



Our ref: MAM/CV/mm

Ask for: Michelle Morris

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Date: 19 January 2023

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Peredur Owen Griffiths MS
Chair of Finance Committee
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Dear Peredur

Annual Scrutiny of the Public Services Ombudsman for Wales

I refer to the Committee's recent scrutiny of my Annual Report & Accounts and my Estimate for 2023/24. I am pleased to attach my response to each of the Committee's recommendations. I hope that these detailed responses are helpful but would be very happy to discuss them further with you or the Committee.

I particularly welcome the Committee's positive comments about my open and constructive engagement with the Committee and I will work to continue and develop this positive relationship during my tenure.

Yours sincerely


Michelle Morris
Public Services Ombudsman

Welsh Parliament Finance Committee

Annual Scrutiny of the Public Services Ombudsman for Wales - November 2022

Recommendations and Conclusions

Recommendation 1:

The Committee recommends that the Ombudsman provides further information on nosocomial complaints, including; when she expects to start receiving complaints; when complaints are anticipated to be submitted; and the resources being directed to this area within her office.

Response:

Public Health Wales data indicates that there have been more than 20,000 hospital-acquired Covid infections recorded since the start of the pandemic. The Welsh Government has said that investigations will take two years, that all NHS organisations are required to report their progress and that an interim national learning report will also be produced and published by the end of March 2023.

Our experience to date is that, as at 31 December 2022, we have received 17 complaints involving Nosocomial Covid. As the National Nosocomial COVID-19 Programme is due to run for two years (i.e. until summer 2024). Whilst we generally expect complaints to be raised with the Ombudsman promptly after the Health Board's final response, in accordance with the terms of the PSOW Act 2019 complainants must generally make their complaint to my office within one year of becoming aware of the events complained about. Assuming that the Programme is completed by summer 2024, we would therefore expect the majority of any Nosocomial Covid complaints to reach us over the next 2 years. These complaints would then be assessed and investigated as appropriate. On that basis, the likelihood is that we will be undertaking work on Nosocomial Covid complaints during the financial years 2022/23, 2023/24, 2024/25 and, where these require investigation, work may continue into 2025/26.

My Estimate submission indicated that we are anticipating 800 enquiries that will progress to 400 complaints over the next 2 years. Health Boards still have considerable work to do on such cases, and complainants can approach the Ombudsman once they have their response from the relevant Health Board, which could be any time in the next two years.

As the Committee will recall, my initial Estimate sought funding for 2 additional staff to help us manage workload pressures, in particular the increases in casework expected to arise from nosocomial Covid complaints. The Committee was unable to support this, meaning that there are no resources available specifically for this additional work.

In order to manage this potentially heavy workload, my office will be assessing complaints to ensure that only cases where it appears that serious service failure and injustice has occurred, and where there is no alternative remedy available to the complainant, are investigated. We are developing clear messages for our website and for health boards to provide to complainants so that they are clearly informed on which cases will be accepted for investigation by my office. In addition, we will use the powers available to the PSOW under the 2019 Act to ensure that, if there is evidence of systemic maladministration or service failure, lessons are learned quickly in order to improve the quality of the reviews being undertaken under the NHS Framework by individual health boards. This could be done for

example, by using the framework of our Complaints Standards liaison network with health boards to provide feedback on any good and poor practice we see and when appropriate by using my Own Initiative power of investigation to remedy wide injustice if there is evidence of systemic service failure.

We will keep this under review and update the Committee after the financial year-end in our Annual Report, but at this stage the estimate of cases included in the Estimate submission remains my best estimate.

Recommendation 2: *The Committee recommends that the Ombudsman provides further information on the restructuring that has been undertaken.*

Response:

As I indicated during the Committee's scrutiny, we have been working to maximise the number of staff engaged in our core business of assessing and investigating complaints. There have been two small changes to our staff structure in recent months – one is an ongoing change, the other is an experimental change that is to be reviewed shortly.

The ongoing change was to re-designate four Investigation & Improvement Officer posts as Investigation Officers, meaning that they no longer devote around 20% of their time to working with public bodies to improve complaints handling and learning from complaints. This improvement work is now picked up by our Complaints Standards staff, and the time freed up is being directed to complaints assessment and investigation work.

The second change is a temporary one, to allow me the opportunity to review and assess how well the change is working before making any ongoing change. Our staff structure previously included three Investigation Manager posts. When one of these Managers secured a promotion elsewhere, I took the opportunity to combine teams, create a (temporary) Assistant Investigation Manager post and free up the balance of budget for casework staff. I will be reviewing this arrangement during the next few months and will then make a decision as to whether to make this permanent, revert to previous arrangements or introduce an alternative approach.

Recommendation 3: *The Committee recommends that the Ombudsman provides information on any future plans she may have to alleviate workload pressures.*

Response:

The original Estimate included limited investment to help us manage increasing numbers of complaints. The Committee was unable to support this investment in two additional members of staff and the development of a new website to provide potential complainants with more support and guidance at the initial point of contact and first steps towards an improved case management system. Whilst the decision is understood, that does limit the office's scope to manage and alleviate workloads.

Nonetheless, I and my colleagues will be working, to the extent that resources allow, on a number of strands of work that will, I hope, help us address the growing pressures on my office. These include:

- Work to improve our website so that it is clearer as to complaints that we will not consider, and better at directing such complaints to the most suitable alternative

- Further developing our work to ensure we consistently assess cases, so we are able to focus resources on delivering fair and proportionate outcomes for complainants and ensure that only the most serious complaints are investigated fully
- Continuing to develop our support for staff and maintaining high expectations of our staff
- Working to equip our staff with the tools to do the job – including making improvements to or replacing our case management system, subject to funding
- Reviewing, with external support, our work processes and practices with a view to increasing efficiency and improving service users' experiences
- Working with advice and advocacy bodies to support better use of our services and greater ability to secure positive outcomes without our involvement.

Recommendation 4: *The Committee recommends that the Ombudsman provides information on the outcome of the benefits realisation review into the first use of the own initiative investigation powers under the Public Services Ombudsman (Wales) Act 2019.*

Response:

We have a detailed Benefits Realisation Plan prepared as part of the Own Initiative Investigation and Report. Of course, the nature of the Ombudsman's role is that we are not in a position to make changes ourselves, but rather to recommend and encourage others to make positive change.

The benefits identified in the plan are:

- Improved decision making by homelessness officers throughout Wales
- Training provided to homelessness officers to improve investigations and decision making
- Officers empowered to admit mistakes and rectify inappropriate decisions without the need for a formal review
- Improved communication with service users
- Overt consideration of Human Rights and equality by homelessness officers by using an equalities and human rights decision framework
- Improved accessibility to homelessness services and access to justice
- Timely access to translation services
- Improved collaboration between local authorities
- Improved collaboration between local authorities, stakeholders and partners e.g. Take Notice project
- Improved consistency across Wales in review decisions
- Improved engagement between local authorities and third-party organisations
- Review and update of HWA and accompanying Code of Guidance
- Standardised review documentation throughout all 22 local authorities
- Housing Regulator appointed in Wales

The Benefits Realisation Plan (BRP) maps out the anticipated long-term benefits of the Homelessness Reviewed investigation. The realisation of the majority of the benefits of the Homelessness Reviewed report is reliant on updated data relating to the number of reviews requested and the number of decisions overturned at review and upon allowing time for local authorities to improve their performance. The Ombudsman's office will be working with local authorities and third sector organisations to obtain updated data to allow measurable comparisons to be made.

Homelessness Reviewed made very specific and measurable recommendations to the 3 investigated authorities, Cardiff Council, Carmarthenshire County Council and Wrexham County Borough Council. We are pleased to report that the 3 investigated authorities have complied with the recommendations made in the Homelessness Reviewed Report. Improvements have been made in terms of regular reviews of casework to monitor casework and identify training needs, increased use of alternative communication methods (e.g. WhatsApp) to improve communication with service users, reviews of factsheets and correspondence to ensure they are available in accessible formats, further collaboration with third sector organisations, training for assessment and review staff in relation to psychologically informed environments (PIE) training and equality and human rights training.

Homelessness Reviewed also invited the 19 non-investigated authorities and the Welsh Government to consider our findings and recommendations. We have followed this up, to establish what action has been taken by them following the publication of the Homelessness Reviewed Report.

17 of the 19 local authorities have responded. All have made some changes and have indicated that further improvement work is planned, though they have stressed that homelessness services remain under severe pressure. We are pressing the remaining 2 local authorities to respond.

The Welsh Government has reflected the findings of Homelessness Reviewed in its Ending Homelessness Action Plan and in the reform of homelessness services. The Relationship Manager role, established by Welsh Government during the pandemic, will continue to work with local authorities to strengthen partnership working and to support and improve the delivery of services. The Welsh Government is not considering appointing a housing regulator as it considers that this would risk increasing the complexities of governance and administrative costs and it would not necessarily improve housing supply or causes of homelessness.

The real goal here is, of course, not just procedural improvement but actual improvement in the handling of homelessness reviews and appeals. My staff will continue to work with local authorities and homelessness charities to identify the extent of change. This will include reviewing latest data on homelessness assessments and reviews with input from Shelter whose data informed the selection of homelessness reviews as the subject of our first Own Initiative Investigation. We will provide an update on this work in our Annual Report.

Both the Welsh Government and individual local authorities have stressed the significant pressures on homelessness services and have commented that these pressures are resulting in slower progress. Whilst this may be unavoidable, we will continue to encourage and promote implementation of the changes and improvement we identified and will seek to quantify benefits through gathering of quantitative data and qualitative feedback.

Recommendation 5: The Committee recommends that the Ombudsman updates the Committee on the work being undertaken with housing associations in relation to signing up to the Complaints Standards Authority

Response:

Welsh Government records show that there are 35 main housing associations in Wales, excluding those that are considered 'de minimis'. The resources we have available to apply complaints standards and support organisations to improve complaints handling processes

are limited, and we are therefore prioritising the organisations where we can have greatest impact. This is guided by the size of the housing association and the number of complaints made about them to the Ombudsman.

The Complaints Standards Authority (CSA) started engaging with an initial tranche of 8 Housing Associations in summer 2021 following our work with Local Authorities and Health Boards. Complaints Standards for these Housing Associations were officially launched in October 2021, with compliance required from April 2022. Complaints Standards were launched with a further 6 Housing Associations in April 2022, with compliance required from October 2022. Engagement with a further 5 Housing Associations is ongoing with a view to launch officially in the summer of 2023. We will then proceed with a further 5 housing associations with a view to securing their compliance with the standards in early 2024. At that point we will then have 24 out of 35 housing associations covered by standards, with those covered being the larger housing associations and those that generate most complaints.

In addition to supporting improvement in complaints handling processes, we will continue to provide training and support to housing association staff. During 2023 we will, for the first time, publish quarterly housing association complaints data for those organisations that are subject to the standards.

Recommendation 6: *The Committee recommends that the Ombudsman continues to quantify the cost of the new powers in the Public Services Ombudsman (Wales) Act 2019 and data about them in the Annual Report to inform the statutory review of the Act in 2024.*

Response:

Agreed. We will continue to publish details of these costs in our Annual Report & Accounts.

Recommendation 7: *The Committee recommends that the Ombudsman provides evidence on the cost avoidance benefits arising from the Public Services Ombudsman (Wales) Act 2019 in future Annual Reports and Accounts and Estimates. This should include additional evidence on efficiencies and improvements arising from the legislation, as part of future disclosures.*

Response:

Agreed. We will continue our work on costs and benefits, including cost avoidance, and will include summaries of this work in our Annual Report & Accounts and Estimate.

Recommendation 8: *The Committee recommends that the Ombudsman returns the unspent funding for National Insurance contributions from 2022-23 to the Welsh Consolidated Fund and adjusts the baseline for 2023-24 accordingly.*

Response:

Agreed. A Supplementary Budget has been prepared and submitted to the Committee to achieve this in the 2022-23 financial year. The 2023-24 figures were adjusted in the revised Estimate scrutinised in November 2022.

Recommendation 9: *The Committee recommends that the Ombudsman provides an update on the review of accommodation once completed.*

Response:

Following our review of accommodation requirements, we are now looking to concentrate our activities on the ground floor of our current offices, with a view to vacating space on the first and second floors. Minor changes are planned to the ground floor this financial year to facilitate this change. The space on the first and second floors is currently being marketed. As indicated during the scrutiny hearing, savings are dependent on securing alternative tenants for the first and second floors.

Recommendation 10: *The Committee recommends that the Ombudsman provides an update on the Code of Conduct case that is seeking leave to appeal, as more information becomes available.*

Response:

There is little further news on this since my letter to the Committee in October. Consideration of the application for leave to appeal was to have been in October, but the applicant asked the court to delay its consideration of the application. We have not yet heard when the hearing will now take place. I will let the Committee know when we hear more.

Conclusion 1: *The Committee welcomes the Ombudsman's commitment to ensure that the majority of members on the Advisory Panel are independent of the members on the Audit and Risk Assurance Committee.*

Response:

By way of update, I have now made further appointments to the Advisory Panel and Audit & Risk Assurance Committee. Each new appointment is **either** to the Audit & Risk Assurance Committee **or** to the Advisory Panel (rather than to both). This means we have gone further to improve the independence of the Advisory Panel, and indeed of the Audit & Risk Assurance Committee, than was required by the Public Accounts Committee's recommendations as part of its scrutiny of accounts (March 2019). With these recent appointments, the majority of members of the Advisory Panel are independent of the members on the Audit and Risk Assurance Committee.

Conclusion 2: *The Committee notes the detail in the revised "Public Services Ombudsman for Wales: Estimate 2023-24" and considers the Estimate acceptable. Subject to the comments and recommendations in this report, the Committee supports the overall request for resource.*

Response:

I am grateful for the Committee's continued support. I have responded to each of the Committee's recommendations here and will also make sure that the recommendations are taken into account and reflected in our future Annual Report and Accounts / Estimates, as appropriate.