

## **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**CARE AND SOCIAL SERVICES INSPECTORATE  
WALES**

**&**

**THE PUBLIC SERVICES OMBUDSMAN FOR WALES**

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Version Number: 0.3
Date agreed: 15.12.14

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**ii. Revision History and Approval**

<b>Version</b>	<b>Date Agreed</b>
0.1	tbc
0.2	Revisions CSSIW and PSOW
0.3	Signing date agreed and added

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11 November 2013	Initial draft	Nigel Moss
1 October 2014	Revisions by CSSIW and then PSOW	Natalie Cooper
15 December 2014	Signing by Chief Inspector & Ombudsman	Marilyn Morgan

## **1. Introduction**

- 1.1 The aim of this Memorandum is to set out the agreement reached by the Care and Social Services Inspectorate for Wales (CSSIW) and the Public Services Ombudsman for Wales (PSOW) in relation to co-operation and the exchange of information. This Memorandum does not affect the existing statutory functions of the respective organisations or the exercise of those functions; neither does it amend any other policies or agreements relating to their activities. It does not imply any transfer of responsibility from one to the other, nor does it imply any sharing of statutory responsibilities except where this is permitted by statute.
- 1.2 PSOW has statutory powers in relation to CSSIW in that the Welsh Government is a listed authority under the Public Services Ombudsman (Wales) Act 2005. The PSOW will respond to any complaint about CSSIW in accordance with the Act and its own policies and procedures. Complaints about or involving the action or inaction of CSSIW are therefore not affected by this Memorandum and such complaints will be investigated in the same way as complaints to the PSOW about other bodies.
- 1.3 The PSOW's powers were extended in November 2014 to provide for the consideration of complaints about privately arranged or funded social care and palliative care.
- 1.4 It is not intended that this Memorandum should be legally binding. However, CSSIW and PSOW agree to adhere to its principles and to show proper regard for each other's activities and work together to promote improvement in public services in Wales.

## **2. Roles and responsibilities**

### **2.1 The role of CSSIW**

- 2.1.1 CSSIW's role is to make professional inspections and judgements about social care, early years and social services and so encourage improvement by the service providers.
- 2.1.2 The Health and Social Care (Community Health and Standards) Act 2003 gives powers to review the way in which local authorities discharge their social services functions.

2.1.3 The Care Standards Act 2000, The Children Act 1989 (as amended), The Adoption and Children Act 2002 and the Children and Families (Wales) Measure 2010 gives power to register and inspect establishments and agencies in Wales that provide social care. CSSIW also has the power to undertake civil and criminal enforcement action in relation to registered care services.

2.1.4 CSSIW regulates social care and early years services using the regulations and national minimum standards made by the National Assembly for Wales and the Welsh Government. The regulations enable CSSIW to regulate the conduct of establishments and agencies in Wales.

2.1.5 CSSIW inspects and regulates:

- Care homes for adults – including those providing nursing care
- Domiciliary care agencies
- Adult placement schemes
- Nurses' agencies
- Children's homes
- Childminders
- Day care services for under 8
- Fostering agencies
- Adoption agencies
- Boarding schools, residential special schools and further education colleges which accommodate students under 18

2.1.6 CSSIW inspects, reviews and evaluates

- Local Authority social services

## **2.2 The role of the Public Services Ombudsman for Wales**

2.2.1 To consider complaints about public bodies and privately arranged or funded social care and palliative care services.

2.2.2 To consider complaints that members of local authorities have broken the code of conduct.

- 2.2.3 To put things right and put people back in the position they would have been in if they had not suffered an injustice and work to secure the best possible outcome where injustice has occurred.
- 2.2.4 To work with bodies so that lessons from investigations are learnt.
- 2.2.5 To ensure continued improvement in the standards of public services in Wales by helping bodies to get it right first time – to work to reduce complaints by helping service providers to improve their initial decision making.

### **3. Co-operation and statutory powers**

- 3.1 The overarching aim of both bodies is to contribute to the development of excellent public services in Wales that respect and promote the human rights of citizens and are sensitive to the needs of the most disadvantaged and vulnerable members of society.
- 3.2 Both bodies have an interest in the performance of local authorities in Wales in respect of their social services functions and both bodies may be involved in considering the care provided by independent service providers.
- 3.3 CSSIW specifically is responsible for reviewing the performance of local authority social services and for ensuring that regulated services comply with the relevant statutes, regulations and guidance. It can use its enforcement powers both civil and criminal to secure this in registered services.
- 3.4 Where the Ombudsman concludes that an aggrieved person has sustained injustice or hardship as a result of a complaint that he has considered then he normally makes recommendations to address any concerns identified.
- 3.5 PSOW and CSSIW agree to work together to ensure that necessary improvements are implemented by public bodies in Wales.

### **4. Equality and Human rights**

- 4.1 The need to act in a manner that is compatible with Convention Rights, as described in s. 1 of the Human Rights Act 1998, is fundamental to the work of CSSIW and PSOW. Each organisation seeks to promote the human rights of those who fall within its remit.
- 4.2 The Equality Act 2010 prohibits unfair treatment of people because of protected characteristics they have and helps achieve equal opportunities.

4.3 The co-signatories to this Memorandum believe that the arrangements as set out in the Memorandum are compliant with the Human Rights Act 1998 and the Equality Act 2010.

## **5. Data protection and freedom of information**

5.1 CSSIW and PSOW will in their joint activities and co-operation with each other ensure compliance with the Data Protection Act 1998.

5.2 CSSIW and PSOW will in their joint activities and co-operation with each other ensure compliance with the Freedom of Information Act 2000.

## **6. The relationship in practice**

6.1 CSSIW and PSOW commit themselves to a principled way of working, as set out below:

6.2 The working relationship between CSSIW and PSOW will be characterised by regular, on-going contact and appropriate open exchange of information between them within the parameters of their respective legal frameworks.

6.3 Formal meetings will be held between the Chief Inspector and the Ombudsman as required but no less frequently than every 12 months. The Chief Inspector or the Ombudsman may delegate this task to their Deputy or Director of Investigations.

6.4 Formal meetings to discuss matters of mutual interest will also be held between a nominated representative from each organisation on a six monthly basis. Other staff will also liaise on such matters as and when they arise.

6.5 In the spirit of co-operation CSSIW and PSOW agree to:

- Share information about trends, data, policy and initiatives which relate to the shared aim of ensuring that service users are provided with high quality services;
- Proactively share electronic copies of reports following reviews and inspections or investigations that may be relevant to both organisations. Anonymity will be protected in line with organisational policies and procedures;

- Consult in relation to guidance or reports produced by one co-signatory that refers to the responsibilities or functions of the other co-signatory;
  - Co-operate in disseminating information about good practice where that good practice is relevant to the principal aims of the other co-signatory;
  - Ensure that enquirers and potential or actual complainants are given helpful and accurate information about the functions of the other co-signatory, where that information could be helpful to them.
  - Co-operate and share general information in relation to complaints and concerns in respect of privately arranged or funded social care and palliative care services.
- 6.6 Both organisations will share details of their internal policies and procedures.
- 6.7 Each organisation will distribute to the other (under embargo) press releases in order to determine how any media interest relating to a matter of mutual concern might be handled.
- 6.8 Each organisation will share any media statement which refers to the other to ensure that the statement is accurate.
- 6.9 Each organisation will ensure that members of staff are aware of the content of this Memorandum and the principles for joint working.
- 6.10 It will be the responsibility of the Chief Inspector and the Ombudsman to ensure that each organisation understands the other's role and the statutory framework within which it is required to operate.

## **7. Referral in individual cases**

CSSIW and PSOW will direct concerns or cases from one co-signatory to the other co-signatory where it is appropriate to do so. For example, PSOW may refer a matter to CSSIW where it receives information which suggests that there might be a threat to the health and safety of one or more persons and it is considered in the public interest to disclose this information. CSSIW may refer to PSOW where a complaint is raised in relation to a service provided by a body which falls within its jurisdiction and the requirements set out in the Public Service Ombudsman (Wales) Act 2005 are met.

## 8. Reconciliation of disagreement

Both co-signatories will look to resolve any disagreements amicably at an operational level. If a disagreement cannot be resolved at that level, senior managers from both organisations will try to resolve any issue.

## 9. Review

This Memorandum of Understanding will be reviewed and updated as required but no more than one year after being signed and every two years thereafter.

## 10. Signatures

<b>Imelda Richardson</b>  Chief Inspector, Care and Social Services Inspectorate Wales  Signed.....  Date            15 December 2014	<b>Nick Bennett</b>  Public Services Ombudsman for Wales  Signed.....  Date            15 December 2014
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