

**Cyngor Ar Bopeth Cymru**  
**Citizens Advice Cymru**



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31 October

Jonathan Morgan AM  
Chair, NHS Redress Committee  
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Dear Jonathan,

### **Further Issues following the Citizens Advice Cymru Evidence Session**

At the conclusion of evidence session with you on 2 October, you invited us to submit further considerations in relation to the progression of the NHS Redress (Wales) Measure. I would like to add the following points.

#### **Young People**

We would like to reassert our concern on the issue of independent adjudication on infant settlements. Will it be the intention that the court would approve a compensation package for a child under 18? We invite the Committee ensure that measures are in place to ensure that practice in dealing with compensation in such cases are consistent with the Core Aims of the WAG that underpin its work for children and young people and which relate to UN Convention on the Rights of the Child.

#### **Advice and Representation (Models)**

We alluded to the type of advice that Citizens Advice Bureaux would give in general terms if an enquiry about a complaint arose. However, we also mentioned that there were different models of advice that had been tested in the established complaints advocacy projects that was set up in England (ICAS) and that is currently running in Scotland (IASS).

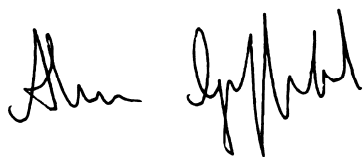
As you will see from Annex 1 in relation to the ICAS project, there are different levels of advice that a patient will want to access and at different points in the process. Such models are designed with a trained caseworkers being in place as the main point of contact and advocacy, who will also work with partner organisations as the issues becomes more complex and legalistic. We are inviting you to consider these models as a possible blueprint for a Redress system in Wales in terms of legal advice and information to a patient, prior to and following an offer.

### **Scrutiny and the democratic process of legislating**

You asked us to comment on whether or not the process for future consultation reflected the principles of open engagement by the National Assembly and the WAG in particular. Our views would echo those of *Tomorrow's Wales* in their submission to the subordinate legislation Committee (SLC(3) 04-07). We are concerned that the draft Measure doesn't contain adequate detail of the provision for redress that will be put in place and thus makes it difficult for us as a stakeholder organisation to comment on the impact on our services and plan accordingly. We are also concerned that the Assembly as a legislature, given that the WAG will have overall power to make subsequent subordinate legislation, will be asked to ratify a Measure without knowing the details of implementation. We are also concerned as member of civic society with the lack of statutory obligation for the WAG to consult with stakeholders before making subsequent subordinate legislation. Although we would expect the WAG to undertake such consultation through good will and practice and through the incumbent Ministerial advisory groups, we would not endorse this practice for future Measures.

Should there be any further information that you require, we would be happy to provide this.

Yours sincerely,



**Alun Gruffudd**  
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## Annex 1

### ICAS complaint levels

Definition of complaint levels as outlined in the ICAS service level agreements as stated below in bold text, together with a short description, which clarifies this further.

**Level 1 - self help information: for example leaflets, directories, web sites or other computer based systems or published material, help-lines, etc.**

Level 1 complaints are those people who make one contact with ICAS, (usually via the helpline). The person is sure about the information they require, and only require direction to, or to be provided with, this information. After this initial contact, they do not require any further assistance from ICAS.

**Level 2 - assisted information: for example working with a client to explore which route would be the best remedy for their circumstance, and, if necessary, referring to another relevant organisation.**

Level 2 complaints require more exploration by the ICAS worker. The issues the person raises require / involve some discussion. Following discussion, the person may wish to do one of the following:

- Make a NHS complaint via the NHS complaints procedure, but only require support from ICAS in terms of a self help pack.
- Decide not to make a complaint, and are referred to PALS
- Are referred to another organisation, such as Citizens Advice Bureaux, Social Services, etc. (This may be the case if a person has a complaint about private health care, or some aspect of a social services).

After this initial contact the person does not require the support of ICAS.

**Level 3 - general support: working with clients to explain options and giving assistance, for example letter writing, form filling, contacting third parties to seek information.**

All referrals made to an ICAS caseworker should be counted as at least a level 3 complaint. However, for a complaint to remain at level 3, it should require a limited amount of work from an ICAS caseworker. The ICAS caseworker should only really have one substantial contact with the complainant, where they might draft a complaint letter, contact a third party, etc. After this the complainant might keep ICAS informed of the progress of their complaint, but the complainant progresses the complaint for themselves. If the complainant requires further substantial assistance, such as wishing to discuss a response to a complaint letter and they require more guidance than just a short phone call, the complaint then becomes a level 4.

**Level 4 – casework. Some people will require more intensive help due to:**

- **the nature or complexity of their complaint**
- **the complainant's capacity to make a complaint, for example people with learning, literacy or communication difficulties, people whose first language is not English, people with mental health problems or frail elderly, people who are very distressed due to illness or bereavement. These clients may need an advocate to negotiate on their behalf with agencies by letter or telephone. This would include support through local resolution and second and third stages of the 1996 NHS complaints procedure.**

Level 4 complaints are as described above, and where an ICAS caseworker offers a complainant substantial support as they negotiate the NHS complaints procedure. This may be meeting after a complainant has received a response to their complaint and help drafting further correspondence through to arranging and/or attending meetings with NHS professionals as an advocate or as support for the complainant. A complaint remains at level 4 right through to the Health Ombudsman.

**Level 5 - specialist help: for example people may need advocates with specialist knowledge of areas such as children's rights, the Mental Health Act, and experience of working with refugees.**

Level 5 complaints require joint working between the complainant, ICAS worker and a specialist agency to ensure that the complainant is able to access the NHS complaints procedure. Usually this means working with a specialist advocate such as a children's or mental health advocate or an immigration specialist.