

# **Making a complaint about health and social services in Wales**

- a guide for constituents

March 2025



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# **Making a complaint about health and social services in Wales**

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This guide provides an overview of how to make a complaint about health and social services in Wales.

It also signposts other useful sources of information and support.



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## 1. Background

This guide aims to explain the process of making a complaint about both health and social services in Wales, and signpost to useful sources of information and support.

Senedd Research provides impartial research support to Members of the Senedd. We cannot correspond directly with any other individuals or organisations, nor advise or comment on individual cases.

The information provided in this guide is for general informational purposes only to support the work of Members of the Senedd. It is not intended as a substitute to legislation, guidance, policy nor professional advice.

### NHS Wales

The process for raising complaints in NHS Wales is called **Putting Things Right** (PTR). Complaints should be handled in line with the **NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011**, which first introduced the PTR process. PTR applies to all NHS bodies in Wales and is intended to be a single, integrated, and supportive process for patients to raise concerns about their care.

**Detailed guidance** to support NHS Wales staff to interpret the Regulations and apply best practice in handling and investigating complaints is published by the Welsh Government, and was most recently updated in May 2023.

The guidance uses the term “concern” to refer to any complaint, claim or reported patient safety incident to be handled under this process.

The **duty of candour** also applies to all NHS bodies in Wales. Introduced by the **Health and Social Care (Quality and Engagement) (Wales) Act 2020**, which came into force in April 2023, the duty of candour is a legal requirement for all NHS bodies to be open and transparent with patients if they experience harm when receiving health care.

## **Social Services**

The **Social Services Complaints Procedure (Wales) Regulations 2014** and the **Representations Procedure (Wales) Regulations 2014** set out the framework for how local authorities should handle complaints about social services. The legislation is supported by **complaints guidance**, which local authorities must use alongside these Regulations to ensure a consistent approach for those making a complaint about social services in Wales.

## 2. Health Complaints

### Putting Things Right

**Putting Thing Right** applies to all **Welsh NHS bodies**, including local health boards, NHS Wales trusts, special health authorities, and independent providers in Wales providing NHS funded care.

Each NHS organisation has an internal concerns team to handle complaints and assist with investigations. The contact details of local health boards are provided below:

#### Local Health Board concerns teams

Local Health Board	Email	Phone	Online form
Aneurin Bevan University Health Board – <b>Complaints &amp; Concerns</b>	<b>Puttingthingsright. ABHB@wales.nhs.uk</b>	01633 431666	<b>Concerns form</b>
Betsi Cadwaladr University Health Board – <b>Make a Complaint</b>	<b>BCU.ComplaintsTeam@ wales.nhs.uk</b>	03000 851234	<b>Concerns form</b>
Cardiff & Vale University Health Board - <b>Concerns and Complaints</b>	<b>concerns@wales.nhs.uk</b>	029 218 36318	<b>Concerns form</b>
Cwm Taf Morgannwg University Health Board - <b>Concerns and Complaints</b>	<b>cthb.concerns@wales. nhs.uk</b>	01443 744915	<b>Website</b>
Hywel Dda University Health Board – <b>Patient Support Services</b>	<b>hdhb. patientsupportservices@ wales.nhs.uk</b>	0300 0200159	<b>Feedback form</b>
Powys Teaching Health Board – <b>Feedback and Concerns</b>	<b>Concerns. qualityandsafety.POW@ wales.nhs.uk</b>	01874 712582	<b>Concerns form</b>
Swansea Bay University Health Board - <b>Complaints</b>	<b>SBU.Complaints@wales. nhs.uk</b>	01639 683363/683316	<b>Website</b>



PTR also applies to primary care providers, like GPs, dentists, pharmacists and opticians. Those wishing to make a complaint about a primary care provider can contact the provider directly to raise a concern, or ask their local health board concerns team to investigate (links in the above table).

## Early resolution

If a patient has concerns about their care or treatment, the **PTR process suggests** talking to the staff involved with their care as soon as possible. The aim under PTR is that staff try to resolve any concerns immediately.

Concerns dealt with at the point of service delivery are referred to as having been dealt with '**early resolution**'. This includes any concerns which have been resolved to the satisfaction of the patient by the end of the next working day.

The **PTR guidance says** that in many cases, these sorts of concerns relate to relatively easy to address issues. The patient must be satisfied with the immediate actions agreed in order to remedy the concern raised. If not, then they should be advised to raise a concern formally under the Putting Things Right process.

## An overview of the Putting Things Right process

The following is an overview of the process of raising a complaint (referred to as a concern) through Putting Things Right. The **PTR guidance** provides greater detail as to each step of the process, and additional conditions and exemptions.

### How to raise a concern

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A concern can be made **in writing, electronically or verbally** to the NHS body or any member of staff employed by the NHS body.

### Who can raise a concern?

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Concerns can be raised by a patient, those affected by the actions of the NHS body, a representative of a patient who is unable to raise a concern (e.g. a child or someone who lacks capacity), a representative on behalf of someone who has died, or a member of staff or independent member of an NHS body.

### What can be raised as a concern?

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Concerns can be raised about any aspect of the functions of an NHS body, services provided by a primary care provider under a contract with a Welsh NHS body, or

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services by an independent provider in Wales under arrangements with a Welsh NHS body.

Some concerns are excluded from the PTR arrangements. For example, concerns subject to civil proceedings, where a concern is or has been investigated by the Public Services Ombudsman for Wales, or failure to comply with the Freedom of Information Act 2000.

### **Time limits for raising a concern**

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A concern should normally be raised **within 12 months** of the date the concern occurred or 12 months from the date the person raising the concern realised they had a concern.

The time limit can be extended if there are good reasons for the delay and if the concern can still be investigated thoroughly and fairly.

### **Acknowledgement of a concern**

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A concern should generally be **acknowledged within five working days** of receipt.

The NHS organisation should provide the person who raised the concern with a named contact and give them an opportunity to discuss the process, including:

- Any specific needs they may have which should be taken into account as the investigation proceeds;
- The way in which the investigation will be handled;
- How long it is likely to take and when a response can be expected;
- The availability of advocacy and support.

As the majority of health concerns will require access to medical records, consent will need to be obtained from the patient, their representative, or in the case of a deceased person, the consent of the next of kin or personal representative.

### **The investigation**

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All concerns are graded by severity, to ensure that the investigation is proportionate.

Concerns should be investigated by “people who have completed the relevant training, are competent, objective, have recognised authority and are credible and respected.”

The person investigating must be independent of, and have played no part in, the issue under investigation. In some cases, it may be necessary for the NHS body to seek advice from an independent expert adviser.

## **Redress**

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Where a concern includes an allegation that harm has or may have been caused, the NHS organisation has a duty to consider if a **'qualifying liability'** exists. If an NHS body is found to have failed in its duty of care to a patient and the breach of duty of care has caused harm that the person has suffered, redress arrangements apply.

Redress comprises of either one or a combination of all of the following:

- The offer of financial compensation up to £25,000 and/or remedial treatment, on the proviso that the person will not seek to pursue the same through further civil proceedings;
- The giving of an explanation;
- A written apology;
- A report on the action which has or will be taken to prevent similar concerns arising.

Where the Redress arrangements apply, legal advice without charge should be made available to the person who raised the concern.

Redress cannot be offered if the concern is subject to civil proceedings or if any financial compensation will exceed £25,000. The redress arrangements do not apply to primary care providers or independent providers.

## **Final response**

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The NHS body should **provide a final response within 30 working days** of receiving the concern. The final response must include:

- An apology (where appropriate);
- An explanation of how the concern was investigated;
- An explanation of any actions that will be taken;
- An offer to discuss the response to the concern.

## Duty of Candour

Since April 2023, the **duty of candour** has been a legal requirement for all NHS organisations in Wales, including primary care providers in respect of services they provide under contract with Local Health Boards.

The duty of candour requires NHS bodies to be open and transparent with patients when they experience harm whilst receiving health care. They are required to:

- Talk to service users about incidents that have caused harm;
- Apologise and support them through the process of investigating the incident;
- Learn and improve from these incidents;
- Find ways to stop similar incidents from happening again.

The duty of candour applies when a patient receiving health care suffers an adverse outcome and the provision of the health care was, or may have been, a factor in the patient suffering that outcome. An adverse outcome is described as a patient experiencing “any unexpected or unintended harm that is more than minimal.” Further detail is provided in the **Duty of Candour Statutory Guidance**, which defines more than minimal harm as “considered to constitute moderate harm, severe harm and death.”

Once the duty of candour has been triggered, an investigation should be conducted and its outcome communicated to the person raising the complaint in line with the PTR process.

## 3. Frequently Asked Questions – Health

### **Can patients make a complaint about cross border healthcare?**

Patients from Wales regularly **cross the border to receive healthcare** from NHS bodies in England.

The PTR guidance states that, in general, concerns about care and treatment provided on behalf of the NHS in Wales by organisations outside Wales should be dealt with in accordance with the relevant complaints procedure which applies to the organisation that has provided the care or treatment.

NHS England **provides information** about giving feedback and making complaints about the care, treatments or services they provide.

Patients can still ask **Llais** (the national, independent body set up by the Welsh Government, with the aim of giving people ‘a stronger voice in their health and social care services’) for advocacy and support to take forward their concern about care delivered outside Wales.

### **What happens when a complaint relates to more than one health board?**

The **PTR guidance** sets out the process that must be followed when a concern is raised that relates to care provided by more than one NHS body.

If it seems that a concern relates to more than one NHS body, then within 2 working days of receipt, the organisation receiving the complaint must inform the person raising the concern that another NHS body may be involved and seek consent to contact and notify the other relevant body that they are involved.

The guidance says that organisations involved should cooperate to agree a joint response to the concern.

### **Does Wales have an NHS Constitution?**

England has an **NHS Constitution** which outlines the principles and values of the NHS in England, including information on how to make a complaint about NHS services.

Wales doesn't have an NHS Constitution. Instead, standards for the care that should be provided by NHS bodies in Wales are set out in a number of pieces of legislation

and policy documents, rather than a single constitution. For example:

- **A Healthier Wales** sets out the Welsh Government’s vision for health and social care in Wales.
- The **Health and Social Care (Quality and Engagement) (Wales) Act 2020** strengthened the existing **duty of quality** on NHS bodies and extended it to Welsh ministers for their functions relating to health services. The **accompanying guidance** says that it requires that all NHS bodies in Wales and Welsh Ministers must “ensure that health services are organised and delivered in such a way that system-wide, continuous improvement in the quality of health services is achieved.”
- The Welsh Government published the **Quality and Safety Framework in 2021**. It provides an overview of quality principles and arrangements that need to be in place to ensure high quality services are being delivered by health services.
- The Welsh Government published new **Health and Care Quality Standards** in 2023, which set out the standards that patients can expect when accessing health services in Wales.

## 4. Social Services Complaints

### Local authority social services complaints handling

In August 2014, the Welsh Government **published guidance** to improve the experience of people making complaints and representations about local authority social services.

The guidance is intended to support the implementation of two pieces of legislation:

- The **Social Services Complaints Procedure (Wales) Regulations 2014**, which introduced a procedure for handling complaints about local authority social services functions.
- The **Representations Procedure (Wales) Regulations 2014** which established the procedure for handling representations about very specific functions under the Children Act 1989 and the Adoption and Children Act 2002.

The **guidance** defines a complaint as:

- An expression of dissatisfaction or concern;
- Either written or spoken or made by any other communication method;
- Made by one or more members of the public;
- About a public service provider's action or lack of action; or
- About the standard of service provided.

It says that a complaint is not:

- An initial request for a service;
- A formal review or appeal against a decision or determination, the procedure for which is set out in legislation or regulations;
- A means to seek change to legislation or a “properly made” policy decision; or
- A means for lobbying groups/organisations to seek to promote a cause.

The guidance goes on to explain how a representation can be distinguished from a complaint:

A representation can be distinguished from a complaint only by reference to the functions to which that complaint relates that are provided for in section 26(3), section 36(3B) and 26(3C) of the Children Act 1989 and regulations made under those provisions.

## **Who can make a complaint and when?**

**The guidance** states that any member of the public, including a child, who has received or was entitled to receive a service from social services may make a complaint. A representative can make a complaint on behalf of a person where that person is a child, has requested the representative to act, lacks capacity within the meaning of the Mental Capacity Act 2005, or has died.

A complaint or representation can be made **up to 12 months** after the issue occurred or came to the notice of the person making the complaint or representation. The time limit can be extended if there are good reasons for the delay and if the complaint can still be investigated effectively and fairly.

## **Concurrent Investigations**

**The guidance** sets out that where a matter is subject to “concurrent consideration” a local authority must not consider a complaint if it would prejudice the conduct of certain other proceedings or investigations.

This could include:

- The complainant indicates in writing that they are taking or intend to start legal proceedings;
- The local authority is considering legal proceedings, for example, care proceedings or Court of Protection proceedings;
- The local authority is taking or proposing to take disciplinary proceedings against a staff member;
- The local authority is aware that a prosecuting authority, for example the police or the Care and Social Services Inspectorate for Wales, is investigating with a view to a criminal prosecution;
- There should be no complaints investigation while there is a danger of compromising any adult or child protection process.

If the local authority decides not to consider the complaint, it must notify the complainant in writing and explain the reason for its decision. The complainant



may resubmit the complaint or representation no later than six months after the concurrent consideration is discontinued or completed.

## **An overview of the complaints process**

The following is an overview of the process of raising a complaint or representation about local authority social services. The guidance sets out a two stage process to deal with complaints and representations, provides greater detail as to each step of the process, and additional conditions and exemptions.

### **Stage one: local resolution**

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To allow for the quick and successful resolution of most complaints, stage one of the process requires the local authority to offer to discuss the complaint to resolve matters.

The guidance says that discussion must take place **within 10 working days** of receiving the complaint.

If the complaint is resolved, the local authority must **write to the complainant within 5 working days** of the date the complaint or representation was resolved with details of the resolution.

### **Stage two: formal investigation**

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If the seriousness of the complaint is too great to deal with at the local resolution stage, or the complainant remains dissatisfied following stage one, then the complaint moves to the formal investigation stage.

A complaint or representation must be investigated by an **Independent Investigator**, appointed by the local authority (but not a member nor officer of the local authority). An Independent Person is also involved for representations.

The local authority must create a written record of the complaint **within 5 working days**. It should include details of the complaint and what the complainant wants to achieve. The complainant is asked to confirm the accuracy of the record.

The formal investigation starts on the date that both parties agree the written record and must be completed, with a full written response sent to the complainant, **within 25 working days**. If there are exceptional circumstances causing a delay, the complainant must be informed. The response must be issued as soon as possible but **no later than six months** from the date the complaint was

received.

Once the investigation has concluded, the local authority is responsible for deciding if the complaint is upheld and any action it will take in response. This decision should be made by a member of the senior management team. A response to the complainant should be set out in writing and must be signed by the Director of Social Services. It must include:

- A description of the investigation undertaken;
- Whether the complaint or representation is upheld or not upheld;
- An explanation of what action will be taken, if any, in light of the complaint or representation;
- Where appropriate, an apology to the complainant;
- The Independent Investigator's report, unless there is a specific reason why it should not;
- An offer of an opportunity to discuss the response and the Independent Investigator's report with an appropriate officer.

## 5. Advocacy and support relating to social services

Local authorities, when exercising their social services functions, must act in accordance with the requirements contained in the **Code of Practice on Advocacy** (issued under the **Social Services and Well-being (Wales) Act 2014**) and must have regard to any guidelines set in it. The Code sets out the requirements for local authorities to:

- Ensure that access to advocacy services and support is available to enable individuals to engage and participate when local authorities are exercising statutory duties in relation to them;
- Arrange an Independent Professional Advocate (IPA) to facilitate the involvement of individuals in certain circumstances.

The code includes:

- People's choice to have someone to act as an advocate for them;
- The key points when people's need for advocacy must be assessed;
- When independent advocacy must be provided.

Age Cymru has a **directory of available advocacy providers** in each area. The Public Services Ombudsman for Wales (PSOW) also has a **search tool** to find advice and advocacy bodies across Wales

### **The active offer of advocacy for children and young people**

The **Code of Practice on Advocacy** sets out that a local authority must make arrangements for the provision of advocacy for 'entitled children', including:

- A looked after child, or a child who is not being looked after but may have needs for care and support;
- A child in respect of which a Special Guardianship Order is in force;
- An adopted child or a child who may be adopted;
- A young person who is a former looked after child as defined under section 176 and 104 of the **Social Services and Well-being (Wales) Act 2014**.

Arrangements for advocacy must be made when entitled children make representations (including complaints) under section 174 or 176 of the **Social**

**Services and Well-being Wales Act 2014**, about the discharge of certain local authorities functions, as set out in the Code of Practice.

Children and young people are entitled to an **active offer of advocacy** from a statutory Independent Professional Advocate (IPA) when they become looked after or become subject of child protection enquiries leading to an Initial Child Protection Conference.

An 'active offer' is the sharing of information about the statutory right and entitlement of a child or young person in certain circumstances to have access to an independent professional advocacy service.

The allocated social worker should:

- Inform the child or young person of this entitlement;
- Provide information about the service;
- Ensure the child or young person is aware that the advocacy service will be provided with sufficient information to be able to make contact with them, unless they opt out;
- Make a record of any decision by the child or young person to opt out of this service and why;
- Provide contact details for the child and young person to the advocacy service.

The **Young Person's Summary** explains more.

There are different advocacy providers in different areas. The **National Youth Advocacy Service** provides a **search tool** to find the advocacy provider in each area.

## 6. The Public Services Ombudsman for Wales

If someone is dissatisfied with the way their health or social services complaint has been dealt with, they can contact the **Public Services Ombudsman for Wales (PSOW)**. The PSOW has legal powers to look into concerns and complaints about public services in Wales. They are independent of all government bodies, and their role is to provide an impartial service that is free of charge.

The PSOW has published factsheets on **NHS complaints** and **social services complaints**.

There are some complaints that the PSOW cannot look into. For example, the PSOW can't investigate a complaint if the complainant has a **legal remedy available** through the Courts. If the PSOW is unable to look at a complaint, they will inform the complainant.

### When can you complain and what can you complain about?

The PSOW normally expects someone to have **brought their concern to the attention** of the relevant health or social service in the first instance.

They also expect that the concern raised **happened less than a year ago, or that the complainant became aware of it less than a year ago**, although they have discretion if there is a good reason why the complaint was not made sooner.

The PSOW provides information on what they can and can't look at in relation to:

- **NHS** complaints (including some aspects of privately paid care);
- **Social services** complaints;
- Complaints against **dentists, opticians and pharmacists**;
- Complaints against **GPs**.

## How to contact the Public Services Ombudsman for Wales

A complaint can be **submitted**:

**Online:** by completing an **online complaint form**

**Email:** [ask@ombudsman.wales](mailto:ask@ombudsman.wales)

**Phone:** 0300 790 0203

**Post:** 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ

## An overview of PSOW's complaints process

The PSOW's factsheets, **What we do when we get your complaint about a public service provider in Wales** and **Decision Review Process** set out the complaints process. The following is an overview of the process of raising a complaint with the PSOW.

**Initial Assessment:** an initial assessment will be made of the complaint and the PSOW will decide whether to:

- **Investigate:** the PSOW only investigate about 1 in 10 of the complaints they receive, usually when the issue is very complicated or if it may affect other people. An investigation takes around 12 months, although it can take longer. The PSOW will keep the complainant informed throughout the process.
- **Early resolution:** the PSOW may arrange early action for things to be put right. They will write to you to explain what has been arranged and follow up to make sure that the organisation did what it agreed to do.

**Decision and Follow Up:** At the end of an investigation, the PSOW will explain what was found and whether they uphold the complaint. If the PSOW uphold a complaint, they will recommend what the organisation should do to put things right.

**Review Process** - If the complainant is not satisfied with the PSOW's decision to not investigate their complaint, discontinue an investigation or believe that a decision following an investigation is flawed, they can **request a review**.

## 7. Llais

**Llais** is an independent, statutory body established in April 2023 to give the people of Wales a greater say in the planning and delivery of their health and social care services. The **Health and Social Care (Quality and Engagement) (Wales) Act 2020** Act created Llais to replace community health councils.

Llais provide a free, independent, and confidential **advocacy service** for those raising a complaint about health and social care services. They support people making a complaint and help explain the process and options available.

### **How to contact Llais**

Find and contact your **local Llais team**.

**Online:** use the Llais **online form**

**Email:** [enquiries@llaiscymru.org](mailto:enquiries@llaiscymru.org)

**Phone:** 02920 235 558

**Post:** Llais, 3rd Floor, 33 - 35 Cathedral Road, Cardiff, CF11 9HB

## 8. Other sources of information and support

- In Wales, some patients receiving mental health services have a right to an Independent Mental Health Advocate (IMHA) to help understand and have a say in their treatment, and to offer support with making a complaint.
  - Mind provide further information about **Independent Mental Health Advocates**;
  - **Advocacy Support Cymru** (ASC) provide an **IMHA service** in several local health board areas in Wales, and also provide **contact details for providers** in other areas.
- **The Older People's Commissioner for Wales** has an advice and assistance team who can help connect with support and services throughout Wales.
- The **Children's Commissioner for Wales** has a **Children's Rights Advice and Assistance Team** who offer a free and confidential helpline to advise and assist children and young people or those who care for them if they feel that a child has been treated unfairly.
- **Age Cymru provides** confidential and impartial advice to older people, their families, friends, carers and professionals throughout Wales and **publishes** guides that provide overviews of particular topics and factsheets that provide more detailed, in-depth information.
- **Citizens Advice Wales** offers free confidential advice online, over the phone and in person.
- **Advicelink Cymru** is a Welsh Government funded Citizens Advice service.
- **Meic** is an information, advice and support helpline for children and young people under 25.
- The **Public Services Ombudsman for Wales** has a **list of advice and advocacy bodies** that may be able to help when making a complaint.