- decide that there has been a breach of the HRA; this is for the courts to decide (see further information for other bodies which may be able to assist you).

Issues to bear in mind

- If the Ombudsman upholds your complaint, he may make recommendations to the authority about what it should do. This may include a request to carry out a new assessment of your circumstances or to reconsider your complaint.
- You do not need to make your complaint to the Ombudsman using a solicitor or any other advocate; his service is free and impartial and we aim to make the process as easy to follow for complainants as possible.

Further information

You may like to consider contacting the following organisations for advice:

- **Complaints Wales** can advise you about who you need to approach to make your complaint. It also may be able to offer you advice about appropriate advocacy services which can help with your complaint - 0300 123 1299 or e-mail ask@complaintswales.org.uk;
- The **Equality and Human Rights Commission** (EHRC) promotes and monitors Human Rights, and protects, enforces and promotes equality. The EHRC also has an Equality Advisory Support Service, which can be contacted either by telephone on 0800 800 0082 or by writing to FREEPOST, Equality Advisory Support Service, FPN4431;
- **Citizens Advice Bureau Wales** – 08444 77 20 20 or www.adviceguide.org.uk

Examples of cases that the Ombudsman has looked at can be found on our website. Please see www.ombudsman-wales.org.uk

If you are unsure whether the Ombudsman would be able to look into your complaint, please contact us:

- **phone** 0300 790 0203;
- **e-mail** ask@ombudsman-wales.org.uk;
- **visit the website at** www.ombudsman-wales.org.uk;
- **follow us on Twitter:** @OmbudsmanWales;
- **write to:** The Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae, Pencoed CF35 5LJ