

**Report To:** Standards Committee

**Date of Meeting:** 18<sup>th</sup> July 2014

**Lead Member / Officer:** Monitoring Officer

**Report Author:** Monitoring Officer

**Title:** Public Services Ombudsman for Wales Annual Report 2013/14

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**1. What is the report about?**

1.1 The report is about the 2013/14 Annual Report of the Public Services Ombudsman for Wales (the Ombudsman).

**2. What is the reason for making this report?**

2.1 To give the members of the Standards Committee an opportunity to consider the contents of the Annual Report of the Ombudsman and to provide their comments and observations.

**3. What are the Recommendations?**

3.1 That members consider the Public Services Ombudsman for Wales' Annual Report 2013/14.

**4. Report details.**

4.1 Each year the Ombudsman publishes an annual report on the activities of the office of the Ombudsman in dealing with complaints against public bodies in Wales.

4.2 The Ombudsman's office has two main roles. The first is to investigate complaints of maladministration by public bodies. The second, and of more relevance to this Committee, is the responsibility of the Ombudsman's office for investigating complaints relating to alleged breaches of the Code of Conduct by elected members of Unitary, City, Town and Community Councils.

4.3 The Ombudsman's Annual Report entitled 'Making a Difference' is attached as Appendix 1.

4.4 The current report is the eighth annual report of the Ombudsman since the Public Services Ombudsman for Wales' office was created in April 2006. The report has this year been prepared by Margaret Griffiths, the Acting Ombudsman, having taken on the role in December 2013 following the departure of the previous Ombudsman Mr Peter Tyndall who left to take up a

new role as Irish Ombudsman and Information Commissioner. The Public Services Ombudsman is appointed by the Crown on the recommendation of the National Assembly for Wales. Nick Bennett, currently the Chief Executive of Community Housing Cymru, has been nominated by the National Assembly for Wales as the next Ombudsman. Royal approval for Mr Bennett's appointment was being sought at the time of the writing of the Ombudsman's Annual Report.

- 4.5 The case load of the Ombudsman's office has seen a notable rise in the number of complaints received. Whilst the number of complaints both in respect of public bodies and the conduct of members of local authorities has seen a 117% increase over the past 5 years, it is pleasing to note that the number of complaints received by the Ombudsman's office in respect of alleged breaches of the Code of Conduct has once again fallen significantly. The number of complaints received in 2013/14 was 228 compared with 291 in 2012/13. This represents a reduction of 22%. Of those 228 complaints, 115 related to Town, City or Community Councils, 111 related to Unitary Authorities and 2 related to Fire Authorities. There were no complaints received in respect of National Park Authorities.
- 4.6 The Ombudsman considers that the 22% decrease in complaints received by the office in respect of the Code of Conduct can be attributed to the introduction of local resolution arrangements by local authorities and to the Ombudsman's practice of referring low level complaints made by one member against another to authorities' Monitoring Officers to be dealt with locally.
- 4.7 The majority of the complaints received during 2013/14 related to matters of 'equality and respect' which accounted for 36% of complaints received. This is compared to a figure of 35% in 2012/13.
- 4.8 The next largest areas of complaint relate to disclosure and registration of interests which accounted for 21% of complaints and integrity which accounted for 20% of complaints.
- 4.9 The Ombudsman's office closed 229 cases in 2013/14. This figure would be comprised of the new complaints dealt with within the year and also some complaints which had been carried over from 2012/13. Of these 229 complaints 176 were closed after initial consideration. This means that the Ombudsman either decided that there was no prima facie evidence of the breach of the Code, that the alleged breach was insufficiently serious to warrant an investigation and therefore unlikely to attract a sanction, or that the incident of complaint happened before the member was elected i.e. before they were bound by the Code.
- 4.10 There were 12 complaints withdrawn and 8 investigations were discontinued. 33 investigations were completed, of which 10 concluded that there was no evidence of a breach, 17 concluded that there was no action necessary, 5 were referred to Standards Committees and 1 was referred to the Adjudication Panel for Wales.

- 4.11 The number of cases referred to either a Standards Committee or to the Adjudication Panel for Wales has fallen significantly from 20 in 2012/13 to only 6 in 2013/14. The Ombudsman attributes this partly to the effects of the High Court Judgement in the Calver case in 2012 which has previously been considered by the Committee. The Ombudsman confirms in the report that the judgement in the Calver case has raised the bar on what the Ombudsman refers to a Standards Committee or the Adjudication Panel.
- 4.12 The Ombudsman also confirms that the practice of writing to local Monitoring Officers where the Ombudsman is minded not to investigate a complaint, or having commenced the investigation is minded to close the case, has continued. In these circumstances it is for the local Monitoring Officer to consider whether they take a different view to the Ombudsman on the likelihood of the Standards Committee applying a sanction. If the Monitoring Officer is of the view that the local Standards Committee may apply a sanction then they are able to have the investigation transferred to them for local consideration. During the year 2013/14, 16 complaints were referred to Monitoring Officers by the Ombudsman of which only 1 was called in for local investigation.
- 4.13 In Denbighshire there were 4 complaints received by the Ombudsman in respect of County Councillors. Of these, 2 were withdrawn and 2 were closed after initial consideration.
- 4.14 There were 9 complaints received in respect of Prestatyn Town Council of which 8 were closed after initial consideration and 1 was withdrawn. This is a marked reduction from the level of complaints made in the previous year.
- 4.15 There were no other complaints made in respect of City, Town or Community Councils in Denbighshire in 2013.14.
- 4.16 The Ombudsman has also reported on the performance of the Ombudsman's office in terms of the time taken to consider Code of Conduct complaints.
- 4.17 The Ombudsman sets two targets in respect of timescales. The first is that at least 90% of all complainants should be informed within 4 weeks of whether the Ombudsman will take up their complaint. The 4 week period runs from the date that sufficient information is received. During the year 2013/14 the Ombudsman managed to inform complainants within 4 weeks in respect of 81% of complaints received.
- 4.18 The second target is to conclude all cases within 12 months from a point that a decision is made to take up a complaint and to commence an investigation. The Ombudsman's office managed to achieve a 100% success rate for completion of Code of Conduct investigation within 12 months during the year 2013/14. This is a significant improvement on previous performance.
- 4.19 The Ombudsman also makes reference to the cap on indemnities in the report. The Ombudsman has previously made clear the concerns about the levels of indemnity enjoyed by some members. The Ombudsman reports that good progress has been made in respect of the voluntary ceiling of £20,000 being

placed on indemnities by local authorities. The Ombudsman does however express disappointment that two councils which have an insurance arrangement in place for indemnities have stated that they are unable to introduce the £20,000 cap due to the insurance companies resisting the ceiling. The Ombudsman makes reference to the fact that government ministers have previously indicated that they may consider legislating in respect of the level of indemnities if voluntary agreement could not be secured and that this is a matter which may be revisited in the forthcoming year.

**5. How does the decision contribute to the Corporate Priorities?**

5.1 The Committee is not requested to make a decision.

**6. What will it cost and how will it affect other services?**

6.1 There are no costs directly associated with this report.

**7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision?**

7.1 This report does not require an Equality Impact Assessment.

**8. What consultations have been carried out with Scrutiny and others?**

8.1 There have been no consultations with Scrutiny.

**9. Chief Finance Officer Statement**

9.1 There are no significant financial implications arising from the report.

**10. What risks are there and is there anything we can do to reduce them?**

10.1 There are no risks associated with this report.

**11. Power to make the Decision**

11.1 There is no decision required.