

Report To: Standards Committee

Date of Meeting: 18th September 2015

Lead Member / Officer: Monitoring Officer

Report Author: Monitoring Officer

Title: Public Services Ombudsman for Wales' Annual Report 2014/15

1. What is the report about?

1.1 The report is about the 2014/15 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 2014/15.

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 Complaints Serve Wales' is attached as Appendix 1.

4.4 The current report is the ninth 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 for the first time by Mr. Nick Bennett, who took up the position of Ombudsman in August 2014, and covers the period April 2014 to March 2015, during part of which, Professor Margaret Griffiths was 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.

- 4.5 In his introduction to the report the Ombudsman sets out the modernisation that he has implemented into the internal working of his office and in particular the increased use of technology. This is a response to the continued increase in the number of complaints dealt with by his office. Over the past five years complaints regarding health bodies have increased by 126% and those regarding County and County Borough Councils by 10%. The Ombudsman proposes increased engagement with health bodies and councils to promote improvements in complaint handling to try and increase the number of issues that are resolved locally without the need to involve the Ombudsman's office. The Ombudsman has also proposed some changes to the legislation that governs the powers of his office and is currently awaiting confirmation of the introduction of a Bill to cover these issues.
- 4.6 In 2013/14 there was a reduction in the number of Code of Conduct complaints made to the Ombudsman's office of 22% from 291 in 2012/13 to 228 in 2013/14. The Ombudsman considered that the 22% decrease in complaints last year could 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. In 2014/15 there was a slight rise in the number of Code of Conduct complaints made from 228 in 2013/14 to 231 in 2014/15. This represents an increase of 1.3 % which is a slower rate of increase than the 7% increase in the number of public body complaints.
- 4.7 Of the 231 complaints received in 2014/15, 106 related to Community Councils and 125 to County/County Borough Councils. There were no complaints received in respect of members of Fire Authorities, National Park Authorities or Police and Crime Panels.
- 4.8 The Ombudsman categorises Code of Conduct complaints and provides an analysis of complaints by category. In 2014/15 complaints were broken down as follows:

Promotion of equality and respect	35%
Disclosure and registration of Interests	22%
Integrity	16%
Accountability and openness	10%
Duty to uphold the law	9%
Objectivity and propriety	8%
Selflessness and stewardship	0%

The largest number of complaints fell under the category of "promotion of equality and respect". This category accounted for 35% of all complaints compared to 36% in the previous year. It is almost always accounts for the highest proportion of complaints received. The next largest areas of complaint relate to disclosure and registration of interests which accounted for 22% of complaints and integrity which accounted for 16% of complaints. These were also the three largest areas of complaint in 2013/14.

- 4.9 The Ombudsman's office closed 239 cases in 2014/15. This figure would be comprised of new complaints dealt with within the year and also some complaints which had been carried over from 2013/14. Of these 239 complaints 178 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 7 complaints withdrawn and 20 investigations were discontinued. 44 investigations were completed, of which 17 concluded that there was no evidence of a breach, 8 concluded that there was no action necessary, 8 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 risen slightly from 6 in 2013/14 but is still considerably lower than the 20 cases referred in 2012/13
- 4.12 The Ombudsman states that although County Councillors are expected to make complaints about fellow Councillors locally, his office still receives low level complaints from Councillors about their colleagues. The Ombudsman's office has reviewed its practice and will be taking a firmer line with such matters in future and refer them back to Monitoring Officers for local resolution.
- 4.13 Annex C to the Ombudsman's report contains a breakdown of cases closed in 2014/15 by local authority. Of the 132 closed cases relating to unitary authorities 2 related to Denbighshire County Councillors, both of which were closed after initial consideration without the need for an investigation. This represents a reduction from the 4 complaints closed in the previous year all of which were withdrawn or closed after initial consideration
- 4.14 The breakdown of the 105 closed cases relating to City, Town or Community Councils, shows, in relation to Denbighshire, that there were three complaints about members of such Councils in Denbighshire. Of these, there was 1 relating to Llanarmon yn Ial Community Council which was closed after initial consideration, 1 relating to Prestatyn Town Council, also closed after initial consideration and 1 relating to Rhyl Town Council where the investigation was discontinued. This is a reduction from the 9 complaints dealt with in the previous year all of which were closed after initial consideration or withdrawn.
- 4.15 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.
- 4.16 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 2014/15 the Ombudsman managed to inform complainants within 4 weeks in respect of 79% of complaints received, which is a reduction from 81% in the previous year. The Ombudsman explains that elected members are given an opportunity to

comment on the complaint during this period and often do. Consideration of these comments can lengthen the time taken to consider whether or not to investigate but the Ombudsman believes that it is only fair to do so as the commencement of a formal investigation can be a very stressful matter for a member.

4.17 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 2014/15.

4.18 The Ombudsman announces in his report that the Code of Conduct Casebook that was introduced on a biannual basis last year will be produced on a quarterly basis in 2015/16, however, due to the low number of cases available in quarterly editions, a commentary on lessons learnt will be produced on an annual end of year basis only. The Ombudsman also refers to the revised guidance that he issued during the year and his new public interest test, both of which have previously been reported to the Committee.

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.