Older People's Commissioner for Wales
Comisiynydd Pobl Hŷn Cymru

Commissioner's Casebook

October 2017

Standing up and speaking out
for older people across Wales

The Older People's Commissioner for Wales

The Older People's Commissioner for Wales is an independent voice and champion for older people across Wales. The Commissioner and her team work to ensure that older people have a voice that is heard, that they have choice and control, that they don't feel isolated or discriminated against and that they receive the support and services that they need.

The Commissioner and her team work to ensure that Wales is a good place to grow older, not just for some but for everyone.

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Foreword

I am regularly contacted by older people from across Wales, as well as those who care for and care about them, who need help to challenge the decision-making and practice of public bodies. Since I became Commissioner in June 2012, I have provided support and assistance to over 1,250 people.

At the heart of my approach is ensuring that the individual always feels empowered and has been taken seriously and that public bodies have been held to account. Some cases may take years to resolve or find out what happened to a loved one. My support continues for as long as is needed.

The circumstances of every individual that contacts me are unique to them, but most are experiencing significant distress, and are worried, anxious and disillusioned. Many of them have fought hard to have their concerns resolved, but often with little success.

Many of the people I support feel that their right to make choices about the things that affect their lives has been taken away from them. They feel that their concerns are considered irrelevant and that they have not been listened to, which leads to action being taken that does not reflect their wishes.

People tell me that the complaints, appeals and investigations processes they have been involved in are impossible to navigate, which leads to confusion, frustration and a lack of confidence that our public bodies will respond appropriately and take the correct action when things go wrong.

Some of the cases I become involved in should not require my intervention. My involvement is a reflection of systems that often fail to listen to older people, recognise their wishes and treat what they are saying with sufficient seriousness to act upon it. Many people tell me it is the first time they have been believed and taken seriously. Issues that may be dismissed as trivial by those who are not affected can often be very impactful for those they do affect. It should not take my involvement to ensure that public bodies listen to older people and act upon their concerns. It is clear that for many people there would have been no resolution to the issues they have faced without my intervention.

Many of the individuals I support tell me that they feel powerless and face a range of barriers when they try to stand up for themselves and claim their rights. Through my casework, I enable people's voices to be heard and empower individuals to seek justice and resolution when their lives have been affected by difficult circumstances, service failures or mistreatment.

The most complex cases my team and I receive are adult safeguarding matters. Many older people who contact me for support are extremely distressed as a result of their experiences, particularly in cases where the harm caused could have been prevented. They often feel that their concerns have not been taken seriously and consistently tell me that they do not want anyone else to have a similar experience. They want public bodies to learn from their mistakes and use their experience to avoid harm being caused to other people.

The issues I identify through my casework guide and shape my work as Commissioner and I regularly share these issues with public bodies to help to inform their current and future policy and practice. I am publishing my second periodic casebook to highlight some of these issues, as well as the cross-cutting themes that exacerbate these issues and create additional barriers and challenges for older people when dealing with public services. This casebook will be supported by a national seminar to support public bodies in learning from the voices and experiences of older people.

There is much good work underway in Wales to support and assist older people, and I consistently pay tribute to those who do this work. However, sometimes things do go wrong and the consequences for older people and their loved ones can be severe. It is hard to imagine the depth of grief and despair that people can face when things go wrong and their concerns are ignored. Many require emotional, as well as practical support

Alongside my wider work as Commissioner, I will continue to use my casework to stand up and speak out for older people across Wales and ensure that our public services empower and support them so they can live fulfilling, independent lives and have rights that are real and meaningful.

Sarah Rochira
Older People's Commissioner for Wales

When and how I can assist

A key part of my role as Commissioner is to ensure that the interests of older people are safeguarded and promoted when public bodies discharge their functions. To support this, I have a range of legal powers that enable me to safeguard and protect older people (Appendix 1), which include providing support, assistance and advice directly to older people (or someone acting on their behalf) through my Casework Team.

The action I am able to take to assist older people is outlined within the Commissioner for Older People (Wales) Act 2006 (the Act), alongside details of the organisations that fall under my remit.

I am able to provide support and assistance to an individual if:

- they are aged 60 or over;
- they live in Wales;
- no other organisation is better placed to provide support; and
- the enquiry relates to an organisation or public body that falls under my remit

Sometimes the issues people raise with me sit outside of my remit. In these instances I may still provide support, albeit with limited scope in respect of action.

I take on cases from people that contact my Casework Team directly, from information shared with me at engagement events with older people and through referrals from concerned family members, friends and neighbours. Following contact from their constituents, I also receive referrals from Assembly Members and Members of Parliament.

When an older person contacts me, my Casework Team will assess whether they are best-placed to provide assistance, or whether a partner organisation or agency would be better placed to provide help and support. I use existing complaints and resolution processes, where possible, to both minimise procedural requirements and maximise impact and learning. I am careful not to duplicate the work of others, making referrals to other agencies if they are better placed to assist. Where needed, I support other agencies to strengthen their ability to support an individual.

If my Casework Team is best-placed to provide assistance, a caseworker will discuss with the older person and/ or their representative the nature of the support required ensuring that their concerns are addressed.

My team will always seek written consent of the older person to act on their behalf (wherever possible) or from those who are able to provide consent on their behalf (in cases where the older person is unable or lacks mental capacity to do so).

I provide assistance and support in a range of ways, depending on what the individual needs and wants. This can range from providing tailored information and advice to enable the person to take action themselves, to fully acting on their behalf. I take into account their wishes at all times when working on their behalf.

Sometimes I am contacted about an event or an alleged event that has been so serious that it merits a use of my specific legal powers, such as my Review into the closure of a care home (carried out under Section 3 of the Act) or my Review into the whistleblowing arrangements of a Local Authority (carried out under section 5 of the Act). I have also used specific legal powers to provide support to individuals involved in a tribunal appeal and during proceedings in the Coroner's Court.

In some cases, the issues my Casework Team deal with relate to policing or the criminal justice system. Whilst this is an issue which falls outside of my remit, I have an excellent working relationship with the four Welsh Police Forces that enables me to bring to their attention any issues that may affect the lives of older people in Wales and provides a gateway to consider or to achieve appropriate outcomes.

Every person who receives assistance is asked to provide me with feedback on how we supported them. This information is used to support ongoing improvement to the support we provide with a formal review on a quarterly basis.

In addition to this, my Casework Team often receive informal feedback and message of thanks. Quotes from some of these are below:

"Thanks for all your support, it's the first time I've seen my dad smile in months."

"I cannot thank you enough. Without your help I would still be going around in bureaucratic circles."

"It gives me great pleasure to give some positive feedback to someone at last. I was in a quandary and at my wits end what to do. In a very short time things are moving faster and I am getting the information I need thanks to the Older People's Commissioner and [the caseworker] in particular. Many thanks."

“Your support was invaluable and second to none. I have been told that your intervention has already had an impact on the local authority’s approach towards other older people who find themselves in a similar situation. I will forever be in your debt.”

“I still believe that you can tackle any problem, big or small and you persevere until it’s resolved. Keep being as patient and amiable as you deal with issues. Thank you and best wishes.”

“I am very pleased for the help you have given me, I feel safe now that there is someone like you to help us out. Thank you for your help.”

“Oh my goodness!” I am absolutely delighted! I cannot thank you enough; you have been an absolute brick. I will sleep for the first time in months and it’s all thanks to you; you are an absolute gem. You have helped me enormously [caseworker] and you have restored my faith in public services.”

“I cannot thank you enough...you are extremely efficient! I haven’t got anywhere for 6 weeks and one telephone call and within a matter of minutes I have help. Thank you so much dear.”

“Yet again, thanks for everything and we wish you all the very best because I know if it was not for you, I would still be fighting and I cannot think what or where mum and dad would be. All our love.”

“I would first like to say thank you for the work put into sorting out the ‘bad decision’ made without involving the tenants of [housing scheme]…with the help of [caseworker] and her team problems were soon sorted out and now thanks to you we can start living a normal life again.”

“Just a note to tell you that the advice from you and your office has been most helpful. My local authority has promised to begin a review of that particular bus service for better access to a Surgery. So it looks positive. The village grapevine is thrilled and we all say Thank you.”

Themes Arising from my Casework

As well as providing older people with direct assistance and support, I also use my casework to identify common issues and themes that run across their experiences.

Doing this not only allows me to provide strong evidence to public bodies about the ways in which practice needs to change to improve older people's experiences, but also supports my wider work to influence the provision of public services, Welsh Government policy at a national level and the evidence I can provide to the National Assembly for Wales.

Everyone who contacts me is facing unique circumstances. I am contacted about a wide range of issues, including treatment and care in hospital and residential care settings, ranging from access to food and the ways in which people died; financial issues such as cross organisational funding disputes, incorrect charging of fees, non-granting of financial entitlements; housing issues ranging from access to home adaptations, evictions and couples being separated; best interest decisions on a wide range of issues; waiting times for services and aids and adaptations; and home safety, domestic abuse and failures to prosecute.

Whilst the people who contact me face unique and personal issues, there are common themes that sit behind their experiences and concerns. The themes that I have identified are:

- Public body policies and procedures can often be complex and challenging to people unfamiliar with them, intensifying the stress they are under and causing great anxiety. Inflexible processes and a lack of integrated working can create barriers to securing desired outcomes and leave people feeling that the processes are designed to benefit organisations, not the individual. Older people tell me that organisational process and procedures are not clear or transparent, and that issues which can and should be resolved quickly can go on for unacceptably long periods of time.
- Communication is often ineffective and consultation feels meaningless, leaving individuals feeling powerless and ignored.
- Public bodies and decision makers often do not understand the impact on people's lives of the decisions they have made. In particular the extent to which the way decisions are made can lead to individuals losing their sense of identity and self-worth. Older people often tell me that they are not treated as equal partners, have limited and untimely communication and feel as if they are shut out from decisions about their lives. The issues considered

by older people or their families to be important are often marginalised by professionals, which leads to older people feeling excluded from decision-making processes.

- There is little understanding of human rights or a practical application of a rights-based approach, despite the duties placed upon public bodies under the Human Rights Act 1998 and the Social Services and Well-Being (Wales) Act 2014. This leads to poor decision-making and places vulnerable people at risk of harm. Denial of a right to respect for family life, freedom of association and liberty, as well as inhuman and degrading treatment, all feature in my case work.
- Public bodies often misunderstand what constitutes criminal abuse or neglect and do not always correctly refer these cases to the police. Whilst older people do not always want to pursue a criminal investigation, they do not want the option to be excluded without proper consideration. Older people's desire for justice and accountability is a common theme that runs throughout the issues raised with my Casework Team, as well as a wish that others do not have to suffer the same fate.

It is clear from these themes that there is a significant power imbalance that individuals face when raising issues and complaints with public bodies. This is one of the reasons that the role of independent advocacy is so crucial to the delivery of public services within Wales. Independent Advocacy provides people with a support in understanding the choices available to them, as well as making decisions and representing their experiences, wishes and feelings to decision-making bodies. The value of independent advocacy in safeguarding older people from harm should not be underestimated.

It is also clear that public bodies are not good enough at learning from their mistakes or using people's voices and experiences to underpin and drive continuous service improvement.

Case Studies

My casework reflects the wide range of issues faced by older people and their families across Wales. The cases outlined below demonstrate the impact that my Casework Team has had in making a real difference to the lives of older people and their families.

These cases represent a small sample of the many cases that older people and their families regularly bring to my attention. In many of these cases I believe I have been able to make a difference in improving the lives of older people. However, I find it disappointing that it was necessary for my intervention or support to enable these positive differences to be made. I expect all organisations involved in the types of situations highlighted in this casebook, to reflect and act upon them appropriately.

The names of the individuals in the case studies below have been changed to protect their identity.

Mrs Higgins – Dispute over a Best Interests decision to discharge an individual to a nursing home

An independent advocacy service contacted my office to request my support as they were unable to provide much needed assistance to Mr Higgins due to area restrictions in their funding arrangements.

In the absence of any other support, a Senior Caseworker contacted Mr Higgins to discuss his situation. Mr Higgins explained that his wife (Mrs Higgins) had been in hospital for a considerable length of time following a stroke and had recently been declared medically fit for discharge.

In order to be discharged safely from hospital, Mrs Higgins had been assessed as requiring one-to-one supervision, 24-hours-a-day to meet her needs. Mr Higgins and his daughter discussed the situation with hospital staff and were given every indication that Mrs Higgins would be able to return home with a support package in place that would be fully funded by the Health Board under NHS Continuing Health Care (CHC).

Mrs Higgins was deemed to lack capacity with regard to her awareness of her health and care needs and a Multi-Disciplinary Team (MDT) determined she should be discharged to a nursing home, with her progress being monitored by the Health Board. They intended to review Mrs Higgins's case after a six-week period, with a view to allowing her to return home at that time.

Following the MDT assessment, a Best Interests meeting was held and concluded that there were not enough resources available to the Health Board to provide the one-to-one support Mrs Higgins would require if she returned home. Mr Higgins's argument, that he could fill any shortfall in the one-to-one care, was not accepted as it was argued that he had not provided enough evidence to show that he could adequately support Mrs Higgins and mitigate the perceived risks to her safety in the absence of Health Board staff. As a result, the conclusion of the Best Interests meeting was that Mrs Higgins should be discharged to a nursing home placement with additional one-to-one support commissioned as necessary.

As Mrs Higgins's representative, Mr Higgins explained that his wife had expressed strong views about nursing homes following the death of a relative and would be very unhappy to go into this kind of setting. He said that he and his family were prepared to provide the additional supervision when Health Board staff were unable to provide the required cover and pointed out that he was already providing a significant amount of support to hospital staff in providing one-to-one care for his wife. He was reassuring her when she felt disorientated and helping her to the toilet when needed.

Mr Higgins felt that rather than seriously considering a discharge home, the Health Board had made a decision on resource implications rather than what was available and not based upon the needs of his wife.

Action taken

A Senior Caseworker made contact with the Health Board and spoke to the person responsible for Mrs Higgins's case. After consideration of the Health Board's position, the Caseworker contacted Mr Higgins again to discuss the information provided. The caseworker agreed to write to the Health Board to request greater clarity on certain elements of Mrs Higgins's case, particularly around Deprivation of Liberty Safeguarding (DoLS), mental capacity assessments, Best Interests decision-making and collaborative working with Social Services to meet her needs.

After some correspondence, the Health Board invited Mr Higgins and his daughter to a meeting and extended an invitation to the Senior Caseworker. The Senior Caseworker supported the family to question the decision-making process of the Health Board, but the meeting concluded with the Health Board maintaining their original position: that Mrs Higgins should be discharged to a nursing home.

Mr Higgins was naturally disappointed that there had been no progress towards a solution that he found acceptable and decided at the conclusion of the meeting to take some time to consider the options available to him. One option available

was to take legal advice, with a view to making an application to the Court of Protection in order to challenge the Best Interests decision. They were aware, however, that this would have delayed discharge even further and could have had a detrimental effect on Mrs Higgins's wellbeing. The alternative was to accept the Health Board's position and engage with the process of finding a nursing home.

The difference that was made

Whilst the family were considering their options, the Health Board sought another capacity assessment of Mrs Higgins. It was confirmed that although she lacked mental capacity in relation to her health and care, she retained cognitive function elsewhere. It was therefore determined that a nursing home placement would not be appropriate after all. An MDT meeting was reconvened and resources identified that enabled the Health Board to provide the majority of the one-to-one support for Mrs Higgins at home. The family agreed to cover Mrs Higgins's remaining support needs and one week later she was discharged home, an outcome that would not have been achieved without the support and intervention of my Senior Caseworker.

Mrs Higgins's move from hospital went well and she is now enjoying quality time with her family in the comfort of her own home, supported by a range of services and agencies.

Mr and Mrs Pearson – Empowering a family to challenge a decision that prevented a married couple from living together

Mr and Mrs Pearson's daughter contacted my office as she was concerned that her parents, who were in their mid-eighties, were living apart because of their differing care needs.

Mr Pearson was confined to his bed and living in a nursing home. Mrs Pearson continued to live in her own home but her dementia diagnosis was making her day-to-day situation extremely challenging as she had experienced a number of falls and was feeling increasingly isolated.

Their daughter explained that her parents' separation was having a devastating impact on their wellbeing and mental health. They had been married for over 60 years and living apart from her husband was causing Mrs Pearson to worry that he had died. As a consequence, she was phoning the nursing home several times day and night, often in tears, asking after him. Their daughter was unable to facilitate regular visits between the two because of her own workload.

Mr and Mrs Pearson were hopeful that this situation might be addressed when a new Extra Care facility opened in the area. With the support of their social worker, they applied formally to move into the facility so that they could live together once again.

Much to their disappointment, the application was refused by the Local Authority panel on the grounds that Mrs Pearson would suffer a detriment if she was removed from the familiar surroundings of her home and that Mr Pearson was 'better off' living in the care home. This decision was made despite the care assessors from the Extra Care scheme confirming in advance of the application that that they could meet both of their care needs.

Mr and Mrs Pearson felt this decision was unfair. They were concerned that Mrs Pearson's dementia had worsened dramatically because of the lack of social interaction and that Mr Pearson's emotional needs had not been taken into consideration.

Mr Pearson's social worker remained supportive and tried to challenge this decision but could not find any information about how they could challenge the panel's decision.

Action Taken

With the couple's consent, my Casework Team contacted the Local Authority and highlighted how imperative it was to consider all of the options available that would allow Mr and Mrs Pearson to live together again. My caseworker asked for clarification about whether consideration had been given to the opinions of staff at both the current nursing home and the Extra Care scheme that Mr Pearson's needs could be met at the scheme.

My Casework Team also requested details about how the couple could appeal this decision, as the social worker had been unable to obtain this information.

The difference that was made

The Head of Service responded to my Casework Team's queries, acknowledging and accepting the concerns raised. It was confirmed that a new Chair had been appointed to the panel that was responsible for deciding whether such a placement was feasible.

As a result of my Team's intervention, the Local Authority and the Housing Association managing the Extra Care scheme committed to undertake a joint-assessment to reconsider the couple's application, and advised that they were considering other options that may be available to the couple. In the interim, the social worker arranged for a support worker to facilitate the couple meeting up on a weekly basis.

Eventually, the couple were able to be reunited and are now living together in a care home that is able to meet their needs.

The couple and their daughter, as well as their social worker, all expressed thanks to my Casework Team. Prior to my involvement they were unable to obtain the information they needed and were therefore powerless to challenge the panel's decision.

Mrs Ellis – Failure to investigate potential criminal offences against an older vulnerable adult

I was contacted by an Assembly Member who referred concerns to me that a constituent, Mrs Duvall, had brought to his attention. For many years, Mrs Duvall had dealt with the affairs of Mrs Ellis, a lifelong friend who was 94 years old, extremely frail and resident in a nursing home.

Mrs Ellis had shared a number of concerns with Mrs Duvall about the nature of the care she had received at the home and, most significantly, reported that:

- On one occasion her catheter had to be changed in the late evening. The two nurses took nearly two hours to change it due to poor lighting. This delay caused her to become distressed and she was very sore and in pain.
- On another occasion, she complained that she had been roughly handled by a nurse who pulled her legs apart and pushed the catheter hard into her bladder causing considerable pain that lasted for over a week. She reported this incident but was never told the outcome.
- She lost control of her bladder and when she used the call bell to ring for help, the staff who attended to her were rough and hurt her. They changed the pad but did not change the bottom sheet leaving her on wet bedding for some time.

Mrs Ellis had since left the nursing home in question and was settled in her new home. She felt the time was right to raise these issues more formally. On Mrs Ellis's instruction, Mrs Duvall therefore shared the information with her Assembly Member, who referred the concerns to my office.

Action taken

These disturbing allegations were immediately referred by my Casework Team to the Local Authority as a safeguarding concern, which I expected the Local Authority to consider as an 'adult at risk' referral. There is a legal obligation under the Social Services and Well-being (Wales) Act 2014 for the local authority to make enquiries into the concerns raised within seven days.

Despite receiving an early acknowledgement of the referral, it took numerous telephone calls and emails from my Casework Team to find out how this case was progressing. My Casework Team were not assured that their enquiries were being dealt within the specified timescale and only received a response from the local authority a month later.

It was then explained that the concerns raised were not being dealt with under safeguarding procedures because, as she had since moved to another care home, Mrs Ellis was no longer considered to be at risk. Instead, the issues raised had been dealt with by a Practice Development Nurse, who had been sent in to the home by the Health Board. This, along with the home's use of their internal disciplinary policy, had given the Local Authority the assurance they needed that the matter had been appropriately addressed.

I did not however find this response sufficient as I could not be confident that the possibility of a criminal offence, such as wilful ill-treatment, assault, or medical malpractice, or a referral to the Nursing and Midwifery Council, had been properly assessed or considered. Whilst not all poor care is criminal in nature, I did consider that due consideration had not been given to assessing this. My Casework Team therefore referred these concerns directly to the police.

Following referral, the Police determined that the matter had not been sufficiently considered by the Health Board and the Local Authority: they had not interviewed Mrs Ellis directly and had made their determination based on the feedback of Mrs Duvall, which they considered to be anecdotal. Following this, the Local Authority and the Health Board met with Mrs Ellis to talk to her directly about the allegations. They again determined that the issues raised had already been appropriately addressed and the matter was again closed without referral to the police.

However, Mrs Ellis remained adamant that she wanted to speak to a police officer regarding this matter.

As I remained concerned that the potentially criminal acts of assault and wilful ill-treatment, which had been described by Mrs Ellis had not been considered directly by the police, I wrote to a senior police officer to make this view clear. I received a response indicating that Mrs Ellis would be interviewed directly by the police, as the previous decision not to do so had been incorrect.

The difference that was made

My intervention ensured that Mrs Ellis was interviewed by a Police officer.

Mrs Ellis welcomed the fact she had the opportunity to explain face-to-face to the police what had happened to her whilst she was resident in the home so they could determine whether there were grounds for a criminal prosecution.

During that meeting, which took place nine months after the incidents had occurred, the police officer listened to Mrs Ellis's account of the incidents. Following a review of the case, the officer concluded that the incidents did

not meet the threshold for referral to the Crown Prosecution Service. The officer explained that a Health Board representative had visited the home and established from the care notes that that the care home staff had tried to fit a catheter that was the wrong size, which would have accounted for the pain Mrs Ellis had endured.

Whilst no charges were brought, Mrs Ellis's aim was to ensure that the matter was taken seriously, and the police's involvement in the matter gave her that reassurance that the matter had been investigated to her satisfaction. She was much happier in herself and Mrs Duvall said she felt relieved that her concerns had finally been taken seriously, and thoroughly and independently investigated.

Mr Powell – difficulties reporting a safeguarding concern in a hospital setting

Mr Powell contacted my office requesting support on behalf of his mother-in law, an 86-year-old woman with dementia, who was currently in hospital.

Mr Powell was concerned that his mother-in-law had developed pressure ulcers since being admitted to hospital. He knew that his mother-in-law's air flow mattress hadn't been functioning properly during the previous week and was unclear on how quickly it had been fixed. He was concerned that the pressure sores might be an indicator that his mother-in-law had been neglected whilst in the care of the hospital and wanted to make a safeguarding referral.

Mr Powell had already contacted the Local Authority, who advised him that as the issue had arisen whilst his mother-in-law was in hospital he needed to make the referral through the Health Board. Mr Powell had not been given the contact details of an appropriate contact in the Health Board and could find nothing on the Health Board's website on how and to whom a referral should be made. He was lost and needed guidance.

Action taken

A Senior Caseworker advised that the safeguarding provisions in the Social Services and Well-being (Wales) Act 2014 meant that Local Authorities in Wales are expected to take the lead on all safeguarding referrals. Mr Powell was therefore advised to go back to the Local Authority, making it clear that he wished to make the referral to them.

It took a further four working days for someone from the Local Authority to call Mr Powell back to take the details of the referral and he was informed that the concerns would be subject to a safeguarding investigation.

Mr Powell's mother-in-law's condition improved and she was discharged to a care home. Sadly, however, she passed away three weeks later.

It had been some months since the initial safeguarding referral had been made and Mr Powell had heard nothing further about the safeguarding investigation. Mr Powell was naturally distressed at his recent loss but did not want to delay pursuing the issue.

An update on the investigation was therefore sought on behalf of the family. Whilst the investigation had been passed to the safeguarding lead in the Health Board, it became clear that the matter had not been assigned for investigation for over four months.

The difference that was made

My Casework Team's intervention identified there had been a number of unforeseen incidents, which have unfortunately led to delays in the execution of the safeguarding process. However, my Casework Team were able to obtain assurance from the Health Board that the investigation into the care Mr Powell's mother-in-law received in hospital would be completed without any further delay.

My Casework Team was able to reassure Mr Powell that progress was being made. Within a short period of time he received confirmation that the investigation had been completed and that the allegation of neglect had been upheld as proven. The investigation report would be formally shared at a Case Conference so as to ensure that all areas of concern have been addressed to the family's satisfaction.

Mr Powell felt reassured and empowered by the fact that his concerns had at last been taken seriously and was grateful for the intervention and support received from my Casework Team.

This is one of many cases where older people and their families have raised concerns about safeguarding cases in relation to hospitals.

Mrs Simons – Unexpected reduction of one-to-one support in Continuing Healthcare package

My Casework Team was contacted by an Assembly Member, who had been approached by a constituent, Mr Simons, who needed help and support. Mr Simons explained that his wife was 61-years-old, had early onset dementia and was living in a nursing home.

The care Mrs Simons was receiving was funded under NHS Continuing Healthcare (CHC) and since entering the home she had been receiving one-to-one care on a daily basis. However, without consultation with Mr Simons, the one-to-one element of her care package was being gradually reduced.

Mr Simons had made clear his concerns that the level of one-to-one care his wife relied upon was diminishing and was particularly troubled by the fact that he had not been included in any of the discussions that had resulted in this reduction.

Despite assurances that Mr Simons would be involved in any future reviews, one-to-one care was withdrawn completely following a review meeting to which he had once again not been invited to participate in.

Whilst sensitive to the demands on the health service, Mr Simons was deeply concerned and fearful that the loss of one-to-one care would compromise Mrs Simons' settled state and impact upon her independence and wellbeing. The removal of the one-to-one care was having a growing impact upon both her and her family's health.

Mr Simons was particularly concerned that she was becoming isolated within the care home. As Mrs Simons is living with early onset dementia, he felt she needed more tailored activities. He wanted to be able to take his wife out in the car to see her friends and family but was unable to do this without the support of the one-to-one carer. These trips out really stimulated Mrs Simons and lifted her mood, having a positive impact and helping her to maintain a level of cognitive ability. He stressed that her condition was likely to deteriorate over the coming years and that they had a window of opportunity during which she could enjoy her independence.

Action taken

With appropriate consent, a Senior Caseworker attended a meeting between Mr Simons, a representative from the Health Board's CHC team, a Nurse Assessor and the relevant care home staff to discuss Mrs Simons' needs.

During the meeting, the Health Board representative conceded and apologised stating that the reduction of the one-to-one support could have been managed better and with more effective consultation with Mr Simons.

The difference that was made

It was acknowledged that Mr Simons should have been advised from the outset that the one-to-one support was not a permanent arrangement and that it would be reduced or even stopped over time. The Health Board made a commitment to ensure that this kind of information would be clearly communicated to people found eligible for CHC funding in the future.

Whilst it was determined that Mrs Simons remained entitled to CHC funding, a thorough nursing assessment found that she no longer required the one-to-one care she had previously received. The Nurse Assessor's report, however, included clear reference to Mrs Simons' social needs and a formal request was made to review the care plan.

Following a review of the care plan, Mrs Simons was able to receive 3 hours, allocated twice a week on a rolling programme to enable her to leave the care home to socialise with friends and family and engage in activities appropriate to her needs.

Mr Simons provided me with an update a few months later and advised that the health board also reviewed their practice in three areas:

- Training of Nurse Assessors to address disparity in practice
- Altered the one-to-one support review process, requiring consideration at a full panel.
- Reviewed and updated patient and carer information leaflets and letters.

Mr Simons was updated on these practice changes and was also consulted and invited to make a contribution to the patient and carer information materials. Mr Simons felt raising his concerns had made a real difference to not only his wife's situation but also made improvements for other people in the future.

Mr Simons found the contribution of my Senior Caseworker to be of great help and commented on the positive nature of the meeting. He said he felt so much better now that his voice had been heard and was confident he could work with the Nurse Assessor to ensure his wife had the best life possible.

Mr Price – Failure to investigate theft of £50,000 by privately employed carer

Mr Price contacted my office as he was concerned that his late mother had been the victim of financial abuse perpetrated by a privately paid carer and the carer's parents.

He alleged that around £50,000 of his mother's funds could not be accounted for and that he had reported the matter to the police.

He told my Casework Team that since he had made his report, the case had been passed between several different police officers for investigation and had ultimately been allocated to a part-time police constable. Mr Price was concerned that this officer lacked the resources to investigate properly and in the six months since he reported the alleged crime, he had heard nothing about how the police investigation was progressing. He feared that the case was "languishing by the side of a bin gathering dust".

Action taken

My Casework team contacted the police force in question on behalf of Mr Price, clearly setting out his concerns and the issues he had faced.

After reviewing the management of the case, a senior police officer acknowledged that the standard of investigation had fallen below the level he would expect and the case was reassigned to a detective in the police criminal investigations department. A commitment was made that the investigation would be speedy and efficient, and that Mr Price would be kept up-to-date throughout the process.

The difference that was made

Following months in which there was no progress in the investigation, my intervention ensured that the allegations made by Mr Price would be properly investigated by an experienced police officer. Mr Price was very grateful for the support provided to him by my Casework Team and expressed his thanks that they had been successful in "getting things moving at last".

He does not believe this case would have been investigated thoroughly without the support of my Casework Team.

It later transpired that further delays in the criminal investigation had been compounded by the slow responses of the bank in providing critical information to the police.

Mr & Mrs Ahmed - dispute between Local Authorities regarding responsibility for care funding

A solicitor contacted my office to seek assistance on behalf of Mrs Ahmed, a former client involved in a dispute between Local Authorities over who was responsible for funding her husband's (Mr Ahmed) care.

As a result of this dispute, Mrs Ahmed was left with no option but to privately fund her husband's care, paying out £3,400 every month from a rapidly diminishing pot of savings as she was anxious and fearful of the care home placement being lost if an invoice went unpaid.

A Senior Caseworker contacted Mrs Ahmed, who said that her husband had dementia and lacked the mental capacity to make decisions relating to his property and affairs. Mrs Ahmed had therefore been appointed as her husband's Financial Deputy by the Court of Protection.

Mr Ahmed had been living in a care home when he was admitted to hospital. At the point at which he was ready to be discharged, following a lengthy hospital stay, the home he had previously lived in had no beds available. An alternative care home was therefore sought and a room was identified. This room, however, was in a different Local Authority.

Mrs Ahmed had contacted both authorities when her husband's capital was nearing the capital limit to ensure that her husband's care home fees would be paid for by the responsible Local Authority. After four months, however, the issue remained unresolved.

Mrs Ahmed experienced significant difficulties in identifying a named contact at either authority who would take ownership of the issue and support her to resolve it, and was being passed back and forth from one Local Authority to the other.

In addition to feeling deeply anxious and upset about the situation, Mrs Ahmed was also very frustrated that the issue still wasn't being resolved despite the fact she was making numerous phone calls and often enduring considerable waiting times to speak to someone (over 40 minutes in one instance).

Despite the fact that both Local Authorities were fully aware that both Mrs Ahmed and her husband were in their 80s and in receipt of care packages, there appeared to be no urgency to identify which Local Authority was responsible for funding Mr Ahmed's care.

Action taken

With the appropriate consent, I contacted the Local Authorities concerned, setting out in writing a number of concerns about the detrimental impact that this deadlock was having on both Mr and Mrs Ahmed, and making clear my expectation that the matter should be resolved as quickly as possible.

Through my correspondence with the Local Authorities, it became clear that this situation had arisen as there was a disagreement over where Mr Ahmed was considered to be 'ordinarily resident'.

The difference that was made

As a result of my intervention, the case was reviewed and one of the Authorities concerned accepted responsibility for funding Mr Ahmed's care. In addition to this, they also provided a full written apology to Mrs Ahmed.

I subsequently wrote again to the Local Authority responsible, outlining my expectation that Mrs Ahmed would be refunded in full for the fees she had been forced to pay as a result of their failure to accept responsibility for funding the care Mr Ahmed needed.

The Director of Social Services for the relevant Local Authority contacted me acknowledging their responsibility and informed me that a letter would be sent to Mrs Ahmed to fully apologise for what had happened. This letter would also provide reassurance that her husband's care home fees would be paid by the Local Authority and that Mrs Ahmed would no longer be forced to pay the fees out of their limited remaining funds.

Mr Jones – Unacceptable pressure to pay voluntary top-up fee for fully funded NHS Continuing Healthcare

An Assembly member contacted my office as they were concerned that one of their constituents, Mr Jones, had been unable to leave hospital for a considerable amount of time as it had not been possible to identify a local care home that could meet his needs and was able to accept him as a resident.

Discussions with Mr Jones's allocated social worker revealed that a placement had been found, which was to be fully paid for by NHS Continuing Healthcare Funding (CHC). It came to light, however, that the care home owner had also written to Mrs Jones (Mr Jones's wife), offering her an opportunity to voluntarily pay an 'additional charge' of £100 a week, which reflected the home's 'superior environment'. Mrs Jones was clear that her husband should not be expected to pay any additional charges for his care as he was in receipt of CHC funding.

Action Taken

I contacted Mrs Jones to gather additional information from her and obtain a copy of the letter.

It was clear that the wording of the letter - which suggested the viability of the home and its high standards were dependent on such payments - would have placed significant pressure on family members of residents to pay 'additional charges', even if the care of their loved ones was fully funded by the NHS.

I therefore contacted the Health Board, making clear that the content and tone of the letter was wholly inappropriate and that it seemed to conflict with Welsh Government guidance on the funding of NHS Continuing Healthcare placements. The Health Board subsequently agreed to assist Mr and Mrs Jones and stated that they would consider what action and learning could be taken their circumstances.

The difference that was made

Following their investigation, the Health Board responded to me, confirming that they had not seen the letter and that its content was a cause for significant concern. They stated that they would liaise with Mrs Jones to identify how they could support her, and that they would also contact other residents at the home (and/or their families) to offer them the opportunity to discuss any private arrangements they had entered into with the home.

The Health Board also confirmed that senior staff would be meeting with the care home owner to challenge them on the content of the letter and their failure to liaise

with the Health Board regarding their intention to issue such a letter. In addition, a commitment was made to make the Health Board's position on additional charges clearer within future contracts.

Through providing support to Mr and Mrs Jones, my Casework Team were able to identify and highlight a concerning practice being adopted by a care home owner that was impacting upon many vulnerable residents, many of whom would not have been in a position to challenge this themselves.

Since raising this issue with the Health Board, I am delighted that they have issued all Care Homes in their region with a contract that details the requirement for each care home to notify the Health Board of any 'Additional Services' that may be charged. The Health Board's Continuing Health Care department will also review the nature of any identified 'Additional Services' to ensure that they are in line with that detailed in Welsh Government's Continuing NHS Healthcare The National Framework for Implementation in Wales.

Mrs Burton – Poor quality food in a care home

A professional advocate contacted my office to explain that he was assisting Mrs Burton, an 84-year-old client, in voicing her dissatisfaction with the quality of food in her residential home.

Mrs Burton had been a resident in the home for three years and whilst she had no issues with the quality of care at the home, for over a year she had been raising issues at bi-monthly residents' meetings about the poor quality of food offered to residents.

Specifically, Mrs Burton explained that sausages were served in some form several times a week, the soup was powdered, biscuits were not provided on the tea and coffee trolley, chips were hard and dry and that a large amount of food was being cooked off site. She also said that eggs had been taken off the morning menu and that requests from residents for staff to cook eggs (which they were willing to pay for in addition to their monthly care fee) were refused. On one occasion, all residents had been served lamb stew that contained only one small piece of meat each.

Instead of addressing the negative feedback, the care home owner had stopped the bi-monthly residents' meeting from discussing catering. Residents could now only provide feedback on any matters relating to food via the care home staff, who would discuss the matter with management behind closed doors.

Despite her best efforts to address the matter herself, Mrs Burton was deflated; the quality of food did not improve. She felt that nobody was listening to her, that nothing was being done and that things were getting worse not better.

Mrs Burton's advocate had met with the home's owners and sought the support of CSSIW, the Local Authority and the Health Board. With their efforts failing to secure improvement, however, the advocate approached my office and requested my assistance.

Action taken

My Casework Team met with Mrs Burton and her advocate. Mrs Burton expressed her disappointment and frustration that that no action had been taken by the home's owners to address the issues she had identified with the food.

Following the meeting, I wrote to the Local Authority to highlight my concern that the ongoing and long running issues that Mrs Burton was experiencing with the quality of food at the home was compromising her wellbeing.

The difference that was made

The initial response from the Local Authority was not sufficiently focused on Mrs Burton's individual concerns, and conveyed very little about how Mrs Burton's feedback would be used to make improvements to the food in the home, something that would result in an improved situation for all residents. I therefore wrote again to the Local Authority, asking for more detail about what would be done to address Mrs Burton's concerns.

The second response was much stronger, confirming that action would be taken to ensure that the voices of residents would be listened to and acted upon. Furthermore, the Local Authority confirmed that they had taken steps to improve the quality of the food in the care home, including increasing the homemade food available, no longer serving powdered soups, increasing portion sizes and offering residents a choice of desserts. All residents would also be sent a survey so they could comment on the quality of the food.

The Local Authority also made a commitment to undertake a further monitoring visit within a short space of time to ensure that the reported improvements were being maintained.

With an improvement in the quality of food served at the home, Mrs Burton was satisfied that her determination to see the matter addressed had finally resulted in an improved situation for all residents.

Appendix 1: Legal Powers

Visit http://www.legislation.gov.uk/ukpga/2006/30/contents to read the Commissioner for Older People (Wales) Act 2006 and accompanying Regulations in full.

Assistance (Section 8)

The Commissioner may assist a person who is, or has been, an older person in Wales in making a complaint about, or representation to, public bodies. Assistance may include financial assistance or arranging for a person to advise, represent or assist an older person.

Review of discharge of functions (Section 3 Review)

The Commissioner can review the way in which the interests of older people are safeguarded and promoted when public bodies discharge their functions, propose to discharge their functions or fail to discharge their functions. This includes those who are discharging functions on behalf of public bodies.

The Commissioner has the legal authority to enter any premises (other than private homes of individuals) to interview older people with their consent.

Review of advocacy, whistle-blowing or complaints arrangements (Section 5 Review)

This is similar to a Section 3 Review, but is focused on whether, and to what extent, the arrangements of certain bodies' advocacy, whistle-blowing and complaints arrangements are effective in safeguarding and promoting the interests of relevant older people in Wales.

During this type of Review, the Commissioner may require bodies to provide the information she needs to carry out her Review. Any failure to provide such information may be referred, by certificate, to the High Court for it to examine the matter. Someone refusing to supply information may be treated as if in contempt of court.

Examination (Section 10)

The Commissioner has powers to undertake a legal examination where the issues raised by an individual are likely to be experienced by other older people and their families across Wales, and where learning from the case would help to inform

wider practice as a result, and/or where the Commissioner considers that the case indicates that someone's human rights have potentially been breached.

The 2007 Regulations set out the main parameters within which an examination may be conducted, setting out terms of reference, for example, the ability to question under oath, summon witnesses, etc.

If any person or body refuses to comply with an examination, to supply information in connection with an examination, or explain how they will comply with the recommendations, the Commissioner may issue a certificate to the High Court to examine the matter and may result in a person or body being treated as if in contempt of court.

Issuing Guidance (Section 12)

The Commissioner can produce guidance on best practice in connection with any matter relating to the interests of older people in Wales. She must consult with such persons as she considers appropriate when producing such guidance.

Once the guidance is produced, public bodies and those providing regulated services must have regard to the guidance when discharging their functions.