

MEMORANDUM OF UNDERSTANDING

BETWEEN

CARE INSPECTORATE WALES

&

THE PUBLIC SERVICES OMBUDSMAN FOR WALES

Version Number:	2.0
Date agreed:	20 September 2022

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ii. Revision History and Approval

Version	Date Agreed
0.1	tbc
0.2	Revisions CIW and PSOW
0.3	Signing date agreed and added
2.0	20 September 2022

Date	Document revision description	Document updated by
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
March 2022	Revisions by CIW	Lisa Traylor
May 2022	Revisions by PSOW	Sam Ward
September 2022	Signing by Chief Inspector & Ombudsman	

1. Introduction

- 1.1 The purpose of this Memorandum of Understanding (MoU) is to set out a framework to support the working relationship between Care Inspectorate Wales (CIW) and the Public Services Ombudsman for Wales (PSOW).
- 1.2 This MoU 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.
- 1.3 PSOW has statutory powers in relation to CIW in that the Welsh Government is a listed authority under the Public Services Ombudsman (Wales) Act 2019. The PSOW will respond to any complaint about CIW in accordance with the Act and its own policies and procedures. Complaints about or involving the action or inaction of CIW are therefore not affected by this MoU and such complaints will be investigated in the same way as complaints to the PSOW about other bodies.
- 1.4 This MoU does not create legally binding rights or obligations, however CIW 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 CIW

- 2.1.1 CIW is the independent regulator of social care and childcare in Wales. CIW's role is to register, inspect and take action to improve the quality and safety of services for the well-being of the people of Wales.
- 2.1.2 CIW carries out regulation and inspection functions under the Regulation and Inspection of Social Care (Wales) Act 2016 for:
 - Care home services
 - Secure accommodation services
 - Residential family centre services
 - Adoption Services
 - Fostering Services
 - Adult placement services
 - Advocacy services
 - Domiciliary support Services

2.1.3 Under part 2 of the Children and Families (Wales) Measure 2010, CIW also regulates and inspects:

- Child minders
- Day care (including play) for children under 12 years of age

2.1.4 CIW inspects boarding schools, residential special schools, further education colleges, which accommodate students under 18.

2.1.5 CIW also inspects and review the operation of local authority social services departments in Wales.

2.2 The role of the Public Services Ombudsman for Wales

2.2.1 PSOW has a statutory role to look into complaints about public services and independent health and social care providers in Wales. PSOW also investigate complaints that members of local government bodies have broken their authority's code of conduct. The Ombudsman is independent of all government bodies. PSOW's role is:

- To consider complaints about public bodies and privately arranged or funded social care (residential or domestic) and palliative care services.
- To consider complaints that members of local authorities have broken the code of conduct.
- 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.
- To work with bodies so that lessons from investigations are learnt.
- 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. Principles of 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 CIW 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 PSOW concludes that an aggrieved person has sustained injustice or hardship as a result of a complaint that PSOW has considered, the PSOW normally makes recommendations to address any concerns identified.

3.5 CIW and PSOW agree to work together to ensure necessary improvements are implemented by public bodies in Wales.

4. Areas of Co-operation

4.1 In the spirit of co-operation, CIW 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 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.

4.2 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.

4.3 Each organisation will share any media statement which refers to the other to ensure that the statement is accurate.

4.4 Each organisation will ensure relevant members of staff are aware of the content of this MoU and the principles for joint working.

4.5 It will be the responsibility of the Chief Inspector and the Ombudsman to ensure each organisation understands the other's role and the statutory framework within which it is required to operate.

5. The relationship in practice

- 5.1 The working relationship between CIW 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.
- 5.2 Ongoing liaison, as necessary, will take place between nominated PSOW and CIW contacts.
- 5.3 Formal meetings will be held every 6 months between PSOW and CIW staff. Where relevant, these will involve the Ombudsman and the Chief Inspector. The Chief Inspector or the Ombudsman may delegate this task to their Deputy Chief Inspector and/or Head of Support Services or Director of Investigations. The meetings will share information about trends, concerns data, and updates on initiatives and work contributing to the shared aim of ensuring high quality care services for service users in Wales.

6. Referral in individual cases

- 7.1 CIW and PSOW will direct concerns or cases from one organisation to the other where it is appropriate to do so. For example, PSOW may refer a matter to CIW 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. CIW 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 2019 are met.

7. Equality and Human rights

- 7.1 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 CIW and PSOW. Each organisation seeks to promote the human rights of those who fall within its remit.
- 7.2 The Equality Act 2010 prohibits unfair treatment of people because of protected characteristics they have and helps achieve equal opportunities.
- 7.3 Each organisation signing up to this MOU believe that the arrangements as set out in the MOU are compliant with the Human Rights Act 1998 and the Equality Act 2010.

8. Information sharing

- 8.1 CIW and PSOW will work collaboratively by:
 - Notifying and liaising with the other organisation as soon as possible about information they receive on cases that may be in their jurisdiction;

- Sharing relevant intelligence and data related to cases in common; and,
- Meeting annually to discuss information sharing and to review procedures and working arrangements.

8.2 CIW and PSOW will in their joint activities and co-operation with each other ensure compliance with the General Data Protection Regulation (GDPR) 2016, Data Protection Act 2018 and Freedom of Information (Fol) Act 2000. If one organisation receives a request for information that originated from the other, the receiving organisation will discuss the request with the other before responding.

8.3 All exchanges of information between CIW and PSOW will be timely, lawful and proportionate. Each organisation will follow their own data sharing protocols when transferring personal and sensitive personal data.

9. Reconciliation of disagreement

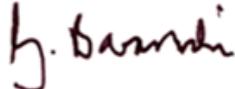
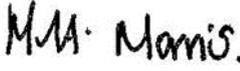
9.1 Both organisations will look to resolve any disagreements amicably at an operational level. If a disagreement cannot be resolved at that level, senior managers from both organisations will try to resolve any issue.

10. Duration and review

10.1 CIW and PSOW have identified persons responsible for the management of this MoU in Annex A. They will liaise as required to ensure this MoU is kept up to date, identify any emerging issues and resolve any questions that arise in the working relationship between the two organisations.

10.2 This MoU is not time limited and will continue to have effect unless the principles described need to be altered or cease to be relevant. This MoU will be reviewed annually by the MoU managers identified at Annex A but may also be reviewed at any time upon request of either organisation.

11. Signatures

<p>Gillian Baranski</p> <p>Chief Inspector, Care Inspectorate Wales</p> <p>Signed </p> <p>Date 28 September 2022</p>	<p>Michelle Morris</p> <p>Public Services Ombudsman for Wales</p> <p>Signed </p> <p>Date 13 October 2022</p>
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Annex A – Contact Details

Care Inspectorate Wales	Public Services Ombudsman for Wales
Welsh Government Rhydycar Business Park Merthyr Tydfil CF48 1UZ	1 Ffordd yr Hen Gae Pencoed CF35 5LJ
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Lead contacts between CIW and PSOW are as follows:

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