

**Response by the Public Services Ombudsman for Wales to  
the short inquiry by the Children, Young People and Education  
Committee on children's rights in Wales**

I am pleased to have the opportunity to respond to the short inquiry by the Children, Young People and Education Committee on children's rights in Wales.

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 organisations that deliver 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 and, in certain specific circumstances, aspects of privately funded healthcare.

My jurisdiction to consider matters relating to education is outlined in Schedules 2 & 3 to the Public Services Ombudsman (Wales) Act 2019. I do not have the power to consider complaints relating to schools or governing bodies in Wales. I may only consider complaints which relate to a local education authority's involvement in a matter; or issues relating to admissions and exclusion appeals. In view of this children in Wales are not able to complain to my office about matters relating to schools.

### **Context**

I am not in a position to assess the general impact of the Rights of Children and Young Persons (Wales) Measure 2011 on the Welsh Government policy making. However, I can contribute to the inquiry by noting some general trends and themes in my casework since 2011 as relevant to children and young people.

### **Casework volume**

My casework data allows me to identify the number of complaints related to services in two sectors of particular relevance to children and young people: children's social services and education.

Between 2011/12 and 2018/19, I handled 764 complaints related to children's social services. Within that period, I received the highest annual number of such complaints – 117 - in 2018/19. This suggests an overall increase in the number of such complainants since 2011.

Since 2011/12, I also handled 576 cases related to education - on average, 72 per year. In 2018/19, I received 74 such complaints. This suggests that while the number of complaints related to education has not generally increased since 2011, neither has there been any noticeable improvement.

It is important to underline that complaints related to children's social services and education represent only a small proportion of my overall caseload. In 2018/19, they comprised 5% and 3% of the total complaints handled. In contrast, 41% of the complaints received by my office in that year were related to health. The casework management system used by my office does not currently allow me to ascertain precisely what proportion of such cases relates to children and young people. However, the section below will highlight several individual examples of such cases.

### **Casework themes**

In addition to the evidence above, I wish to draw attention to several examples of individual cases, providing insights into the stories of real people behind the complaint statistics. These cases highlight instances where children and young people in Wales continue to be affected by maladministration and service failure by public bodies.

#### [Bridgend County Borough Council – 20153185](#)

Mr N was a looked after child with Bridgend County Borough Council and placed with his former foster carers Mr and Mrs A when he was a toddler. The placement lasted many years but broke down in 2014. Mr N subsequently approached the Council to obtain further information about savings that his foster carers had made on his behalf. As a corporate parent for a looked after child, a council has a duty to ensure that there is adequate oversight and monitoring of savings that are made on behalf of the looked after child. However, my investigation found that the Council's monitoring of Mr N's savings had been both intermittent and inadequate; and that some of his savings had been used without consultation with him. In December 2016, I issued public interest report on this case, making a range of recommendations for the Council to implement. These included an apology and financial redress to Mr N, as well as steps to review the Council's relevant processes in respect of savings of looked after children.

#### [Denbighshire County Council - 201701203](#)

Mrs X complained that, between September 2015 and September 2016, the Council failed to consider carrying out an assessment of her child, B's, special educational needs ("SEN") or inform her that she could request an assessment of B's SEN. Mrs X also complained that, in April 2017, the Council did not complete an assessment of B's SEN within a five-week timescale and that its decision not to issue a

statement for B in July 2017 was discriminatory. Among other findings, I upheld Mrs X's complaint that an assessment should have been carried out within five weeks and was not. I am not able to determine complaints of discrimination; that is a matter for the courts. However, I suggested that the Council considers reflecting on this case and the language it used in its correspondence to Mrs X. The Council agreed to apologise to Mrs X and make a redress payment of £250 for the shortcomings identified.

[Cardiff & Vale University Health Board AND Hywel Dda University Health Board 201701479 & 201702267](#)

Mr B complained that his son C (who was 11 years old) had waited two and a half years for urgent paediatric renal surgery (surgical removal of a kidney). He said that this was an unnecessary wait and had a significant impact on C's quality of life. During this time C had suffered frequent infections, requiring antibiotics, and an open wound on his side needed dressing three times a week. C was unable to do things he enjoyed with his friends like playing football or swimming, as he could not do any contact activities. This had been stressful and upsetting for C. There was evidence that C had failed to thrive during this time. I found that this delay was unacceptable; and that there was maladministration in the way that both Health Boards involved had dealt with C as a patient. I also said that the impact of the delay in treating the debilitating condition, which could not improve without surgery, could not be underestimated and that C's human rights may have been compromised. Both Health Boards accepted the findings in the report and acknowledged their role in the failings of this case.

### **Closing remarks**

I trust that you will find my comments useful. Should you wish to discuss any of my points further, please do not hesitate to contact Ania Rolewska, the Head of Policy ([ania.rolewska@ombudsman.wales](mailto:ania.rolewska@ombudsman.wales)).



**Nick Bennett**  
**Public Services Ombudsman for Wales**  
**September 2019**

\*\*\*\*\*