



Principles of Good Administration

Mae'r ddogfen yma hefyd ar gael yn Gymraeg
This document is also available in Welsh

In this guidance

Foreword.....	3
Introducing the Principles.....	4
Principle 1: Getting it right	6
Principle 2: Being customer focused.....	8
Principle 3: Being open and accountable	10
Principle 4: Acting fairly and proportionately	12
Principle 5: Putting things right	15
Principle 6: Seeking continuous improvement.....	18
About us.....	19
Further Reading	20

Foreword

Victor Hugo said “change your opinions, keep to your principles; change your leaves, keep intact your roots”. I think this is a perfect quote for public bodies as they face unprecedented strain on public services. Whilst service provision will undoubtedly be affected by the impact of the pandemic - and some “leaves” might change - it is vital to public confidence that public service leadership and delivery remains rooted to classic Nolan principles such as openness and accountability, that service users understand that decisions are fair, and that service providers have the ambition to seek continuous improvements from the lessons that the pandemic will inevitably leave in its wake. That I hope conveys the purpose of this publication, and that it too is rooted in reality, but of practical value to public bodies across Wales.

Nick Bennett
Ombudsman

Introducing the Principles

The purpose of this guidance is to be open and clear with both complainants and public service providers about the sorts of behaviour expected in the way services are delivered and the tests the Ombudsman applies in deciding whether maladministration and service failure have occurred. In particular, we want public service providers to understand how we will approach complaints, and complainants to understand how we will consider their case. Central to our assessment of the seriousness of any complaint is the impact of the public service provider's actions on the individuals or organisations concerned.

Our investigations have identified time and again occasions of poor records management, which can sometimes have serious consequences. We have therefore published at the same time as this update to the Principles, separate guidance on what we expect from public service providers in terms of standards of record-keeping (<https://www.ombudsman.wales/app/uploads/2022/01/Good-Records-Management-Matters.pdf>) which should be read alongside these Principles.

The Principles are not a checklist, nor the final or only means by which we will assess and decide individual cases. They are broad statements of what we believe the bodies within The Ombudsman's jurisdiction should be doing to deliver good administration and customer service.

If we conclude that a public service provider has not followed the Principles, we will not automatically find maladministration or service failure. We will apply the Principles fairly and sensitively to individual complaints, which we will, as ever, decide on their merits and the circumstances of the case.

We understand that there is often a balance between being sensitive to the needs of a service user and yet acting proportionately to maximise the effective use of public resources. The actions of public service providers are of course limited by their resources and they have to weigh the highest standards of customer service against what is affordable. All public bodies should spend public money with care. However, finite resources should not be used as an excuse for poor service or administration.

We appreciate that the bodies within the Ombudsman's jurisdiction are many and varied, have a wide range of remits and statutory duties, and often have their own demanding standards. Public service providers have to take reasonable decisions bearing in mind all the circumstances; delivering good service often means taking a broad and balanced view of all of the individuals or organisations that may be affected by decisions. Despite their diversity, we believe that the Principles of Good Administration will provide a framework for all public service providers to follow in fulfilling their duties.

This guidance sets out 6 principles for good administration:

1. Getting it right.
2. Being customer focused.
3. Being open and accountable.
4. Acting fairly and proportionately.
5. Putting things right.
6. Seeking continuous improvement.

This guidance is issued under section 34 of the Public Services Ombudsman (Wales) Act 2019.

Principle 1: Getting it right

This includes

- Acting in accordance with the law and with due regard for the rights of those concerned.
- Acting in accordance with policies, procedures and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

In seeking to achieve the above, you must comply with the law and have due regard for the rights of those concerned. You should act according to your statutory powers and duties and any other rules governing the service you provide. You should follow your own policies, procedures and guidance, whether published or internal.

You should act in accordance with recognised quality standards, established good practice, or both, for example when providing clinical or social care. In considering complaints about clinical and social care, the Ombudsman will take into account our [Clinical Standards](#) when determining whether the care or treatment provided was of an appropriate standard.

You should be alert to possibilities where a novel approach will bring a better result or service. When you decide to depart from your own guidance, recognised quality standards or established good practice, you should record why.

You should provide effective services with appropriately trained and competent staff. You should plan carefully when introducing new policies and procedures. Where you are subject to statutory duties, published service standards or both, you should plan and prioritise your resources to meet them.

In your decision making, you should have proper regard to relevant legislation and guidance. Proper decision making should give due weight to all relevant considerations, ignore irrelevant ones and balance the evidence appropriately.

You should assess risks as part of taking decisions and spend public money with care and propriety. At the same time, when assessing risk, you should ensure that you operate fairly and reasonably.

Case study

The Ombudsman received a complaint that a Community Council had failed to respond to a complaint that it had failed to publish minutes of its meetings, contrary to the requirements of the Local Government (Democracy) (Wales) Act 2013. The Ombudsman initially declined to investigate the complaint after the Community Council agreed to respond to the complaint and pay the complainant financial redress for the time and trouble he had been put to. The complainant subsequently contacted the Ombudsman again to say that whilst he had received a letter of apology from the Community Council, together with the financial redress which was posted through his letterbox in cash in an envelope, the minutes had still not been published. The Ombudsman then investigated the complaint. After the investigation started, and the appointment of a new Clerk, the Community Council published the minutes. It also agreed to adopt a complaints policy compatible with the Model Complaints Policy published by Welsh Government.

Key messages

- However small, all public service providers are likely to have legislative or regulatory responsibilities which they need to comply with. In this case, failure to publish the minutes of the Community Council's meetings meant that there was a lack of transparency about its activities and local residents were unable to question any decisions made at the meetings.
- This case also shows the importance of public service providers having plans in place in case key members of staff leave unexpectedly or at short notice. In this instance, the previous Clerk left and the councillors were unable to access the Council's website for a period of time, which was why the minutes had not been published.

Principle 2: Being customer focused

This includes

- Ensuring people can access services easily.
- Clearly telling people what they can expect and what you expect of them.
- Keeping to your commitments, including any published service standards
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances.
- Responding to people's needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

In seeking to achieve the above, you should provide services that are easily accessible to people who use your services. Your policies and procedures should be clear and there must be accurate, complete and understandable information about the service.

Aim to ensure that customers are clear about their entitlements; about what they can and cannot expect from you and about your own responsibilities.

You should comply with the Welsh Language Standards and ensure people wishing to access services in Welsh are not treated less favourably than those using English.

Do what you say you are going to do. If you make a commitment to do something, you should keep to it, or explain why you cannot. You should meet your published service standards, or let customers know if you cannot.

Behave helpfully, dealing with people promptly, within reasonable timescales and within any published time limits. You should tell people if things take longer than you or they expect.

Communicate effectively, using clear Welsh or English language so that people can understand in a way which is appropriate to them and their circumstances.

Treat people with sensitivity, bearing in mind their individual needs, and respond flexibly to the circumstances of the case. Where appropriate, you should deal with people who use the service in a co-ordinated way with other providers to ensure their needs are met; and, if you are unable to help, refer them to any other sources of help.

Be mindful of the need to consider making reasonable adjustments for people who may need extra support, for example because of a disability.

Be mindful, where appropriate, of the need to have regard to your obligations under the Human Rights Act 1998.

Case study

The Ombudsman received a complaint that a Health Board had failed to provide her son with appropriate psychology services. The Ombudsman found that the Health Board failed to take prompt steps to meet the needs of the complainant's son following the closure of a psychology service. As a result, the complainant and her son were left with insufficient support at a time when her son's challenging behaviours were further complicated by the restrictions imposed due to COVID-19. The Ombudsman found that there was no evidence of contingency planning for the end of the service, and that the complainant had been left uninformed about what to expect. The Ombudsman recommended that the Health Board should undertake a review to identify any other patients with unmet clinical needs as a result of the closure of the service and that it undertake a review of its child psychology services. The Health Board also agreed to apologise to the complainant for the failings identified.

Key message

Where significant changes to services occur which could affect service users, public service providers should ensure that they communicate clearly with those affected and have clear plans in place to manage the changes effectively.

Principle 3: Being open and accountable

This includes

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating your criteria for decision making and giving reasons for decisions.
- Handling information properly and appropriately.
- Taking responsibility for your actions whether you are delivering services yourself or through third party contract or commissioning arrangements.

In seeking to achieve the above, you should handle information as transparently and as openly as the law allows. People who use the service should be given information and, if appropriate, advice that is clear, accurate, complete, relevant and timely.

Be open and truthful when accounting for your decisions and actions. You should state your criteria for decision making and give reasons for your decisions.

You should handle and process information properly and appropriately in line with the law. Whilst your policies and procedures should be transparent, you should, as the law requires, also respect the privacy of personal and confidential information. See our Good Records Management Matter document for more guidance around this: <https://www.ombudsman.wales/app/uploads/2022/01/Good-Records-Management-Matters.pdf>.

Take responsibility for the actions of your staff and those of others who act as your agents.

Where you enter into arrangements with third parties to provide services (whether from the private, charitable or elsewhere in the public sector), you should ensure there are robust governance arrangements in place. Contracts and agreements with partner organisations should clearly set out which body is responsible for responding to complaints. Also, people who use these services should be clear how they can make a complaint about the service and who is responsible for dealing with it. You need to be clear that you, as the public body with statutory responsibility for delivering the service, remain accountable for it, regardless of who is delivering the service in practice.

Case study

A couple complained about how a County Council responded to an investigation carried out under stage 2 of the statutory Social Services Complaints Procedure into concerns they had raised about a lack of service provision for their teenage son. Under this procedure, the stage 2 investigation is carried out by an external person not a Council employee. The complainants were concerned that the Council had attempted to influence the stage 2 investigator into changing her report and had refused to accept recommendations she had made. The Ombudsman found that at best, the Council's actions gave the perception that it was seeking to influence the outcome of the stage 2 investigation. The Ombudsman also found that when the Council declined to accept the stage 2 recommendations, it failed to give good reasons for doing so. In addition, he also found that a key policy needed amendment to ensure its criteria agreed with the legislative definition of "disability". The Council agreed to amend the policy and to provide an apology and financial redress to the complainants.

Key message

While there might be good reasons for a public service provider disagreeing with conclusions reached by an external agent it has commissioned (or indeed a decision recommended by one of its own staff), public service providers need to be clear and open about the reasons for going against those conclusions. It is also important that in doing so the public service provider does not give the impression that it is being defensive or dismissive.

Principle 4: Acting fairly and proportionately

This includes

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

In seeking to achieve the above, you should always deal with people fairly and with respect. You should be prepared to listen to your customers and avoid being defensive when things go wrong.

Treat people equally and impartially. You should understand and respect the diversity of your customers and ensure fair access to services and treatment regardless of background or circumstance.

Ensure that your actions and decisions are free from any personal bias or interests that could prejudice those actions and decisions, and any conflict of interest should be declared. You should not act in a way that unlawfully discriminates against or unjustifiably favours particular individuals or interests.

Ensure that people are treated fairly and consistently, so that those in similar circumstances are dealt with in a similar way. Any difference in treatment should be justified by the individual circumstances of the case.

When taking decisions, and particularly when imposing penalties, behave reasonably and ensure that the measures taken are proportionate to the objectives pursued, appropriate in the circumstances and fair to the individuals concerned.

Public bodies must ensure that they take decisions fairly, having regard to the individual circumstances of any particular case. Public bodies should therefore consider whether a strict application of a policy or procedures would, in the circumstances of a specific case, be unfair or unreasonable and whether an adjustment or departure from these normal policies or procedures would be reasonable to avoid this unfairness. Any departure the terms of an agreed Policy should be justified by the individual circumstances of the case.

Case study

While investigating an individual complaint against a Health Board, the Ombudsman found evidence which indicated that there may have been service failure and maladministration in how the Health Board had managed 16 other patients who were awaiting treatment for potential prostate cancer. At the time, only patients treated in Wales were required to be reported against Welsh cancer waiting time targets; however, 8 of the patients involved had been referred to England for treatment. As a result, the Health Board had not produced “breach reports” or harm reviews for those patients. The Ombudsman found that although there was no policy requirement to produce breach reports or carry out harm reviews for patients referred for treatment in England at that time, the location of the treatment should not have left the 8 patients in a position where they were denied the harm review process. Since the matters investigated took place, national guidance has changed so all patients are included within cancer waiting times monitoring arrangements regardless of where they are receiving treatment.

Key messages

- **It is important that public service providers ensure that people are dealt with fairly and consistently. In this case, the Health Board complied with the policy as it stood at the time, but this still led to an unfair outcome for a group of patients because of where they were referred for treatment. Public service providers need to be mindful of circumstances where following a policy or procedure might not be enough in itself to ensure to a fair outcome.**
- **Public service providers should ensure that they have adequate processes in place to properly monitor the performance of services**

which are commissioned from a third party.

Principle 5: Putting things right

This includes

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

When mistakes happen, apologise, explain what went wrong and put things right quickly and effectively.

Recognise that putting things right may include:

- Reviewing any decisions found to be incorrect.
- Reviewing and amending any policies and procedures found to be ineffective, unworkable or unfair.
- Giving adequate notice before changing the rules.

Recognise that your actions can sometimes bear more heavily on an individual because of their circumstances, even though statutory duties, service standards or both have been met. You should therefore be alert to this and respond flexibly to avoid or, where appropriate, put right any such undue effect.

Provide clear and timely information about methods by which people can appeal or complain.

Provide information about appropriate organisational or independent ways of resolving complaints.

You should operate effective complaints procedures, which are compliant with statutory requirements (for example, for health¹ and social services²), if applicable, and with the Complaints Standards Authority's model complaint handling procedure,³ if applicable, and include:

- Providing information about possible sources of help for people using your services, particularly for people who may find the complaints process daunting.
- Investigating complaints thoroughly, promptly and impartially.
- Providing an appropriate range of remedies to the complainant and any others similarly affected when a complaint is upheld. As a minimum, an appropriate range of remedies should include an explanation and apology from the public service provider to the complainant, remedial action, financial redress for the complainant or a combination of these. The remedy offered should seek to put the complainant back in the position they would have been in if nothing had gone wrong. Where this is not possible, as will often be the case, the remedy offered should fairly reflect the harm the complainant has suffered.

Case study

The Ombudsman received a complaint that there had been excessive delay by a Health Board in responding to the person's complaint. The complaint was originally made in July 2016, but the Health Board did not provide a response until 4 years later. The Ombudsman's investigation found that although the complaint was submitted by an unusual route, it was initially correctly passed to the relevant teams to deal with. Unfortunately, the Health Board closed the complaint in error in 2017 and then wrongly refused to reopen it the following year on the grounds that the complainant did not have authority to make the complaint, despite the complainant having provided acceptable evidence of this a month after the complaint had originally been received. Eventually, the Health Board restarted consideration of the complaint in September 2019, but still took over 10 months after that to provide the response. Throughout the whole period, the complainant's requests for updates were not always responded to or even

¹ [Putting things right \(wales.nhs.uk\)](http://wales.nhs.uk)

² [Social services complaints procedure | GOV.WALES](http://gov.wales)

³ www.ombudsman.wales/complaints-standards-authority

acknowledged. In response to the Ombudsman’s investigation, the Health Board agreed to provide evidence that it had reviewed its complaints management procedures to ensure the issues identified did not recur and to use the case as a case study when carrying out internal complaint handling training. It also agreed to apologise and provide financial redress to the complainant.

Key message

It is crucial that public service providers have adequate complaints handling processes in place so that complaints are not “lost” within the system. This should include ensuring that someone has oversight of the complaint and that the systems used provide easy access to key documents so that important information – such as the complainant’s authority to make the complaint in this example – is not overlooked.

Principle 6: Seeking continuous improvement

This includes

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring lessons are learned from complaints and use these to improve services and performance.

In seeking to achieve the above, you should put in place processes to ensure policies and procedures are regularly reviewed.

When you review your policies and procedures, actively seek and welcome all feedback, both compliments and complaints to improve your public service delivery and performance.

Capture and review lessons learned from complaints so that they contribute to developing and improving services.

About us

We serve the people of Wales in 3 different ways.

Our first role is to handle complaints about maladministration, service failure, or failure to provide a service by most public service providers in Wales, such as:



Local
Government



NHS (including
GPs and dentists)



Registered
Social Landlords



Welsh Government
& its sponsored bodies

More information on our process for handling complaints about public bodies in Wales can be found on our website.

Our second role is to consider complaints that elected members of local authorities have breached their Codes of Conduct, which set out the recognised principles of behaviour that members should follow in public life. In this role, we can consider complaints about:



Community
Councils



County & County
Borough Councils



Fire Authorities



National Park
Authorities

More information on our process for handling complaints about a local authority member's conduct can be found on [our website](#).

Our third role is to drive systemic improvement of public services. Traditionally, we have done this mainly by publicising our findings, for example in public interest and thematic reports, annual letters to bodies in our jurisdiction and casebooks. However, in 2019 the Act establishing our office was reformed. As part of the reform, we were given new powers to drive systemic improvement. We can now undertake investigations on our own initiative, even when we have not received a complaint. We can also set complaints standards for public bodies in Wales and monitor their performance in complaint handling.

Further Reading

Legislation

- The Public Services Ombudsman (Wales) Act 2019

Regulations

- The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011

Guidance

- Putting Things Right: Guidance on dealing with concerns about the NHS from 1 April 2011, Welsh Government, Version 3 November 2013
- A Guide to Handling Complaints and Representations by Local Authority Social Services, Welsh Government, July 2014
- Good Records Management Matters, Public Services Ombudsman for Wales, January 2022

Reports

- Ending Groundhog Day: Lessons from Poor Complaints Handling, Public Services Ombudsman for Wales, 2018

Online Resources

- Complaints Standards Authority, Public Services Ombudsman for Wales: [Complaints Standards Authority \(ombudsman.wales\)](https://ombudsman.wales)
- Welsh Language Standards, Welsh Language Commissioner: [Welsh language standards \(welshlanguagecommissioner.wales\)](https://welshlanguagecommissioner.wales)

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