

Own Initiative Investigations - Frequently asked questions

Introduction

These are some of the most frequently asked questions about own initiative investigations.

What is in the public interest?

Although there is no widely accepted definition of public interest it is thought to be “something which is of serious concern and benefit to the public”. We consider it to be something which has an impact on the public and is not merely a matter the public finds to be of interest or a matter that impacts solely on an individual (although an individual may be more directly impacted by the matter than the wider public).

The public in this context does not necessarily mean the entire population of Wales. It may refer to a distinct section of the public, such as a group of people who share a protected characteristic, a small community or interest group.

What types of evidence will you consider when deciding whether to propose a Wider Own Initiative Investigation?

We can consider evidence from a variety of sources. This can include, but is not limited to:

- matters brought to our attention by whistleblowers or anonymous complainants
- patterns or trends or issues in the complaints we receive and or investigate
- Anything observed or noted through our improvement work and external liaison
- Information shared with us by MPs, AMs, representative groups and other regulators
- Public reports by other regulators, Welsh Government, third sector organisations or academic institutions
- Media reports

Types of evidence we can consider include but, again, is not limited to:

- Written documentation or records shared
- Suggestions received
- Oral concerns
- Audio/photographic evidence

Can own initiative powers be used to re-open previously concluded complaints?

Own initiative investigations will not generally be used to re-open individual matters which have been previously investigated and concluded by us. However, findings made as a result of a matter investigated by us may be taken into account when assessing whether an own initiative investigation should be started or during the course of such investigation.

Who and how will you consult before starting an investigation?

Before starting an investigation, we must consult or inform relevant parties, as appropriate. As a starting point, consultation will include one of more of the Welsh Commissioners, regulatory bodies (relevant to the subject matter of the investigation), the Auditor General and any other professional bodies or organisations, as appropriate. We may also, on occasion, consider it appropriate to seek the views of elected representatives and/or the wider public or persons affected by, or with experience of, the issue which we propose to consider. Where it is considered appropriate, we may also seek to consult with third sector organisations and other interested parties.

We will aim to make our consultation information accessible and available to all in Welsh/English and Easy Read formats.

Although we can determine how long a consultation should run, we will aim to ensure that sufficient time is allowed to enable those consulted with to respond.

Frequently used terms

Included below are some terms commonly used in our own initiative work. Some of the terms used are deliberately vague to allow scope for application to a broad range of issues.

Weight – The extent and volume of evidence available which is suggestive that maladministration or service failure has occurred or has the potential to do so.

Persuasiveness – We will take into account how credible and reliable the available evidence is. In considering this, we may take into account factors such as the source of the information, the independence of the evidence and whether there is other evidence which is capable of supporting or corroborating it.

Potential – We can open a wider own initiative investigation when we are satisfied that evidence suggests or indicates that widespread maladministration/service failure has occurred or that it has potential to. In this context 'potential' means that there is a strong belief and possibility that maladministration or service failure, which may cause a person or wide group of people to experience injustice or hardship, will be identified if a matter is investigated.

Wide group of citizens or individuals – Our wider own initiative investigation powers will be used to consider matters which are in the public interest and which impact, or has the potential to impact upon, a number or group of people, rather than affecting specific individuals. Complaints or concerns relating to a service provided to an individual by a public body in Wales are likely to be more appropriately considered under our general complaints process. We will signpost any suggestions received which are more appropriate for consideration in that way.