

Cyflwynwyd yr ymateb i ymgynghoriad y [Pwyllgor Cyllid](#) ar [Adolygiad o weithrediadau, prosesau ac ymchwiliadau Ombwdsmon Gwasanaethau Cyhoeddus Cymru](#).

This response was submitted to the [Finance Committee](#) consultation on the [Review into the operations, processes and investigations carried out by the Public Services Ombudsman for Wales](#).

**PPSOWA12: Ymateb gan: Ombwdsmon Gwasanaethau Cyhoeddus Gogledd Iwerddon |  
Response from: Northern Ireland Public Services Ombudsman (NIPSO)**

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## **Senedd Finance Committee, Post legislative review of the Public Services Ombudsman (Wales) 2019**

### **Submission from the Northern Ireland Public Services Ombudsman**

#### **Introduction**

The Public Services Ombudsman (Wales) Act 2019 (the 2019 Act) provides a modern legal framework to support the Ombudsman in the delivery of her functions. It represents one of the most modern pieces of ombuds legislation in these islands. As with all legislation it is important to review whether the legal framework has delivered the objectives expected. The Committee's five year review will be important in establishing whether any changes or amendments are needed to ensure that the Public Services Ombudsman can continue to deliver a means to access justice and accountability for those impacted by poor public services, provide individual redress where things have gone wrong, as well as making recommendations aimed at bringing about improvement in public services.

#### **Do you have any comments about the Ombudsman's own initiative powers?**

Providing the authority for an Ombudsman to conduct Own Initiative investigations while not universal across the UK is generally accepted internationally, as a power which is beneficial. Own Initiative investigations enable an Ombudsman to focus on issues or areas that they do not receive complaints about, either because of the nature of the issue or the vulnerability of a group who may not be able to access the complaints process. NIPSO has conducted two Own Initiative investigations since announcing their first proposal in 2019. The investigations undertaken by NIPSO provide useful examples of how the power can be used to provide systemic improvement. NIPSO's first own initiative investigation considered how further evidence was used in the assessment process for Personal Independence Payments (PIP). Whilst NIPSO was receiving complaints about PIP, these were generally about the benefit award for which an appeal was available. To enable complaints to contest the benefit decisions, NIPSO signposted the complainants to the appeal process (which had a time limit) and to organisations who could support them. The appeal process needed to take precedence rather than NIPSO undertaking complaint investigations. NIPSO's analysis of the information provided in these complaints and the appeal process outcomes identified that further evidence about the impact of the persons condition was often available but was not being

requested or fully considered in the assessment process. Often, the only information taken into account was the information from a CAPITA assessment, despite assessors being informed that additional, relevant further evidence was available (CAPITA are a professional services company contracted by the Northern Ireland Department for Communities). This further evidence was often not considered at mandatory reconsideration either, but increased benefit awards were often offered prior to appeal. Furthermore, in many cases that proceeded to appeal when the further evidence was considered this resulted in increased award decisions. There were also many people who had further evidence and who did not appeal. As a result of the NIPSO Own Initiative investigation 33 recommendations were made to the Department for improvements in the process. This included changes to the DWP computer system and the contract with CAPITA, which in some respect incentivised speed of decision making over assessing all the evidence and arriving at the correct benefit award first time.

While benefits are not part of the remit of PSOW this is a useful example of where the power of Own Initiative can bring about significant systemic improvement. The PIP report can be accessed [here](#). NIPSO has also published an [update report](#) on the progress of the implementation of the recommendations. Providing updates on progress is important in maintaining public trust in the Ombudsman's use of the Own Initiative power.

NIPSO's second Own Initiative investigation 'Forgotten' focused on how Health Trusts communicated with patients on health care waiting lists. The report can be [accessed here](#). This was not an issue that many people complained to NIPSO about but was in the background information in many health complaints. Northern Ireland has very significant health care waiting lists with many people classed as 'urgent' waiting years to be seen and more years before they receive treatment. Despite this, our investigation found that the frequency and content of communication with patients was not following the relevant Department of Health policy. NIPSO made a number of recommendations for improvement but key among these was clarity for patients about what waiting list they are on, what their clinical priority is, how long they could expect to wait and what they should do if their condition changes. NIPSO are due to publish an update on progress with the implementation of the recommendations, but the indications are that communication with patients has improved significantly.

NIPSO has used the assessment stage of its Own Initiative process in a flexible way to enable impact and improvement, while ensuring the efficient use of resources. Information gathered through scoping and strategic inquiries to determine whether an issue will become an Own Initiative investigation is sometimes published in an Own Initiative Overview Report. These early stage investigations do not progress to Ombudsman's 'findings' but set out the current situation and make recommendations for improvement. This approach is useful where there is an acceptance of a need for change and evidence that things are improving through actions being taken already. NIPSO has published two such reports' [Strengthening Our Roots](#) which focused on how local councils are using Tree Preservation Order's to protect trees and [Lost in Translation](#) which focused on how GP Practices are using the interpretation services

available to them through central commissioning when dealing with patients whose first language was not English. Two further reports on the theme of access to health care are due to be published in the near future, focusing on health care charging and the removal of patients from GP practice patient lists.

We trust these examples help illustrate the far-reaching range of issues that can be considered by an Ombudsman under Own Initiative powers and the importance of this as part of their statutory powers. Both the Public Services Ombudsman for Wales and NIPSO have demonstrated that they can be trusted to use the power of Own Initiative appropriately. The legislation in both Northern Ireland and Wales sets out a mandatory process which must be followed in proposing an investigation.

The process established in the Public Services Ombudsman (Wales) Act 2019 appears to have an additional requirement of which is not included in the equivalent legislative provisions in Northern Ireland. The absence of this step has not been problematic in NI and there is an argument for consideration to be given to the removal of the requirement to generally consult those who may be affected or have an interest in Wales. Legislation regarding Ombudsman offices generally give significant discretion to the office holder and this should be no different for Own Initiative investigations and the requirements that must be adhered to should be the minimum necessary so as not to be a barrier to the Ombudsman's effective use of the power. NIPSO consider the minimum is that the public body or bodies subject to the investigation are made aware and that the Ombudsman is satisfied that it would be an effective use of resources. Such an approach could assist with a more effective use of the Own Initiative Power and ensure the process is not overly time consuming. In NIPSO's experience publicising that a proposal has been issued often brings in a wider range of groups and stakeholders than simply the public body or bodies involved directly in any investigation, and this would be sufficient in most cases.

### **Do you have any views on how the changes implemented by the 2019 Act compares with current best practice, both within the UK and internationally?**

The Public Services Ombudsman (Wales) Act 2019 is largely in line with best practice. The 2019 Act provides simplified procedures for individuals making a complaint, provides the Ombudsman with Own Initiative powers and provides the powers to enable the Ombudsman to set standards for public sector complaints handling. In this respect the 2019 Act is similar to the 2016 Act in Northern Ireland. The 2019 Act extends the remit of the Ombudsman into areas of private medical treatment, no similar provision exists in Northern Ireland. NIPSO consider this is an important aspect of the 2019 Act given the journey of many individuals involves both NHS and private care and treatment. It is important that in considering a patient's journey the Ombudsman has powers to consider all the journey and is not restricted in what she can consider.

An area where NIPSO has a remit which is not currently within the jurisdiction of the Ombudsman in Wales is the investigation of complaints about publicly funded schools and complaints about further and higher education. In 2024/25 NIPSO received 172 complaints about education of which just over half (91) were about schools and 33 (19%) were about further and higher education. Overall education accounts for about 13% of complaints made to NIPSO.

The addition of schools to the remit of NIPSO in 2017 has proved to be of significant benefit both at a systemic and individual level. Key issues raised in complaints about schools include the use of restraint and seclusion, the implementation of support for children with special education needs, bullying, and parental experience of the complaints process which links directly to school culture. NIPSO has published a digest of school complaints which can be accessed [here](#). In one complaint raised with NIPSO the complainant had approached 52 other organisations before approaching NIPSO with her concerns regarding how her son was being treated, this included the Board of Governors of the school, the schools governing authority and the organisation responsible for safeguarding advice and policy in schools. The complainant alleged that her six-year-old autistic son was being locked on his own in a room for not completing his work. The NIPSO investigation established that the child was locked in the room on his own and that staff taking the child to the room failed to act in line with the school's Reasonable Force policy in relation to the use of restraint.

NIPSO provided evidence on this complaint and a number of others relating to restrictive practices in schools to the Northern Ireland Assembly Committee for Education. NIPSO also published a report into restrictive practices in [schools](#). NIPSO's work in this area alongside the work of the Education Committee and others led to the Department of Education publishing interim guidance on restrictive practices in schools to ensure situations such as this did not recur. The Department have since conducted a public consultation on restrictive practices in schools and new guidance is awaited.

NIPSO understand the landscape in Wales is somewhat different and that Further and Higher Education are in the jurisdiction of the Office of the Independent Adjudicator. The Committee may wish to consider this issue.

Scotland, Wales and Northern Ireland all have Public Services Ombudsman Offices which have a wide remit. NIPSO consider having a public services Ombudsman with as wide a remit as possible is important. Having a single public services ombudsman operating as the final stage in the complaints process for most public services simplifies the overall process for users of public services, ensures complaints are not lost due to the complexity of the complaint landscape and provides greater access to justice for citizens. The committee may wish to consider with the Ombudsman any gaps in her current jurisdiction.

## Do you have any other comments regarding the 2019 Act which are relevant to the Committee's Terms of Reference for this inquiry?

The ability to set clear standards for public services relating to the management of complaints as part of wider work to improve candour and culture are essential to the work of an Ombudsman. Many people are traumatised by their experience of public services particularly so in the delivery of health and social care. Many of these individuals say that they are retraumatized by the process of complaining, therefore the work of the Ombudsman in this area is crucial. A standardised simplified complaints process focused on early resolution and learning is what we should expect from public services. The attitude to the management of complaints by public services will not change overnight and sustained effort in training and the provision of guidance is essential. The work undertaken by PSOW in establishing complaint handling principles, developing a model complaints handling procedure, providing training and publishing complaint statistics are key for building public trust in the complaints handling of public bodies.

A focus on resolving complaints as early as possible not only spares complainants the effort involved in complaining but is much more efficient and effective. The National Audit Office estimated that it cost 40 times more to deal with a complaint at stage three of a complaints process than at stage one.

The use of technology in learning and development is increasing. To ensure that training on good complaints handling reaches as many people as possible involved in the delivery of public services and the management of complaints, the development of online resources for inclusion on learning management systems is an area that could be further developed. This can support other forms of training and guidance. NIPSO have recently launched a series of short videos as part of a move to more digital [resources](#) to support improved understanding of what to expect from public services in the management of complaints.

### Conclusion

The Public Services Ombudsman is an officer of the parliament, in Wales the Senedd and for NIPSO the Northern Ireland Assembly. This relationship is key and critical to maintaining the independence and effectiveness of the office. It ensures that the Ombudsman can act to provide an alternative access to justice for citizens, acts in the public interest and through investigations and reports provides assistance to elected representatives in their scrutiny role of public bodies. The 2019 PSOW legislation is one of the most modern underpinning legislation in these islands and we welcome this review to ensure it remains so. We hope our

reflections on the current legislation and comparators with the NIPSO Act are useful to the Senedd in their deliberations.

A handwritten signature in black ink that reads "Margaret Kelly". The signature is written in a cursive style with a horizontal line under the name.

**Margaret Kelly**  
**NI Public Services Ombudsman**