

Cyflwynwyd yr ymateb hwn i ymgynghoriad y Pwyllgor Plant, Pobl Ifanc ac Addysg ar Flaenoriaethau'r Chweched Senedd

This response was submitted to the Children, Young People and Education Committee consultation on Sixth Senedd Priorities

CYPE SP 111

Ymateb gan: Ombwdsmon Gwasanaethau Cyhoeddus Cymru

Response from: Public Services Ombudsman for Wales

I am pleased to have the opportunity to respond to the Children, Young People and Education Committee's consultation on your priorities.

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 can consider complaints about privately arranged or funded social care and palliative care services and, in certain specific circumstances, aspects of privately funded healthcare.

I also investigate complaints that elected members of local authorities have breached their Codes of Conduct, which set out the recognised principles of behaviour that members should follow in public life.

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 (CSA) to drive improvement in public services by supporting effective complaint handling through model procedures, training and collecting and publishing complaints data.

General Comments

Complaints provide an opportunity for all public services to learn from service users, and a complaints service that is fully accessible can provide children and young people with a voice and an opportunity for public services to learn from them. Children and Young People have as much a right to a comprehensive and quality complaints service as adults but, as I see from the caseload my office handles each year, children and young people remain consistently under-represented in the complaints we receive.

The Welsh Government's introduction of a child-friendly complaints process, as part of its Children's Rights Scheme 2021, is a step I welcome; especially if children and young people are involved in its development. This pro-active step is in line with the Complaints Standards Authority's Complaints Handling Principles and will provide useful practice that could be emulated elsewhere by public services in Wales.

How public services empower children and young people to have a voice in the way their services are developed and implemented, especially when those services fail, is an area that I would appreciate scrutiny by the Committee.

Themes from my Casework

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 2016 and 2021, I handled 520 complaints related to children's social services. I also handled 346 cases related to education.

The main themes of social services complaints relate to poor communication, delays in action and poor communication. For education the complaints often concern inadequate or delayed assessments relating to additional learning needs and school transport.

It is important to underline that those complaints related to children's social services and education represent only a small proportion of my overall caseload. In 2020/21, they comprised 5% and 2% of the total complaints handled. In contrast, 39% 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, an analysis of my Casebook, shows that a significant minority of health-related cases I have upheld over recent years involve children and young people. I also uphold a greater number of health cases involving children and young people than those relating to social services and education.

The main themes in these cases refer to delays in assessment and diagnosis, inadequate care provision, poor record keeping, and poor communication between patients and their families and the service provider. My public interest report [Justice Mislaid – Lost Records and Lost Opportunities](#), reflects on the impact lost or inadequate records held by bodies has upon the thoroughness of complaint investigations and the responses provided. The consequences of this include a

prolonged complaints process, a delay in justice and a breakdown in the relationship between the service provider and the service user.

Mishandling of complaints is a common reason I upheld many complaints involving children and young people. My public interest report [Ending Groundhog Day: Lessons from Poor Complaint Handling](#) highlights cases where complaint handling has not been acceptable across all sectors of public service in Wales and picks out some key themes that are consistent with other cases we receive each year.

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. The information in the following is publicly available on my website and is shared with complainants prior to publishing.

[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 which had 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.

[Denbighshire County Council: Reference 201701203 \[Education SEN\]](#)

Mrs X complained that 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 the Council did not complete an assessment of B's SEN within a five-week timescale.

I concluded that the Council's failure to be able to produce documented evidence of its consideration of an assessment of B and its failure to properly communicate these reasons to Mrs X, amounted to maladministration.

I did not consider that the Council's service level agreement with a support agency fully met its responsibility to empower parents to have detailed knowledge of their child's entitlement in relation to SEN legislation. I upheld this complaint to the extent that the Council should have informed Mrs X about her ability to request an assessment herself and directed her to the information regarding this matter on its

website. I also upheld Mrs X's complaint that an assessment should have been carried out within five weeks and was not.

[Bridgend County Borough Council – 201906202](#)

Ms F complained on behalf of herself and a young person, Ms G. Ms G confirmed to me that she supported the complaint. Ms F complained that Bridgend County Borough Council had not properly managed the arrangement by which Ms G was living with her by clarifying her status as a Foster Carer, or putting anything in place to maintain that arrangement, such as the "When I am Ready" (WIR) Scheme (this supports young people leaving local authority care). She complained that the Council had not given Ms G enough support and assistance after she left its care. She also complained that she was dissatisfied with its complaint handling.

I considered that the Council had not clarified Ms F's status as a Foster Carer and that it had not been reasonable for the Council to say that Ms G's placement with Ms F was a private one, because it had been party to it. I found that the support given to maintain the arrangement by which Ms G was living with Ms F had been inadequate, after Ms G's 18th birthday, because of Ms G's ongoing vulnerability, her care leaver status and the principles that local authorities must take into account when engaging with young people who are leaving care and making any decision about them. I said that the family had struggled financially as a result and that that financial strain had placed avoidable pressure on Ms G's relationship with Ms F. I upheld Ms F's complaint

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).

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