

MEMORANDUM OF UNDERSTANDING
THE CHILDREN’S COMMISSIONER FOR WALES,
THE OLDER PEOPLE’S COMMISSIONER FOR WALES,
THE WELSH LANGUAGE COMMISSIONER,
THE FUTURE GENERATIONS COMMISSIONER
AND
THE PUBLIC SERVICES OMBUDSMAN FOR WALES

1. Introduction

- 1.1 The aim of this Memorandum is to set out the agreement reached by the Children’s Commissioner for Wales, the Older People’s Commissioner for Wales, the Welsh Language Commissioner, the Future Generations Commissioner and the Public Services Ombudsman for Wales in relation to co-operation, joint working and the exchange of information. This Memorandum does not affect the existing statutory functions of the respective organisations or the exercise of those functions; neither does it amend any other policies or agreements relating to their activities. It does not imply any transfer of responsibility from one to the other(s), nor does it imply any sharing of statutory responsibilities except where this is permitted by statute.
- 1.2 This Memorandum sets out: an agreed set of principles and methods of communication. There are two appendices which set out the principal aims of each organisation and the legal basis for formal joint working between our organisations.
- 1.3 It is not intended that this Memorandum should be legally binding.

2. Agreed set of principles:

- The overarching aim of our five bodies is to contribute to the development of excellent public services in Wales that respect and promote the human rights of citizens in Wales and are sensitive to the needs of the most disadvantaged and vulnerable members of society.
- We are bodies of equal status and will show regard for each other’s remits and activities
- We alert each other promptly to any activities any of us are undertaking, or considering undertaking, which may overlap with the interests of others.
- We communicate openly with each other, responding promptly to queries from each other and aiming to resolve any disputes amicably and constructively
- We are open to joint working where this may be more effective and appropriate

to our joint remits. This may involve individual cases, thematic reviews, campaigns or joint examinations

- We do not attempt to interfere with or review each other's discharge of functions, except where statutory provisions allow this
- In our joint activities and communications we ensure compliance with the Data Protection Legislation (GDPR and the Data Protection Act 2018) and the Freedom of Information Act 2000

3. The relationship in practice

3.1 The working relationship between us is characterised by regular, on-going contact and open exchange of information between us and our staff.

3.2 Formal meetings are held between the respective Commissioners and the Ombudsman as required but no less frequently than every six months. These meetings consider, amongst other things, work programmes and the scope for working jointly or working collaboratively on a range of work items.

3.3 These meetings do not have a fixed chair person, but responsibility for organising, chairing and taking minutes at the meetings rotate between each organisation.

3.4 The Auditor General for Wales is not a signatory to this Memorandum. Nonetheless, as a Corporation Sole and sharing the aim to contribute to excellent public services, the AGW is a full participant in the meetings of the Commissioner/Ombudsman group and equally committed to the spirit of open, collaborative and mutually respectful working described by this agreement.

3.5 We agree to proactively inform and consult with each other where we directly name another signatory in a planned publication or media statement.

3.6 We agree to proactively inform and consult with each other in advance of publishing a report or media statement that may overlap with matters that are the responsibility of other signatories to this agreement.

3.7 Each organisation will pro-actively share its guiding principles and/or terms of reference for initiating a review, examination or investigation where this could overlap with the responsibilities of another signatory of this memorandum excluding instances where this could or would compromise an organisation's ability to undertake statutory duties.

- 3.8 Formal meetings are also be held between senior members of staff of the Commissioners and Ombudsman as required and on matters such as data sharing and analysis, communications & public relations, policy matters, strategic planning, equality objectives & monitoring, and investigation work.
- 3.9 Other staff liaise as matters of common interest, requiring co- operation and communication, arise. Such matters might include, but are not restricted to:
- Working jointly or collaboratively where this is lawful under the legislation establishing our organisations, and where this will result in the best use of resources;
 - Joint training that would benefit more than one of the organisations concerned and would result in best use of resources;
 - The sharing of information about trends, data, policy and initiatives which relate to the shared aim of ensuring that citizens are provided with high quality services;
 - The pro-active sharing of electronic copies of reports following reviews and examinations or investigations that may be of relevance to any of the co-signatories to this Memorandum;
 - The sharing of concerns expressed to one co-signatory by an individual or his/her advocate which may be of relevance to either of the other co-signatories;
 - Direct case referrals where one co-signatory believes that another of the co-signatories would be in a position to assist;
 - Identification of matters that might lead to working jointly or working collaboratively with another co-signatory;
 - Consultation in relation to guidance or reports produced by one co- signatory that refers to the responsibilities or functions of one of the other co-signatories;
 - Co-operation in disseminating information about good practice where that good practice has relevance to the principal aims of another co-signatory;
 - Ensuring that enquirers and potential or actual complainants are given helpful and accurate information about the legal functions of the other co-signatories, where that information could be useful to them.
- 3.10 Each organisation will use reasonable endeavours to assist the others with any request.
- 3.11 Each organisation will share details of their internal policies and procedures on request from another organisation. This assists good use of public funds by sharing innovations and advances.
- 3.12 Each organisation will ensure that members of staff are aware of the content of

this Memorandum, the principles for joint working and have an awareness of the roles of the other organisations and the statutory framework within which they are required to operate.

4. Protocol for conducting a joint examination or joint investigation, and for other joint working or working collaboratively

4.1 The scope for joint working or working collaboratively will generally be discussed and agreed by the respective Commissioner(s) and/or Ombudsman.

4.2 Each of the Commissioners and the Ombudsman are free to appoint agreed specialist advisers.

4.3 When taking joint action, one of the organisations may be appointed as the lead organisation for that examination or investigation.

4.4 Agreement should be reached on the objectives, methodology and resourcing of the work and this should be approved by the relevant person in each organisation. A written record should be made of this and all subsequent decisions. Each organisation will be supportive of the reputation of the other(s).

4.5 Care should be taken at all times not to contaminate a trail of evidence or breach any statutory or common law duty of confidentiality.

4.6 When and if there are specific clauses within legislation referring to conducting a joint examination or joint investigation, or any other joint working or working collaboratively, each organisation will work in accordance with these.

5.0 Reconciliation of disagreement

5.1 All co-signatories will seek to resolve any disagreements amicably at an operational level. If a disagreement cannot be resolved at that level, senior managers from the organisations in disagreement should seek to settle any issue.

6.0 Review

6.1 This Memorandum of Understanding will be reviewed one year after being signed. Thereafter, it will be reviewed and updated, if necessary, every two years.

Signed: 

Date: 11/12/20

Sally Holland, Children's Commissioner for Wales

Signed: 

Date: 11/12/20

Heléna Herklots, Older People's Commissioner for Wales

Signed: 

Date: 11/12/20

Aled Roberts, Welsh Language Commissioner



Signed:

Date: 11/12/20

Sophie Howe, Future Generations Commissioner for Wales

Signed: 

Date: 11/12/20

Nick Bennett, Public Services Ombudsman for Wales

Appendices

Appendix 1: Summary of the principal aims of each signatory

The principal aims of the Older People's Commissioner for Wales

The Commissioner aims to be a strong champion for older people across Wales, standing up and speaking out on their behalf. The functions of the role of the Commissioner are to:

- promote awareness of the interests of older people in Wales and the need to safeguard those interests;
- promote the provision of opportunities for, and the elimination of discrimination against, older people in Wales;
- encourage best practice in the treatment of older people in Wales; and
- keep under review the adequacy and effectiveness of law affecting the interests of older people in Wales.

The Commissioner has legal powers under the *Commissioner for Older People (Wales) Act 2006*, s. 2 to conduct Reviews and Examinations and to assist older people in addressing issues of concern to them.

The principal aims of the Children's Commissioner for Wales

The post of the Children's Commissioner for Wales – the first of its kind in the UK – was established by the Care Standards Act 2000. The Children's Commissioner for Wales Act 2001 broadened the remit and set out the Commissioner's principal aim, which is to safeguard and promote the rights and welfare of children in Wales. The Commissioner has the power to consider and make representations to Senedd Cymru / Welsh Parliament about any matter affecting the rights and welfare of children in Wales.

The Children's Commissioner for Wales can:

- review the effects of policies, proposed policies and the delivery of services to children;
- examine in more depth the case of a particular child or children if it involves an issue that has a general application to the lives of children in Wales;
- require information from agencies or persons acting on their behalf, and require witnesses to give evidence on oath; and
- provide advice and assistance to children and young people, and others concerned about their rights and welfare.

The principal aims of the Welsh Language Commissioner

The principal aim of the Welsh Language Commissioner, an independent body established by the Welsh Language (Wales) Measure 2011, is to promote and facilitate use of the Welsh language. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organisations. This, in turn, will lead to the establishment of rights for Welsh speakers. Two principles underpin the Commissioner's work:

- in Wales, the Welsh language should be treated no less favourably than the English language; and
- persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.

The Commissioner works to ensure that the Welsh language is treated no less favourably than the English language, conducts inquiries into matters relating to the Welsh language and investigates interference with the freedom to use the Welsh language.

The principal aims of the Future Generations Commissioner

In accordance with Part 3 of the Well-being of Future Generations (Wales) Act 2015 the Commissioner seeks to promote sustainable development, to act as a guardian of the ability of future generations to meet their needs and encourage public bodies to take greater account of the long-term impact of the things that they do.

To do this the Commissioner will monitor and assess the extent to which well-being objectives set by public bodies are being met.

The Commissioner may:

- provide advice to public bodies, supporting them to work to meet their well-being objectives and encourage best practice;
- provide advice to Public Services Boards about the preparation of their Local Well-being Plans;
- carry out research to include well-being goals, national indicators and milestones, and the sustainable development principle and how public bodies apply it;
- conduct reviews into how public bodies are taking account of the long-term impact of decisions, and make recommendations based on the findings; and
- make recommendations to public bodies about well-being objectives.

The principal aims of the Public Services Ombudsman for Wales

The role of the Public Services Ombudsman for Wales is:

- To consider complaints about public bodies;

- To consider complaints that members of local authorities have broken the code of conduct and help uphold high standards in public life;
- To put things right – and put people back in the position they would have been in if they had not suffered an injustice, and work to secure the best possible outcome where injustice has occurred;
- To work with public bodies so that lessons from investigations are learnt; and
- To ensure continued improvement in the standards of public services in Wales by helping bodies to get it right first time – to work to reduce complaints by helping service providers to improve their initial decision making.

Appendix 2 Summary of the legal basis for co-operation and joint working

- a. The *Care Standards Act 2000*, s. 75ZA outlines the basis for the Children’s Commissioner for Wales and the Older People’s Commissioner for Wales conducting joint examinations. Where the Commissioners agree that there is a ‘connected matter’ that is of concern to both Commissioners, they may:
 - i. Co-operate with each other in the separate examination of connected matter; or
 - ii. Work jointly in the examination of the connected matter; and
 - iii. Prepare and publish a joint report containing their respective conclusions in relation to the connected matter.

- b. Section 34W of the *Public Services Ombudsman (Wales) Act 2005* gives the Ombudsman the power to consult and co-operate with the Older People’s Commissioner for Wales or the Welsh Language Commissioner, including the power to:
 - i. cooperate with each other in separate investigations;
 - ii. conduct a joint investigation into the matter; and
 - iii. prepare and publish a joint report in relation to the investigation.

- c. Section 20 of the *Welsh Language (Wales) Measure 2011* outlines the extent to which the Welsh Language Commissioner can work jointly with the Public Services Ombudsman for Wales. Section 21 of the *Welsh Language (Wales) Measure 2011* outlines the extent to which the Welsh Language Commissioner can work collaboratively with the Ombudsman and Commissioners¹.

- d. If it appears to the Welsh Language Commissioner that the subject matter of a particular standards enforcement investigation could also be subject to an investigation by the Ombudsman or other Commissioners, and the Welsh Language Commissioner thinks it appropriate the Welsh Language Commissioner must inform the Ombudsman or other Commissioner about the investigation by sharing the investigation’s remit, and consult the Ombudsman or other Commissioner in relation to the investigation.

- e. If the Commissioner consults with the Ombudsman or other Commissioner in relation to an investigation, the Commissioner and the Ombudsman or other Commissioner may do any or all of the following:
 - co-operate with each other in relation to the investigation;
 - conduct a joint investigation; and
 - prepare and publish a joint report in relation to the investigation.

¹ Section 21(6)(a-d) refers to the Public Services Ombudsman for Wales, the Children’s Commissioner for Wales, the Commissioner for Older People in Wales, and the Commissioner for Equality and Human Rights.

- f. Where the Welsh Language Commissioner does not undertake an investigation, the Welsh Language Commissioner shall, if appropriate, explain to the person seeking to bring the case how to refer the matter to the Ombudsman or other relevant Commissioner.

Future Generations Commissioner

The principal aims of the Future Generations Commissioner

The Commissioner's general duty under the Well-being of Future Generations (Wales) Act 2015 is to promote sustainable development and monitor and assess the extent to which well-being objectives set by public bodies are being met. This includes acting as the guardian of the ability of the future generations to meet their needs and encouraging public bodies to take greater account of the long-term impact of the things that they do.

The Commissioner can:

- Provide advice and assistance to public bodies and encourage best practice;
- Provide advice and assistance to Public Services Boards about the preparation of their Local Well-being Plans;
- Provide advice or assistance to any other person who the Commissioner considers is taking (or wishes to make) steps that may contribute to the achievement of the well-being goals;
- Carry out research to include well-being goals, national indicators and milestones, and the sustainable development principle and how public bodies apply it;
- Conduct reviews into how public bodies are taking account of the long-term impact of decisions, and make recommendations based on the findings; and
- Raise awareness about the need to take steps and encourage collaboration to meet well-being objectives.