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PUBLIC SERVICES OMBUDSMAN FOR WALES
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Response by the Public Services Ombudsman for Wales in response to the Welsh Government Consultation: Services Fit for the Future

I am pleased to have the opportunity to respond to the Welsh Government's White Paper 'Services Fit for the Future'.

As Public Services Ombudsman for Wales (PSOW), I investigate complaints made by members of the public who believe they have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction, which essentially includes all those organisations responsible for delivering public services devolved to Wales. These include:

- local government (both county and community councils);
- the National Health Service (including GPs and dentists);
- registered social landlords (housing associations); and
- the Welsh Government, together with its sponsored bodies.

I am also able to consider complaints about privately arranged or funded social care and palliative care services.

Health is the most complained about subject area (38% in 2016/17) whereas I currently only receive a small volume of social care complaints, despite the introduction of the Social Services and Well-being (Wales) Act 2014. The own initiative powers I have requested under the new draft Public Services Ombudsman (Wales) Bill would allow me to identify systemic failings in the social care sector, even if service users themselves are not raising complaints.

My response to this consultation reflects evidence from PSOW casework. It is in this context that I am responding to the consultation and my comments on various aspects of the White Paper are set out below.

Chapter 2: Duties to Promote Cultural Change

2.1. Duty of Quality for the Population of Wales

Health boards working together or working collaboratively with local authorities could create additional complexity for the citizen/complainant in terms of who has ownership of a complaint when it is received by my office. It is my view that a public service must be accountable for all of the services it offers, whether it delivers that service itself or contracts it to another public body or external party, and the process for complaining about that service should be clear for the service user.

So whilst I agree in principle with this proposal I believe a lot more work is required to ensure that it is effectively implemented and regulated with clarity and transparency for the service user at its heart.

If the Assembly passes the new draft Ombudsman Bill this year it will give me the power to establish a Complaints Standards Authority which would facilitate the standardising of public bodies' complaints procedures and put the service user at the heart of the complaints process.

2.2. Duty of Candour

A statutory duty of candour should be introduced for whole organisations. In my recent thematic report 'Ending Groundhog Day: Lessons from Poor Complaint Handling' I highlighted effective governance as key to transforming the fear and blame culture that is innate in public bodies, which will consequently end the cycle of poor complaint handling and poor service delivery.

Whilst I recognise that there already exists the GMC/NMC/CQC professional statutory duty of candour for individual practitioners, which is applicable across the UK, a statutory duty for health and social care bodies in Wales as corporate entities would reinforce this.

The current proposal for a Duty of Candour omits general practitioners and other primary care providers. I believe they should be included along with all other health professionals.

Chapter 3: Person-Centred Health and Care

3.2. Joint Investigation of Health and Social Care Complaints

I actively encourage the alignment of complaints processes across health and social care and believe one national process is required to maintain consistency across the sectors.

The current social services complaints procedure states that local authorities should coordinate their investigations and responses with other public bodies involved unless there is a good reason not to. The NHS Wales 'Putting Things Right'process is currently silent on this. I believe the process needs to be better coordinated, for example to include a requirement for both sides to inform each other when a complaint is received, and to jointly agree on who will lead on the complaint response. Where one body takes ownership of a joint complaint, it must have the authority of both bodies to make the final decision in response to a complaint and to decide on redress amounts/recommendations.

As mentioned in point 2.1, if I am given the power to establish to a Complaints Standards Authority this would facilitate standardisation of public bodies' complaints procedures. This would also allow the gathering and reporting of consistent and comparable data across public services and, subsequently, areas of improvement to be identified. Consistency in complaints processes would facilitate the process for complainants, particularly in joint funding environments, and would remove any ambiguity over who has ownership of a complaint when it reaches my office.

Chapter 4: Effective Citizen Voice, Co-production and Clear Inspection

4.1. Representing the Citizen in Health and Social Care

Advocacy is extremely important from my office's perspective, as our impartiality prevents us playing an advocacy role to assist complainants when making a complaint. Currently there is no advocacy provision for social care or joint social care/health and so I would welcome the introduction of a body that offers advocacy for social care.

However, if the current proposal is progressed, more details of the organisational architecture of the proposals are required to ensure that stakeholders can be assured of the independence of the new advocacy body and the level of co-ordination expected with HIW/CSSIW, as well as their respective levels of autonomy from Welsh Government.

4.3 Inspection and Regulation and single body

Reiterating my comments when responding to the Green Paper in November 2015, the nature of health and social care in Wales has changed enormously since HIW was founded. Large proportions of health care are now provided in the community and private nursing homes. I would suggest, therefore, that any review of the Inspectorate also needs to look at the current pattern of delivery of care where this takes place in a nursing setting or via domiciliary care.

I would, therefore, suggest that in view of the increasing overlap between health and social care, an arrangement of two separate inspectorates is no longer fit for purpose. The fundamental issue facing services is how to support people, whether in relation to illness or disability. The configuration needs to be built around the rights of individuals to lead fulfilling lives in their own community where they are properly protected. It is my view that there should either be one framework that covers health and social care, or better still one inspectorate with full statutory independence from government bodies. Such an inspectorate could also have the potential to bring about cultural change along with new processes. I also believe the decision to merge the two inspectorates should be based on future-proofing services to meet the needs of our ageing society, rather than one shaped by the interests of the organisations involved. Recent lessons from re-organisation in England might be valuable in this regard.

In addition if the proposal for an independent inspectorate body in place of HIW/CSSIW is to be realised then there needs to be a separate body to ensure that the vital advocacy services, currently provided by CHCs to individual complainants, are maintained.

The advocacy role of the CHCs is a valuable one and the experience of this office is that this element of the service that they provide, on the whole, works very well. CHC advocates can play an important part in helping complainants submit a complaint to the relevant body and subsequently, if required, to this office. Advocates can also support complainants through the complaints process. I agree with the conclusions of the Williams Commission, that rather than duplicate some of the activities of other inspection and scrutiny bodies, CHCs should focus on the advocacy services and ‘patient voice’ aspect of their role, and that this should include a similar service in respect of social services.

However, if CHCs are not retained in their current form, robust arrangements are required to ensure that valuable local intelligence, informal feedback from patients and relatives, and routine observations from hospital visits etc. are retained, and if they are to be abolished in their entirety, an improved advocacy body for patients should be established in their place.

Public Services Ombudsman for Wales
September 2017
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