

Y Pwyllgor Cyllid

Ystyried pwerau: Ombwdsmon Gwasanaethau Cyhoeddus Cymru

PSOW 26 – Cyngor Dinas Caerdydd

Consideration of powers for the Public Services Ombudsman for Wales

1. What are your views on the effectiveness of the current **Public Services Ombudsman (Wales) Act 2005?**

We regard the act as wholly effective and representatives of the Ombudsman have always been helpful and transparent whenever there has been any possible ambiguity about why certain decisions have been made.

2. Currently, the Ombudsman may only investigate a matter that is the subject of a complaint made to him/her. What are your views on ‘own initiative’ investigations powers, which would enable the Ombudsman to initiate his own investigations without having first received a complaint about an issue. Please explain your answer.

We would have no concerns about this being introduced.

3. Do you have any concerns that own-initiative investigation powers could result in the Ombudsman’s responsibilities overlapping with the responsibilities of other bodies? How could this be managed?

4. Do you have a view on the likely financial costs and benefits of the Ombudsman having own-initiative powers?

No comments

5. At present, the Ombudsman can only accept complaints in writing. What are your views on the Ombudsman being able to accept complaints made orally? Please explain your answer.

This would be of benefit to the complainant to provide access channels of choice.

6. What other type/form of submission should be acceptable (e.g. email, website form, text messages)

Again maximising the channels of choice to the customer would be the right thing to do.

7. Do you have a view on the financial costs and benefits of this provision?

We would accept the Ombudsman’s decision to accept complaints orally or via the other forms of submission stated. However, if the Ombudsman decides to accept a case, we would appreciate clear justification be provided to the Council for why he has decided to set aside the usual requirement for a complaint to be made in writing while also allowing that though the Ombudsman may have accepted the complaint, the Council may possess further information as to why a complaint had been refused originally.

8. At present there is no consistency in the way public bodies deal with complaints. Adoption of the model complaints policy issued by the Welsh government is voluntary. What are your views on the Ombudsman preparing a model complaints policy which public bodies would be obliged to adopt. Please explain your answer.

Though it may be sporadic across public bodies as a whole, the majority of local authorities have adopted the model complaints policy. Cardiff Council has seen the benefit of adopting the policy and would welcome the possibility of benchmarking in the future. This would

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enable the sharing of best practice to complement the work done by the All Wales Corporate Complaints Group.

9. Do you have a view on the financial costs and benefits of this provision?

No comments

10. What are your general views on the Ombudsman's current jurisdiction?

No comments

11. At present the Ombudsman can investigate private health care that has been commissioned by the NHS. The Ombudsman would like the jurisdiction to be extended to enable him/her to investigate when a patient has received private healthcare (self-funded not commissioned by the NHS) in conjunction with public healthcare. This would enable the complaints process to follow the citizen rather than the sector. What are your views on extending the Ombudsman's jurisdiction in this way?

No comments

12. How do you think the investigation of private health care complaints should be funded? (Possibilities include a levy, charging on a case by case basis or no charge.)

No comments

13. Do you have a view on the financial costs and benefits of this provision?

No comments

14. What are your views on the removal of the statutory bar to allow the Ombudsman to consider a case which has or had the possibility of recourse to a court, tribunal or other mechanism for review? (ie this would give complainants the opportunity to decide which route is most appropriate for them.)

15. What are your views on the Ombudsman being able to refer cases to the Courts for a determination on a point of law?

16. Do you have a view on the financial costs and benefits of this provision?

We agree that complainants should be given the opportunity to decide which route is most appropriate for them. However, we would appreciate some clarification on what services would be covered by 'tribunal or other mechanism for review' should there be any conflicts with what is covered by the Council's Complaints Policy.

17. Do you have any specific examples where the Ombudsman having the additional powers proposed could have been useful in securing a successful conclusion to an issue?

No examples held by the Council though it would presumably be the complainants who could offer comments on this.

18. Schedule 3 of the current 2005 Act, provides a list of authorities that are within the Ombudsman's jurisdiction to investigate complaints. Please provide details of any other bodies/organisations that should be included in this list?

No comments

19. If extended powers were given to the Ombudsman in a new Bill/Act, at what point should the impact of this legislation be evaluated?

As the current act is now being evaluated after 10 years of operation, we would suggest 5 years for the next evaluation.

20. What unintended consequences could arise as a result of these provisions becoming legislation and what steps could be taken to deal with these consequences?

No comments

21. What factors should be measured to determine the cost-benefit analysis of this legislation being brought forward?

No comments

22. Do you have any comments on the following issues:

- **jurisdiction – changes to the devolution settlement have led to new areas coming into jurisdiction over time, should consideration be given to other bodies being included in the Ombudsman’s jurisdiction;**

No comments

- **recommendations and findings - should the recommendations of the Ombudsman to public bodies be binding. This would mean that bodies cannot decide to reject the findings;**

As long as there remains a draft stage to a report where public bodies have the chance to comment on the Ombudsman’s findings before it is finalised (in case of any discrepancies or areas of ambiguity), we have no concerns.

- **protecting the title - there has been a proliferation of schemes calling themselves ombudsmen, often without satisfying the key criteria of the concept such as independence from those in jurisdiction and being free to the complainant. Should anyone intending to use the title ombudsman gain approval from the Ombudsman;**

No comments

- **code of conduct complaints – the Ombudsman would prefer to focus on the element of his work that deals with service users and service delivery, rather than local authority and town and community councils’ resolutions. Whilst a local resolution procedures exists and has been adopted by 22 local authorities, variance exists in practice.**

We would support this. The local resolution procedure has been implemented successfully at Cardiff and has been adopted by all the 22 local authorities although a variance exists in practice

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23. Do you have any views on any aspects of future planned or proposed public sector reforms that would impact on the role of the Ombudsman?

No comments

24. Do you have any other issues or concerns about the current Act and are there any other areas that need reform or updating?

No comments