

Y Pwyllgor Cyllid

Bil Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) drafft

DB PSOW 23 Cyngor Dinas Caerdydd

General

01. Would the draft Bill improve the effectiveness of the role of the Ombudsman?
If so how?

The Council has previously provided comments supporting the extension of the Ombudsman's powers and welcome the introduction of the new bill. Though the bill would strengthen the Ombudsman's role, it is also clearly written with the customer in mind.

02. What, if any, are the potential barriers to implementing the provisions of the draft Bill?
Does the draft Bill take sufficient account of them?

No comments

03. Are there any unintended consequences arising from the draft Bill?

No comments

04. 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.

05. Do you have any comments on the new power in section 4?

No comments – the Council supports the introduction of this new power.

06. Does the inclusion of this power raise any unintended consequences in the rest of the draft Bill?

No comments

07. With whom should the Ombudsman consult under section 4(2)?

Any parties that the Ombudsman feels are relevant

08. Should the Ombudsman have the power to initiate an investigation based on action that took place prior to the draft Bill/Act receiving Royal Assent (see section 4(4))? If so, should there be a cut-off point, beyond which the Ombudsman should not carry out an own initiative investigation?

No comments

09. What kind of issues should be included in the criteria for own initiative investigations under section 5?

The Ombudsman will have a great deal of information at his disposal and it is difficult to provide a definitive list of whether these own initiative investigations should take place as a result of being informed by complaints received or by a more general 'public perception'.

Some criteria might be

- *The number of complaints previously received on the subject*

- *Identified trends as a result of the number of complaints*
- *Public interest*
- *Those affected by the service (for example at-risk individuals)*

Ultimately, the Ombudsman would have to consider his own resources and will need to assess whether an investigation will have a long-term positive impact on the performance of the local authority.

10. What kind of evidence should be available to the Ombudsman to justify an own initiative investigation (see section 5(2))?

No comments

Who can complain

11. Do you have any comments on the new definition of “member of the public” in section 7(2)?

No comments

Requirements for complaints made and referred to the Ombudsman

12. Do you have any comments on the new requirements for complaints made to the Ombudsman in section 8?

The Council’s current complaints policy states we will generally only consider complaints if we are told about them within six months of the date the complainant first became aware of the problem. We may still consider complaints that happened between six – twelve months ago. However, we would not consider complaints more than a year old. This is slightly different to the Ombudsman’s requirements in 8 (1) (c) though we would not anticipate any issues to this regard.

13. How should the proposed guidance for making a complaint to the Ombudsman be published and what formats should be available?

English and Welsh, other formats and languages available by request.

Matters which may be investigated

14. Do you have any comments on the new provision enabling the Ombudsman to investigate the whole complaint when a combination of treatment has been received by public and private health services providers (see sections 10(1)(d) and 10(2))?

We agree that complainants should be given the opportunity to decide which route is most appropriate for them

15. Does section 10(2) adequately cover anyone who has received a combination of public and private treatment?

Yes

16. Does the broadening of the matters which may be investigated in section 10(2) raise any unintended consequences in the rest of the draft Bill?

No comments

17. Is the definition of “private health services” in section 71 broad enough to cover anyone who has received a combination of public and private treatment?

Yes

18. Should the Ombudsman have powers to recover costs incurred in investigating private health services?

No comments

19. Do you have any comments on the new definition of “family health service provider in Wales” in section 71, which is intended to capture, for example, a GP practice as a whole rather than just an individual GP?

No comments

Investigation procedure and evidence

20. Do you have any comments on the procedure set out in section 16, in so far as it relates to the procedure for conducting an own initiative investigation?

The Ombudsman’s proposed own initiative investigation procedure would seem comprehensive.

21. Should the Ombudsman’s power in relation to obtaining information, documents, evidence and facilities also apply to own initiative investigations and investigations into private health services (see section 17)?

Yes

Listed Authorities

22. Do you have any comments on the restrictions on power to amend Schedule 3 (see section 30(2) in particular), which are significantly narrower than the restrictions found in the 2005 Act?

No comments

23. Are there any other bodies that should be included in the list in Schedule 3 ‘Listed Authorities’?

No comments

Complaints-Handling

24. Do you have any comments on sections 33 – 39 (which mirror sections 16A to 16G of the Scottish Public Services Ombudsman Act 2002)?

We note the Ombudsman’s wish for complaints handling procedures to comply with the Ombudsman’s proposed ‘statement of principles’. This would potentially allow further benchmarking between local authorities which the Council would welcome.

25. Is section 38(b) adequate to allow listed authorities to comply with their duties

under other enactments, such as Freedom of Information duties?

Yes

Part 4: Investigation of complaints relating to other persons: social care and palliative care

26. Should Part 4 remain a standalone Part? Or should such investigations be brought within the Part 3 investigations process?

No comments

27. If Part 4 should be brought within Part 3, are there any specific elements of Part 4 that should survive? Or can a blanket approach be applied?

No comments

Part 5: Investigations: supplementary

28. Do you have any comments on sections 62, 63 and 64, which provide for joint and collaborative working with specified Commissioners and the Auditor

No comments

General for Wales?

29. Should sections 62 and 63 cover future Commissioners that may be created by the Assembly, including the Future Generations Commissioner for Wales?

Yes

30. Are there any further technical changes required in Part 5 of the draft Bill, to reflect the broadening of matters which may be investigated?

No comments

Appointment etc

31. The provisions of paragraphs 5 to 8 of Schedule 1 (disqualification) reflect largely the current provisions in the 2005 Act. Do these provisions require updating?

No comments

32. Paragraph 7 of Schedule 1 provides that a person who has ceased to hold office as the Ombudsman or as an acting Ombudsman is disqualified from a list of roles (listed in paragraph 7(1)) for a period of two years. Is the two year period appropriate?

Yes

33. Do you have any comments on the matters which are included within "paid office" in paragraph 8 of Schedule 1?

No comments

Financial implications

34. Do you have a view on the financial implications of the new provisions set out in the draft Bill?

No comments

Other comments

35. Do you have any other comments you wish to make about the draft Bill or any specific provision within it?

No comments