

Our ref: NB

Ask for: Communications



01656 644218

Date: 22 July 2019



Communications

@ombudsman-wales.org.uk

Ms Tracy Myhill  
Chief Executive  
Swansea Bay University Health Board

**By Email Only**

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abm.complaints@wales.nhs.uk

Dear Ms Tracy Myhill

**Public Services Ombudsman (Wales) Act 2019**

I am writing to inform you about changes to my jurisdiction, and how this may affect your organisation. These changes will occur with effect from 23 July 2019, following the implementation of the Public Services Ombudsman (Wales) Act 2019 ("the new PSOW Act").

My previous jurisdiction (the PSOW Act 2005) will be familiar to you and enabled me to consider complaints where a private healthcare provider had entered into contract arrangements with you (as a Welsh NHS body) to deliver certain services. In such cases those organisations were called 'independent providers' under my jurisdiction and I was able to directly investigate a complaint about the clinical care.

Those existing arrangements will not change under the new PSOW Act.

The new PSOW Act, however, does introduce additional powers where I may directly investigate private healthcare providers regardless of the absence of any contract with the NHS, and where the services delivered were fully funded by the



patient. This will, however, only be in certain circumstances, as the new PSOW Act prescribes. This is defined in s16 of the PSOW Act as follows:

- Where I consider that I cannot effectively or completely investigate (or determine) the complaint about the NHS service before me, without also considering the care/treatment provided by an organisation in a private capacity.

I have also developed a factsheet for the general public which is available on my website at:

<https://www.ombudsman.wales/fact-sheets/health-healthcare-delivered-outside-the-nhs/>

In all investigations conducted, where I uphold a complaint, as you will know, I seek to ensure that lessons are learned, so that any failings found are not repeated. To this end, both currently and under the new PSOW Act, I can make recommendations to public bodies. The new PSOW Act enables me to make similar recommendations to a private healthcare provider where I have investigated them and made findings. As you will be aware, where recommendations made are not implemented, I have powers to take further action by means of a special report which may contain further recommendations. Under the new PSOW Act this is also the case for a private healthcare provider.

At a future stage, I will also be able to conduct own initiative investigations which can extend an investigation to include consideration of actions by a body not already complained about. This is possible where there is a 'substantial connection' with the original complaint being investigated by my office. This could, for example, mean extending the investigation into a complaint made about a family health service provider to also investigating a complaint against you as a public body, or vice versa. We will write to you again when those provisions are in force to provide more detail.

Finally, should you have any additional queries please do not hesitate to contact my office.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nick Bennett', with a stylized flourish at the end.

Nick Bennett  
Ombudsman