

Ombwdsmon Ombudsman

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PUBLIC SERVICES OMBUDSMAN FOR WALES

**Want to complain
about the care
you pay for?**

- You and the Ombudsman





About us

At the Public Services Ombudsman for Wales, we have legal powers to look into complaints about public services in Wales. We also investigate complaints that local government councillors have breached their authority's code of conduct. We are independent of all government bodies and our service is impartial and free of charge.

What we do

We can look into complaints that you have been treated unfairly or received a bad service through some failure on the part of the body providing it.

This booklet concentrates on independent care organisations. However, we have two other booklets available if you want to complain:

- about a public body (for example, a local health board or council), or
- that a councillor has broken their local authority's code of conduct.

Complaints about independent care organisations

We can look into complaints about:

- self funded care – that is, services provided by a care home to an adult who pays for their own care. We can consider matters relating to both personal and nursing care
- domiciliary care – that is, where people have purchased their own personal care provided at their home
- independent palliative care services – this can include hospice and community palliative services. (We can only consider a complaint if the service has received public funding in the three years before the issue being complained about arose.)

Occasionally, a complaint can involve more than one organisation. If as well as the independent care provider you want to complain about services provided by a public body, such as the NHS in Wales or your local council, we can look into these parts of your complaint too.

Who can complain to us

Anyone affected by a service provider's actions can complain to us. This includes:

- the person using the care service
- their nominated representative – or a suitable representative if the person is incapable of nominating someone.



What you need to know

Sometimes we receive complaints that we cannot look at. People are occasionally unhappy when we have to tell them this. To avoid having to disappoint you, it is helpful if you can think whether your complaint is one we can consider. In particular, please ask yourself the following questions:

- **Have I already complained to the service provider?**

All care service providers are required by law to have a complaints procedure in place. We will usually expect you to have complained to the care provider first. This gives them the chance to respond to your complaint. However, we will sometimes make exceptions.

For example, if we consider that your immediate safety is at risk.

If any part of your nursing care or social care is paid for or contracted by your local health board/trust or local authority, we will usually expect you to complain to them first about this element of the service.

If you have made a complaint but think the service provider is taking too long to deal with it (in general, we think 12 weeks is a reasonable time for them to give you a final reply) you can complain to us. You can also complain to us if you are unhappy with the service provider's response.

If you are not sure about how to go about complaining to the service provider, you can phone our Complaints Assessment Team on 0300 790 0203, who will help you.

- **Is the matter one that the law allows us to look at?**

For example:


- we cannot look into your complaint if you have a legal right of appeal or the right to take the matter to court, unless there are particular circumstances that make it unreasonable for you to do so
- you may disagree with a decision of a service provider but, if that organisation had a right to make the decision and arrived at it properly, then we cannot look into your complaint.

- **Am I complaining within a reasonable time?**

It can be difficult to look into things that happened a long time ago. We therefore normally expect you to bring your complaint to us within 12 months of becoming aware of the problem.

However, if you have already spent time complaining directly to the service provider concerned, we will take this into account.

The Ombudsman's powers in relation to looking into complaints about independent care providers came into force on 1 November 2014. We would expect a complaint about a concern which arose before these powers came into force to have been made by 1 November 2015. You can visit our website to submit your complaint online at www.ombudsman.wales



How to complain to us – contacting our Complaints Assessment Team

If you are not sure whether you can complain to us, phone our Complaints Assessment Team on 0300 790 0203 to discuss the matter. Even if you do think that your complaint is one that we can consider, it is always best to first phone our Assessment Team to discuss the problem, our role and the way we work.

If your complaint is one we cannot look into, we will try to see if you can complain to another organisation and, if appropriate, send the details of your complaint on to them.

However, if your complaint is one that we believe we can and should look at, we may then need you to fill in our complaint form. This will ask you to provide personal details, set out what your complaint is about and what you would like the service provider to do to put things right. We may be able to fill in the complaint form for you when you initially phone us. However, you can also visit our website to submit your complaint online at www.ombudsman-wales.org.uk

What we will do after receiving your complaint

If after looking into your complaint in detail we conclude that we cannot take the matter further, we will explain to you why.

If your complaint is one we can look at and we believe that there has been a failing on behalf of the service provider, we will see if it is possible to sort out the matter informally.

If we cannot sort out your complaint informally, particularly if it appears that there may have been a serious failure on the part of the care provider, we will begin a formal investigation. In doing so, we will listen to both sides of the story – that is, your side and that of the service provider.

If your complaint is one that involves issues of a specialist nature, we may obtain independent professional advice to help us consider the situation. Having gathered and considered all the evidence available to us, we will weigh up the facts and then reach an objective decision.

We may decide that the care provider has treated you fairly or that you have not been disadvantaged in the particular circumstances. If this is the case, we will tell you why we have arrived at this decision.

If we decide that the care provider is at fault and that you have suffered because of it, we will make recommendations on what the body should do to put things right.

It is not our role to obtain compensation for people. Our aim is to try to put you in the position you would have been in if the service provider had treated you properly and fairly in the first place. This may involve the recommendation of a consolatory payment or making good any losses you have suffered or ensuring you receive payments you were entitled to. Often though, we may decide that an apology is sufficient. Where necessary, we will ask the care provider to take steps to improve its systems so that no one else suffers in the same way.

Investigations are likely to take at least six months. However, we will endeavour to contact you from time to time to keep you advised of progress.



What to do if you need help to make your complaint

We must remain impartial whilst considering a complaint. Therefore, we cannot act as an advocate for you when you complain to us. If you need help to make your complaint and during the complaint process, there are voluntary organisations that can provide you with the support you need. If you do not know who can help you, phone our Complaints Assessment Team, who will usually be able to suggest a suitable organisation.

Communicating with us

We recognise that different people prefer to communicate with us in different ways. For example, some prefer more contact by telephone rather than in writing and some people prefer information from us in different formats or languages. Let us know what your requirements are and we will do our very best to meet your needs.

In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a complaint. We do not view behaviour as unacceptable just because someone is forceful or determined.

We believe that all complainants should have the right to be heard, understood and respected. However, our staff also have the same rights. We, therefore, expect you to be polite and courteous in your dealings with us. We will not tolerate aggressive or abusive behaviour, unreasonable demands or unreasonable persistence.

How to contact us

Phone 0300 790 0203

E-mail ask@ombudsman.wales

Visit the website www.ombudsman.wales

Write to: Public Services Ombudsman for Wales

1 Ffordd yr Hen Gae, Pencoed CF35 5LJ

You can also follow us on Twitter: [@OmbudsmanWales](https://twitter.com/OmbudsmanWales)

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