

Response of the Public Services Ombudsman for Wales to the Welsh Government's Consultation on the 'Draft Additional Learning Needs and Education Tribunal Bill'

1. Introduction

- 1.1 I welcome the opportunity to respond to the Welsh Government's Consultation on the 'Draft Additional Learning Needs and Educational Tribunal Bill' which will replace the current Special Educational Needs (SEN) statement system. As Public Services Ombudsman for Wales (PSOW), I investigate complaints made by members of the public that they have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction. As such, I have a unique perspective on the provision of public services in Wales, driven from the views of members of the public who have been dissatisfied with the service they have received.
- 1.2 I can only respond to a consultation based on evidence from my investigations. Therefore rather than answer the specific consultation questions I will provide general comments based on PSOW's experience, which may be helpful to the Welsh Government's consideration of the draft Additional Learning Needs and Educational Tribunal Bill.

2. Impact on the Ombudsman's Jurisdiction

- 2.1 I currently have the power to, and do investigate complaints concerning the assessment and delivery of provision of SEN statements by local education authorities (LEAs). However in the draft bill, responsibility for the delivery of provision contained in additional learning needs plans (which replace SEN statements) will largely be removed from local authorities and will rest predominantly with schools and further education (FE) institutions. As these bodies currently do not fall within my jurisdiction (as they are not included as listed authorities under Schedule 3 of the PSOW Act), this means that I would no longer be able to investigate the majority of these types of complaint.
- 2.2 I would, therefore, urge the Welsh Government to address what amounts to the removal of an existing avenue of redress by either:
 - (a) bringing schools and FE institutions into my jurisdiction (that is as listed authorities under Schedule 3 of the PSOW Act) subject to the exclusion contained in Schedule 2 of the Public Services Ombudsman (Wales) Act 2005 which prevents me from considering action taken by an authority relating to the giving of instruction or the conduct, curriculum, internal organisation, management or discipline in a school or educational establishment; or

- (b) bringing schools and FE institutions into my jurisdiction for this specific purpose.

3. Individual Development Plans

- 3.1 It is clear from the complaints I see that the current situation in respect of the provision of educational learning needs is complex and confusing for service users. I welcome the notion of the development of individual development plans and the vision for joint working between the various local education authorities, schools or colleges and health bodies. This approach has the potential to be more streamlined and effective. However safeguards should be put in place to allow individuals to seek independent redress (as is currently the position) in the event of any delays or inaction in the process and where no statutory right of appeal to SENTW exists.

Public Services Ombudsman for Wales
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