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**Response by the Public Services Ombudsman for Wales
to the Welsh Government Race Equality Action Plan: An Anti-racist Wales**

I am pleased to have the opportunity to respond to the Welsh Government's consultation on the Welsh Government Race Equality Action Plan: An Anti-racist Wales (REAP).

Our role

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)
- 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.

The 'own initiative' powers I have been granted under the Public Services Ombudsman (Wales) Act 2019 (PSOW Act 2019) allow me to investigate where evidence suggests there may be systemic failings, even if service users themselves are not raising complaints. The Act also establishes the Complaints Standards Authority to drive improvement in public services by supporting effective complaint handling through model procedures, training and collecting and publishing complaints data.

General Comments

I welcome the focus on racism in the action plan and the ambition to make Wales anti-racist by 2030, and appreciate the considered and engaged way you have developed and established your Vision, Purpose and Values. The path to greater awareness and understanding about race equality, racism and inclusion and the contribution public bodies make to a more equal Wales is one that is extremely important to us.

As the Public Services Ombudsman for Wales with a mission to ensure justice, it is imperative that my office acts as an ally for the disenfranchised, speaking out and challenging discrimination and prejudice where and when we find it. Our equality objectives and actions are set out in our Strategic Equality Plan, which we review and report on annually and for the past year we have intentionally focused on how our work contributes to race equality and inclusion as both an employer and a service provider, adopting our Race and Equality at Work Charter in the summer of 2020.

We will look further into the concerns raised by the Steering Group as we develop and implement the actions we have identified in the Charter to build greater understanding of the issues that Black, Asian and Ethnic Minority people face, by actively listening to and learning from ethnic minority complainants and staff, continue with our learning on racism and bias, and taking action to provide visible leadership on race and ethnicity in our organisation.

As the executive sponsor for our work on race equality I am committed to taking proactive and positive steps to make my workforce more equal, diverse and inclusive. Since my appointment, I have worked to establish an organisational culture that is fairer, more accessible and inclusive. We have implemented an internal Equality and Human Rights office procedure for complaint handling, have an internal Equality and Human Rights Advisory Group of case workers that review cases where equality and human rights may have been breached, and we publish an annual [Equality and Human Rights Casebook](#) as a means of explaining how my office considers such issues.

Therefore, I fully support your proposals to make senior leaders more accountable for improving representation and making public bodies anti-racist with clear performance expectations. However, I urge caution in the use of sanctions as a mode to drive changes that may be symptomatic of wider systemic issues outside of the control of an individual or single organisation.

I am proud that the proportion of my work force is representative of the ethnic minority population we serve. However, I am conscious that we have yet to achieve our target that 8% of shortlisted job applicants are ethnic minority candidates, and our target to have ethnic minority representation on my Advisory Panel and Audit and Risk Assurance Committee. As such I would welcome additional support in how we can take positive action in recruitment, especially into leadership roles.

In principle we are supportive of reporting on our ethnicity pay gap, however it

would be useful if any future analysis was at an appropriate level to the size of the organisation. We could risk individual people being identified, depending on the level of disaggregation into different ethnic groups that we will need to report on.

With legal responsibility to independently consider complaints about public services, and independent care providers, as well as members of local government bodies, I would endorse any action that results in a more effective complaints system.

However, it is not clear in the REAP what the scope is of the action that relates to complaints systems, and under whose jurisdiction these complaints fall under. If these refer to complaints about Welsh public bodies and local authority members, then I believe that my team, particularly the Complaints Standards Authority (CSA), would be the most appropriate vehicles for implementing these complaints systems and publishing complaint data.

As stated in my introduction, the CSA was established to drive improvement in public services by supporting effective complaint handling through model procedures, training and collecting and publishing complaints data from public bodies in Wales. We would expect complaints relating to race and discrimination to be captured within our CSA data. We would welcome a discussion with officials about this.

Our training for public bodies already has a strong element of challenging bias in decision making, considering the barriers present to accessing complaints procedures for people from all parts of society, consideration of cultural differences in investigations. We would be open to developing our training further with help from appropriate persons/bodies.

We agree it is crucial that the public have confidence that any concerns about elected members are given the weight they are due to ensure public confidence in the governance of public services in Wales. In the light of our role in complaints that elected members of local authorities have breached their authority's Codes of Conduct, we wish to be involved in any future review of local processes for dealing with such complaints.

Whilst our data shows that we get relatively few complaints where race is considered a factor, those we do are almost universally in health care. As such we would very much welcome a review of Putting Things to Right, and we would be happy to be involved to share our learning from the complaints that we investigate.

We are also conscious from our equality data that complaints from ethnic minority people are under-represented in our caseload and welcome further activity that promotes awareness of Putting Things Right and other complaints schemes that are available for service users.

Themes from my Casework

My casework data allows me to identify some general themes of the types of problems that ethnic minority people in Wales face. I wish to draw attention to a case, to provide insight into the stories of real people behind the complaint statistics.

[Case Reference: 201705056 Aneurin Bevan University Health Board](#)

Mr A, an older man with dementia who was a devout Sikh, had been admitted to one of the Health Board's hospitals. Mr A's beard and facial hair had been trimmed by a health care worker, in contradiction to his religious beliefs and needs. Mr A passed away some days later. As a result of his religious beliefs, diagnosis of dementia and distress at the outcome, it was certain that Mr A was not able to properly consent to the trimming of his facial hair. That act engaged Mr A's following human rights - Article 3 (degrading treatment), Article 8 (right to respect for his private and family life) and Article 9 (right to manifest his religion). Several recommendations were made to the Health Board for wider learning, including key actions relevant to equality and human rights matters.

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 Tanya Nash, my acting Head of Policy (tanya.nash@ombudsman.wales).



Nick Bennett

Public Services Ombudsman for Wales

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