

21 October 2015

Dear Sir/Madam

### Consultation on the draft Public Services Ombudsman (Wales) Bill

The [Finance Committee](#) is calling for evidence on the **draft Public Services Ombudsman (Wales) Bill**. To assist with its consideration, the Committee would welcome your views on the draft Bill.

#### Background

On 21 January 2015, the Finance Committee agreed to undertake an inquiry to consider extending the powers of the Public Services Ombudsman for Wales (“the Ombudsman”) and should the evidence support the extension of the Ombudsman’s powers the Committee would consider introducing a Committee Bill. (Full details of the Committee’s initial inquiry are available on the [Committee’s webpage](#).)

In May 2015, the Committee published its report on [Consideration of Powers: Public Services Ombudsman for Wales](#) and recommended that a Bill should be introduced into the Assembly. The Committee agreed to consult on a new draft Bill which would re-enact much of the existing [Public Services Ombudsman \(Wales\) Act 2005](#) but with new provisions recommended by the Committee in its report.

To assist with its considerations of the draft Bill, the Committee would welcome your views on the questions attached at Annex A.



## Invitation to contribute to the inquiry

The Committee welcomes responses in Welsh or English from both individuals and organisations and will hold oral evidence sessions in due course.

Submissions should be no longer than five sides of A4, with numbered paragraphs, and should focus on matters set out below. Please see [guidance for those providing evidence for committees](#).

If you wish to submit evidence, please send an electronic copy (preferably a word version) of your submission to [SeneddFinance@Assembly.Wales](mailto:SeneddFinance@Assembly.Wales)

Alternatively, you can write to:

Committee Clerk  
Finance Committee  
National Assembly for Wales  
Cardiff Bay, CF99 1NA.

Submissions should arrive by **18 January 2016**. It may not be possible to take into account responses received after this date.

The Committee would be grateful if you could forward a copy of this letter to any individuals or organisations that might like to contribute to the review. A copy of this letter will be placed on the National Assembly's website with an open invitation to submit views.

## Disclosure of Information

The Assembly's [policy on disclosure of information](#) is available, please ensure that you have considered these details carefully before submitting information to the Committee. Alternatively a hard copy of this policy can be requested by contacting the Clerk (Leanne Hatcher 0300 200 6343).

Yours sincerely



**Jocelyn Davies AC / AM**

**Cadeirydd / Chair**



# Annex A

## Consultation questions

Please comment on as many of the questions as relevant to you/your organisation, providing an explanation of each answer given:

### General

01. Would the draft Bill improve the effectiveness of the role of the Ombudsman?  
If so how?
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?
03. Are there any unintended consequences arising from the draft Bill?
04. At what point should the impact of this legislation be evaluated?

### Power to investigate on own initiative

05. Do you have any comments on the new power in section 4?
06. Does the inclusion of this power raise any unintended consequences in the rest of the draft Bill?
07. With whom should the Ombudsman consult under section 4(2)?
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?
09. What kind of issues should be included in the criteria for own initiative investigations under section 5?
10. What kind of evidence should be available to the Ombudsman to justify an own initiative investigation (see section 5(2))?

### Who can complain

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



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

## 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))?
15. Does section 10(2) adequately cover anyone who has received a combination of public and private treatment?
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?
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?
18. Should the Ombudsman have powers to recover costs incurred in investigating private health services?
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?

## 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?
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)?

## 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?



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

### 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)?

25. Is section 38(b) adequate to allow listed authorities to comply with their duties under other enactments, such as Freedom of Information duties?

### 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?

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?

### 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 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?

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?

### 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?

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?

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



## Financial implications

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

## Other comments

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

