

SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 171 – Complaints about social services

431. **Section 171** gives regulation making powers to the Welsh Ministers to establish procedures for making complaints about social services. These will replace the current provisions about complaints procedures for Welsh local authority social services under sections 114 and 115 of the Health and Social Care (Community Health and Standards) Act 2003, which are disapplied in so far as they relate to Wales.
432. Subsection (1) gives the Welsh Ministers the power to make regulations about the consideration of complaints relating to local authority social services. It sets out the types of complaints for which the regulations may make provision. These include complaints about the provision of services by a local authority or other person under a partnership arrangement made by the authority under section 33 of the National Health Service (Wales) Act 2006, or section 75 of the National Health Service Act 2006 in relation to the functions of an NHS body, so far as exercisable in relation to Wales. The intention is that a person receiving both health and social services from a local authority under such an arrangement will be able to complain to that local authority even if the complaint is about health services which it provides.
433. Subsection (2) allows the regulations to make provision about the person or body who will consider a complaint. It is envisaged that this role will be given to the local authority concerned, and that the first stage of the process will be for the authority to attempt to resolve the matter informally. If this attempt is unsuccessful, this may be followed by a formal investigation.
434. Subsection (3) provides for complaints, or any matter raised by a complaint, to be referred elsewhere. It makes specific provision enabling the Welsh Ministers to provide in regulations that matters may be referred to the Public Services Ombudsman for Wales (“the Ombudsman”) to consider under the Public Services Ombudsman (Wales) Act 2005. This is intended to raise awareness amongst complainants of their right to complain to the Ombudsman. The regulations may also provide that the complaint or matter raised by the complaint may be referred to any other body so that it can decide whether to take any action.
435. Subsection (4) prevents the regulations from making provision about the consideration of complaints and representations which are capable of being made under sections 174 or 176 of this Act. A separate procedure is being maintained under section 174 for complaints and other representations relating to specified groups of children and young people. (This reflects a distinction that currently exists between the complaints which may be considered under the Health and Social Care (Community Health and Standards) Act 2003 and the representations which may be considered under Part III of the Children Act 1989, those provisions being largely re-stated in this Act).