

**Report To: Standards Committee**

**Date of Meeting: 23<sup>rd</sup> January 2015**

**Lead Member / Officer: Gary Williams, Monitoring Officer**

**Report Author: Gary Williams, Monitoring Officer**

**Title: Public Services Ombudsman for Wales – Public Interest Test**

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

1.1 The proposal by the Public Services Ombudsman for Wales' (the Ombudsman) to introduce a new Public Interest Test when considering whether or not to investigate allegations that an elected member has breached the Code of Conduct.

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

2.2 To seek Members' views on the proposed introduction of a Public Interest Test as set out in the paper received from the Ombudsman attached as Appendix 1 to this report.

**3. What are the Recommendations?**

3.3 That members of the Committee give their views on the proposed introduction of a Public Interest Test as set out in the paper received from the Ombudsman attached as Appendix 1 to this report.

**4. Report details.**

4.1 The Ombudsman has produced a discussion paper, a copy of which is attached to this report as Appendix 1, on a proposal that he introduce an additional test when considering whether or not to investigate a complaint made to him that a member has breached the Code of Conduct.

4.2 The Ombudsman's office has for a number of years applied a two stage test in considering whether or not to investigate an alleged breach of the Code of Conduct by a member.

4.3 The first stage is to establish whether there is evidence that a breach of the Code actually took place.

4.4 The second stage is to consider whether the alleged breach, if proved, would be likely to lead to the imposition of a sanction by a Standards Committee or the Adjudication Panel for Wales. In considering the likelihood of a sanction being

imposed, the Ombudsman's office takes into account the cases that have been considered by Standards Committees across Wales and the action that those committees have taken.

- 4.5 The Ombudsman is concerned about the number of low level complaints received by his office and is seeking to introduce an additional test which would consider whether an investigation or a referral to a Standards Committee or the Adjudication Panel is required in the public interest.
- 4.6 The Ombudsman makes clear in the paper attached as Appendix 1 that he sees his role as investigating serious cases in order to maintain public confidence in standards in public life. He will not open an investigation unless he considers it proportionate to do so, given the circumstances of the breach alleged.
- 4.7 In determining whether an investigation is in the public interest, the Ombudsman will consider a number of factors that are set out in Appendix 1. Not all of these factors will apply in every case and the weight to be given to each will depend on the circumstances of each case.
- 4.8 In a recent visit to the North Wales Standards Forum, which is the subject of a separate report, the Ombudsman made it clear that at a time of diminishing resources he would have to prioritise the matters that his office would be investigating, and it may no longer be appropriate to apply resources to the investigation of low level complaints.
- 4.9 In addition the Ombudsman is considering whether or not to continue the practice of referring cases that, although there may be evidence of a breach he has decided not to investigate, to local monitoring officers for investigation because of the second limb of his current test. Members' views are also sought on this point.

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

- 5.1 The report has no direct impact on the corporate priorities.

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

- 6.1 There are no costs directly associated with the report.

## **7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

- 7.1 This report does not require an equality impact assessment.

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

- 8.1 This matter has not been reported or consulted upon elsewhere.

**9. Chief Finance Officer Statement**

9.1 There are no direct cost implications arising from this report

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

10.1 There is a risk that if the Ombudsman's Public Interest Test is applied at too high a threshold there could be the possibility of breaches of the Code of Conduct which should be the subject of a sanction not being investigated.

**11. Power to make the Decision**

11.1 Article 9.2 of the Council's Constitution