

# ***STANDARDS COMMITTEE***

***9.30 AM - FRIDAY, 17th APRIL 2015***

***ROOM C - NEATH CIVIC CENTRE***

## **PART 1**

1. To receive any declarations of interest from Members
2. To receive the minutes of the previous meeting held on 10th October 2014  
(*Pages 1 - 2*)

### **To receive the report of the Head of Legal Services and Monitoring Officer**

3. Welsh Government White Paper - Power to Local People (*Pages 3 - 8*)
4. Recruitment to Bridgend County Borough Council Standards Committee  
(*Pages 9 - 10*)
5. National Assembly for Wales Finance Committee Examination of  
Ombudsman Powers (*Pages 11 - 20*)
6. Any urgent items at the discretion of the Chairman pursuant to Section  
100B(4)(b) of the Local Government Act 1972

**S.Phillips**  
**Chief Executive**

**Civic Centre**  
**Port Talbot**

**8<sup>th</sup> April 2015**

## **Committee Membership:**

**Chairman:** Mr G.T.Pullen

**Vice Chairman:** Mrs J.E.Howells

**Independent Members:** C.L.Jones and Mrs.B.Richards

**NPTBC Members** Cllr.A.L.Thomas and Cllr.D.Keogh

### **Community Cttee**

**Member:** Town/Community Councillor Mrs.S.Davies

### **Substitutes**

**NPTCBC** Cllr.C.M.Crowley

### **Community Cttee**

**Member:** Town/Community Councillor Mrs.M.Gunter

*Notes: (a) The Quorum for the Standards Committee is at least three Members including the Chairman (or in absence Vice Chairman). At least half the Members present (including the Chair) must be Independent Members. (e.g. if only two Independent Members attend, there must **only** be two other Members of the Committee present.)*

*(b) In view of the above, can all Members please inform the Monitoring Officer as soon as possible, if there is a problem with attendance.*

## STANDARDS COMMITTEE

(Civic Centre - Neath)

**Members Present:**

**10<sup>th</sup> October, 2014**

**Chairman:** G.T.Pullen

**Vice Chairman:** Mrs J.E.Howells

**Independent Members:** C.L.Jones and B.Richards

**NPTBC Members:** **Councillors** D.Keogh and A.L.Thomas

**Community Committee  
Member:** Councillor Mrs S.Davies

**Officers In Attendance:** Mr D.Michael and Mrs T.Davies

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### 1. **MINUTES OF THE PREVIOUS MEETING**

**RESOLVED:** that the Minutes of the previous meeting held on the 25<sup>th</sup> July 2014, be confirmed as a correct record.

### 2. **APPLICATION FOR DISPENSATION**

The Standards Committee received an overview of the circulated report which sought Members approval to consider granting a dispensation to a Member in relation to School Reorganisation matters.

**RESOLVED:** that the application for school reorganisation dispensation by Councillor D.W.Davies, be approved, in the circumstances set out in Regulation 2 (d) of the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to speak, but not vote, and that the dispensation run to the Standards Committee which follows the Annual Meeting of Council in 2015.

3. **REPORT OF THE COMMITTEE FOR STANDARDS IN PUBLIC LIFE**

**RESOLVED:** that the report be noted.

4. **ACCESS TO MEETINGS**

**RESOLVED:** that pursuant to Section 100A(4) and (5) of the Local Government Act 1972, the public be excluded for the following items of business which involved the likely disclosure of exempt information as defined in Paragraphs 12 and 18C of Part 4 of Schedule 12A to the above Act.

5. **POTENTIAL REFERRAL FROM PUBLIC SERVICES OMBUDSMAN FOR WALES**

**RESOLVED:** that the private report be noted.

**CHAIRMAN**

## STANDARDS COMMITTEE

### REPORT OF HEAD OF LEGAL SERVICES MR. DAVID MICHAEL

17<sup>TH</sup> APRIL 2015

#### SECTION A – MATTER FOR DECISION

**WARDS AFFECTED: ALL**

#### **WELSH GOVERNMENT WHITE PAPER - POWER TO LOCAL PEOPLE**

##### **Purpose of Report**

To advise Members of Standards Committee of proposals of the Welsh Government contained in the White Paper mentioned above and to advise Standards Committee of a response which will be recommended to full Council.

##### **Background**

The Welsh Government has published a White Paper entitled Power to Local People which follows the Williams Report into provision of public services and other subsequent Welsh Government publications on reform of Local Government.

Although public attention and that of the press has concentrated on Local Government reorganisation aspects of the White Paper, in reality it ranges far and wide and touches on some areas relevant to Standards Committees. The structure of the report is as follows:

I firstly extract the relevant paragraphs from the White Paper, I then make some comments and reproduce for members of Standards Committee the responses that are recommended to Council in a report by the Chief Executive. Members of Standards Committee will understand that the Chief Executive has to deal with many diverse issues in the response to the White Paper.

##### **“3.5. The Role and Responsibilities of Elected Members**

The Welsh Government also intends to clarify the expectations which an Elected Member of a Local Authority is expected to fulfil, including strengthening their roles as community advocates through Area Boards. We

would set out their need to communicate with and represent their electorate, including the holding of surgeries and participation in community governance, to attend and participate in the committees to which they are appointed, and to hold the Executive to account through overview and scrutiny. All Elected Members must as a minimum be accessible to the public through electronic mail, and by preference also through the use of social media.

We should also require Elected Members to attend appropriate training. The responsibilities on Elected Members will increase in larger, merged Authorities and the Welsh Government believes it is prudent to invest in their skills. Under our proposals, Elected Members will need to commit to continuing personal development in order to develop high levels of expertise in finance, service and corporate matters to enable effective scrutiny of the Executive, and expertise in communication to enable effective community engagement. Some will wish to develop particular expertise in scrutiny, others in community engagement. At three recent (November 2014) Welsh Government workshops with Councillors and Local Authority officials on the impact of the Local Government (Wales) Measure 2011, the further training needs of Councillors were identified as: equalities, code of conduct, regulatory roles, legal responsibilities, performance and risk management, freedom of information, data protection, use of social media, ICT, remote working, and the Councillor's role as a school governor.

Local Authorities are required to support Elected Members to publish annual reports and Members are encouraged to produce them, although fewer than half currently do so. Some Elected Members have argued that annual reports are not necessary as they are judged by the public in the ballot box. It is difficult to see how most members of the public could judge the achievements of individual Elected Members without being able to access regular information about their Council and community activities. Therefore, the Welsh Government considers all Elected Members should be legally required to produce an annual report. Whilst this should include information about their attendance, membership of committees and Area Boards, remuneration, training, case work and correspondence, they should focus more explicitly on qualitative information about what they have achieved during the year and how people and communities are better off as a result.

Elected Members are paid from the public purse and are responsible for significant decisions about public spending, so their actions must be open to scrutiny by any member of the community whose interests they represent, as well as other persons affected by their actions. The Local Government ethical standards framework guides Elected Members on the appropriate standards of conduct expected of them in undertaking their roles, whilst providing reassurance to the public that action will be taken if things go wrong. In our 2012 *'Promoting Local Democracy'* White Paper, we said the standards

framework remained fundamentally sound, but we proposed a number of changes to improve its overall operation, including the adoption of local complaint resolution policies for low-level complaints between Members and the capping of indemnities. The Welsh Government welcomes the positive response from all Authorities in adopting such policies.

The Local Government (Democracy) (Wales) Act 2013 makes provision for the establishment of joint Standards Committees, the electronic publication of registers of interests and powers to enable the transfer of misconduct reports and Member dispensation requests between Standards Committees to overcome potential conflicts of interest. These provisions will be brought into effect later this year. Also, this year, we will bring forward legislation to modify the model code of conduct for Local Authority Members to facilitate the operation of local resolution policies and to clarify the position of Members with constituency interests. We will also exempt Local Authorities from publishing misconduct reports during ongoing proceedings.

We believe these reforms will improve and strengthen the ethical standards framework. However, we are seeking views on whether there should be any further reforms, in particular in respect of the most serious cases. Standards Committees and Monitoring Officers already play a key role in supporting and advising Members on conduct matters. There should be a new power for Standards Committees to consider cases where there are serious concerns that an Elected Member is failing to fulfil their duties satisfactorily. We would provide Standards Committees with appropriate sanctions which could be imposed. There would need to be safeguards against vexatious complaints.

It is important Local Authorities take full responsibility for the poor performance of Elected Members and manage this internally in a transparent manner. It is also important that as part of this process we consider an appropriate appeals process for Elected Members, whether that be internally within the Authority, to the Adjudication Panel for Wales or another body. We are seeking views on the most appropriate procedure”

### **Commentary**

I am sure that Standards Committee would support the move by the Welsh Government to require elected Members to attend appropriate training. This is an issue that has concerned various Standards Committees over the years. If the Welsh Government intends to extend the jurisdiction of Standards Committees to consider allegations that an elected Member is failing to fulfil their duties, then this would require amendment to the Code. It would also require a job description for Members with statutory support. The proposed response of the Council appears below:-

## **Proposed response**

The Council also supports the principle of strengthening of arrangements around standards; conflicts of interest, conduct and the performance of elected Members (page 30); but if the Welsh Government considers that Standards Committees should address complaints of neglect of duty, there needs to be specified duties in law whereas there are none at present.

## **Proposed Response**

### **“3.6. Diversity among Elected Members**

Changing behaviours in a Local Authority requires leadership. Therefore, we propose placing a duty on Leaders, Group Leaders and Chief Executives to ensure diversity is respected. For Leaders, this duty will extend to ensuring that there are coherent anti-bullying and harassment policies in place for Councillors, not only in respect to Local Authority staff but also in respect of other Councillors. Group Leaders should also be required to ensure they are taking this responsibility seriously within their groups, and Chief Executives should be required to ensure there are anti-bullying and harassment policies in place for staff. In each case, the Monitoring Officer and Standards Committee will have enforcement roles. In addition, we need to support our Elected Members appropriately and they should be due similar entitlements to a balanced life as others working in the public and private sectors. For example, the Local Authority, the public and the media should support them when they take maternity or paternity leave, or when they need time out for caring responsibilities”

## **Commentary**

The existing Members’ Code of Conduct contain provisions which deal with bullying and of harassment by Members. In fact many of the more high profile complaints dealt with by Standards Committees and by the Adjudication Panel for Wales have been in relation to those comparatively rare cases of bullying and harassment of staff. The response recommended to Council is as follows:-

This Council already has in place extensive conduct policies, as does the Public Services Ombudsman for Wales, so coherence in terms of developing the existing system is important, particularly to avoid confusion of roles and responsibilities. Councillors are not employees and therefore the only way in which bullying and harassment can be dealt with is through the Members’ Code of Conduct.

### **“3.11. Recall of Elected Members**

The Recall of MPs Bill currently making its way through the Houses of Parliament, causes a Member of Parliament to lose their seat and a by election to be held if ten percent of the electorate in the constituency sign a petition to call for this. Recall can only be triggered if certain conditions are met. Broadly speaking, these are that the MP has been convicted of an offence and imprisoned or they have been suspended from the House of Commons for at least ten days.

The Welsh Government would welcome views as to whether similar provisions should be put in place for Elected Members of Local Authorities. The conditions to trigger recall of an Elected Member in Local Government could include, for example, where sanctions have been imposed on a Councillor by a Standards Committee or the Independent Adjudication Panel following a breach of the code of conduct or failure to perform effectively as an Elected Member. ”

### **Commentary**

I would take the view that if the imposition of a sanction against a Member for a breach of the Code should trigger a right to recall, then that sanction should be of a serious nature and should be imposed by the Independent Adjudication Panel for Wales (which deals with more serious cases) as opposed to the Standards Committee which has more limited powers. The response recommended to Council is as follows:-

### **Proposed Response**

Similar considerations apply to the recall of elected Members at section 3.11 – page 35. If the proposal is that a proven breach of the Code of Conduct should trigger a right to recall, it should be for more serious breaches of the Code. Those more serious breaches are dealt with by the Adjudication Panel for Wales rather than local Standards Committees. For that reason it might be appropriate to have the right to recall triggered by a sanction applied by the Panel.

### **Recommendation**

That Standards Committee supports the response of the Council.

### **List of Background Papers**

White Paper issued by the Welsh Government – Power to Local People

### **Reason for proposed decision**

To express the views of Standards Committee on the Welsh Government White Paper.

### **Officer Contact**

Mr. David Michael – Head of Legal Services

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Email: [d.michael@npt.gov.uk](mailto:d.michael@npt.gov.uk)

## STANDARDS COMMITTEE

### REPORT OF HEAD OF LEGAL SERVICES MR. DAVID MICHAEL

17<sup>TH</sup> APRIL 2015

#### SECTION B – MATTER FOR INFORMATION

**WARDS AFFECTED: ALL**

#### **RECRUITMENT TO BRIDGEND COUNTY BOROUGH COUNCIL STANDARDS COMMITTEE**

##### **Purpose of Report**

To advise Members of Standards Committee of an approach received from Bridgend County Borough Council.

##### **Background**

On 31<sup>st</sup> March 2015 I received the following email from Ms Laura Griffiths of Legal Services in Bridgend County Borough Council:-

“Dear All,

Our Standards Committee currently has vacancies for two Independent Members to sit on the Committee. We are in the process of recruiting for the position but the Chair of our Standards Committee has asked me to contact neighbouring authorities to seek expressions of interest from your Independent Members in the event that any members would be interested in also sitting on our Committee here in Bridgend.

The schedule of Standards Committee meetings for the period June 2015 to March 2016 has been confirmed as follows:

Thursday 18<sup>th</sup> June, 2pm  
Thursday 17<sup>th</sup> September, 2pm  
Thursday 17<sup>th</sup> December, 2pm  
Thursday 17<sup>th</sup> March 2016, 2pm.

All of the meetings above are planned to be held at Civic Offices, Angel Street, Bridgend.

If you believe that any of your members would be interested in also becoming an Independent Member on our Committee, I would be grateful if you could forward their contact details so that we can make the necessary contact by no later than Friday 17<sup>th</sup> April.

We do of course have very high standard of membership currently on our Committee and our members would be more than happy for their details to be passed to you should your Committee ever consider pursuing this option to assist with the delivery of the work of your Committee.

Kind Regards,

Laura

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**Laura Griffiths | Senior Solicitor**  
Legal and Regulatory Services  
Tel: 01656 643135"

The invitation was to independent members of the Standards Committee i.e. those who are not either County Borough or Community Council Members. The invitation was circulated amongst independent Members of the Standards Committee.

There is no legal impediment to a person becoming a member of more than one Standards Committee and, indeed, there is something to be gained from this in that the member would then gain wider experience.

### **Appendices**

None

### **List of Background Papers**

Email from Bridgend County Borough Council.

### **Officer Contact**

Mr. David Michael – Head of Legal Services

Tel No: 01639 763368

Email: [d.michael@npt.gov.uk](mailto:d.michael@npt.gov.uk)

## STANDARDS COMMITTEE

### REPORT OF HEAD OF LEGAL SERVICES MR. DAVID MICHAEL

10<sup>TH</sup> OCTOBER 2014

#### SECTION B – MATTER FOR INFORMATION

**WARDS AFFECTED: ALL**

#### **NATIONAL ASSEMBLY FOR WALES FINANCE COMMITTEE** **EXAMINATION OF OMBUDSMAN POWERS**

##### **Purpose of Report**

To advise Standards Committee of an enquiry by the Finance Committee of the National Assembly for Wales into the powers of the Public Services Ombudsman for Wales.

##### **Background**

As members of the Standards Committee will be aware, the Public Services Ombudsman for Wales (“the Ombudsman”) has a dual jurisdiction; firstly, he investigates complaints of maladministration against Local Authorities and, secondly, investigates complaints of breaches of the Members’ Code of Conduct. It is the second part of the Ombudsman’s jurisdiction which concerns the Standards Committee.

The Finance Committee of the National Assembly for Wales is presently conducting an investigation into the powers of the Ombudsman in respect of both parts of his jurisdiction.

I take the opportunity to reproduce for consideration by Standards Committee some evidence submitted to the Finance Committee by the Welsh Local Government Association (“the WLGA”).

The Finance Committee has requested responses to particular questions. These questions were not directed to each Local Authority but to the WLGA as the representative body. Although the response of the WLGA is labelled draft, my understanding is that it was submitted in the form which is reproduced in the Appendix to this report.

The response from the WLGA deals with both aspects of the Ombudsman's jurisdiction but I will highlight in this report only those aspects of the response which would concern the Standards Committee ie potential breaches of the Code.

The response to questions 5, 6 and 7 indicate that it would be acceptable if complaints were received other than in writing.

At Question 22 the Finance Committee asks a revealing question indicating that the Ombudsman would prefer to focus on service users and service delivery ie the first part of his jurisdiction rather than Code of Conduct complaints. To set this in context, the main workload of the Ombudsman's office now seems to relate to health service bodies. The procedure which the ombudsman follows in practice is that Local Authority complaints about service delivery are referred to the Local Authority's own complaints procedure and very few complaints about service provision are dealt with by the Ombudsman or the Ombudsman's office itself.

In effect, the Ombudsman has sought to implement a similar regime in relation to Code of Conduct complaints in that he will normally expect a Code of Conduct complaint to go through a Local Resolution procedure. However, this is only suitable for Member against Member complaints and may only be suitable where the complaint is not of a serious nature.

Members of Standards Committee will note the response of the WLGA which emphasises the fact that only a proportion of complaints are investigated and very few end up in a referral to either the Standards Committee or the Adjudication Panel for Wales.

### **Appendices**

WLGA response to National Assembly for Wales Finance Committee examination of Ombudsman Powers

### **Recommendation**

That Members note the content of the WLGA response.

### **List of Background Papers**

National Assembly for Wales Finance Committee examination of Ombudsman powers

**Officer Contact**

Mr. David Michael – Head of Legal Services

Tel No: 01639 763368

Email: [d.michael@npt.gov.uk](mailto:d.michael@npt.gov.uk)

## **Finance Committee Inquiry: Consideration of powers: Public Services Ombudsman for Wales**

*The WLGA welcomes the opportunity to present evidence to the Committee on its inquiry into the consideration of powers for the Public Services Ombudsman.*

*The WLGA is aware that this inquiry could potentially lead to new legislation concerning the Ombudsman's powers being introduced, possibly by this Committee, before the end of this Assembly term. Clearly the Committee must conclude its Inquiry, which may or may not lead to proposals to introduce legislation as a result.*

*The WLGA notes however that a Committee Inquiry which led to the introduction of a significant new piece of legislation could mean a curtailed process around policy review and legislative scrutiny given it is our understanding that a Committee Bill would automatically bypass the Stage 1 Committee process. If this is the case, there would be reduced scope for effective consultation and engagement with the general public and public bodies affected by policy proposals and legislation.*

*The WLGA therefore would request that should the Committee decide to move to legislation, that a Draft Bill is published to encourage the widest opportunity for consultation before the formal introduction of the Bill.*

### **1. What are your views on the effectiveness of the current Public Services Ombudsman (Wales) Act 2005?**

*The Act is generally regarded as effective. As noted by the Ombudsman's own submission to the Committee, the Law Commission commented favourably on the Act but put forward a number of proposed amendments to clarify and improve the Ombudsman's role.*

#### **Own initiative investigations**

**2. Currently, the Ombudsman may only investigate a matter that is the subject of a complaint made to him/her. What are your views on 'own initiative' investigations powers, which would enable the Ombudsman to initiate his/her own investigations without having first received a complaint about an issue. Please explain your answer.**

**3. Do you have any concerns that own-initiative investigation powers could result in the Ombudsman's responsibilities overlapping with the responsibilities of other bodies? How could this be managed?**

**4. Do you have a view on the likely financial costs and benefits of the Ombudsman having own-initiative powers?**

*The WLGA recognises the Ombudsman's frustration where his current powers prevent him from exploring suspected wider concerns within public services stemming from an investigation into an initial individual complaint. The WLGA however shares the Welsh Government's concerns over the risks of 'mission-creep' (as stated in a letter to the Communities, Equalities and Local Government Committee from Minister for Local Government and Government Business on 12<sup>th</sup> February 2014). In principle, it is of course appropriate that such concerns over wider and potentially systemic public service issues should be investigated, however there are a number of investigatory bodies whose role it is to examine matters of governance or public service concerns or improvements. There would be scope for duplication between the Ombudsman and these existing bodies, such as the Auditor General for Wales, as well as potential burden for public service bodies.*

*Whilst the Welsh Government notes that any such new powers should be carefully circumscribed and available in specific and exceptional circumstances, an alternative model could be that where the Ombudsman has identified wider systemic concerns following an initial investigation into a complaint, he then writes to the Auditor General for Wales (or relevant inspectorate) advising him/her to undertake a special inspection or produce a Public Interest Report into the matter.*

## **Oral Complaints**

**5. At present, the Ombudsman can only accept complaints in writing. What are your views on the Ombudsman being able to accept complaints made orally? Please explain your answer.**

**6. What other type/form of submission should be acceptable (e.g. email, website form, text messages)**

**7. Do you have a view on the financial costs and benefits of this provision?**

*The WLGA agrees that alternative arrangements for submitting complaints should be considered to ensure that the Ombudsman is accessible to all. Oral complaints should be acceptable, but such safeguards and procedures will be need to be introduced to ensure such complaints can provide consistency in terms of detail, as well being recorded and stored securely and confidentially.*

*The financial costs and/or benefits of any such provision would depend on digital solutions, any necessary additional administrative support and the volume of oral complaints received.*

## **Complaints handling across public services**

**8. At present there is no consistency in the way public bodies deal with complaints. Adoption of the model complaints policy issued by the Welsh government is voluntary. What are your views on the Ombudsman preparing a model complaints policy which public bodies would be obliged to adopt. Please explain your answer.**

**9. Do you have a view on the financial costs and benefits of this provision?**

*The WLGA supported the Ombudsman in the development of the model complaints policy which was published in 2011<sup>1</sup>. The WLGA understands that 21 of the 22 authorities have implemented the model policy and 1 is reviewing its complaints procedures in line with the model. It is likely that the anticipated mergers of local authorities would see further streamlining and consistency of complaints processes within local government.*

## **Ombudsman's jurisdiction**

**10. What are your general views on the Ombudsman's current jurisdiction?**

**11. At present the Ombudsman can investigate private health care that has been commissioned by the NHS. The Ombudsman would like the jurisdiction to be extended to enable him/her to investigate when a patient has received private healthcare (self-funded not commissioned by the NHS) in conjunction with public healthcare. This would enable the complaints process to follow the citizen rather than the sector. What are your views on extending the Ombudsman's jurisdiction in this way?**

**12. How do you think the investigation of private health care complaints should be funded? (Possibilities include a levy, charging on a case by case basis or no charge.)**

**13. Do you have a view on the financial costs and benefits of this provision?**

*The WLGA does not have strong views regarding the Ombudsman's jurisdiction or powers in private healthcare, although the case put forward in the Ombudsman's paper appears compelling.*

## **Links with the courts**

**14. What are your views on the removal of the statutory bar to allow the Ombudsman to consider a case which has or had the possibility of recourse to a court, tribunal or other mechanism for review? (ie this would give complainants the opportunity to decide which route is most appropriate for them.)**

**15. What are your views on the Ombudsman being able to refer cases to the Courts for a determination on a point of law?**

**16. Do you have a view on the financial costs and benefits of this provision?**

*The WLGA recognises the Ombudsman's rationale for removing the statutory bar with a view to improving the public's accessibility to resolution of complaints. That said, this is the most significant legislative and jurisdictional reform that the Ombudsman proposes which would have implications for law across England and Wales and a potentially significant impact in terms of workload and resources for the*

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<sup>1</sup> [http://www.ombudsman-wales.org.uk/~media/Files/Documents\\_en/Model%20Complaints%20Policy%20Final%20PSOW.ashx](http://www.ombudsman-wales.org.uk/~media/Files/Documents_en/Model%20Complaints%20Policy%20Final%20PSOW.ashx)

*Ombudsman. It is unclear what data is available or what analysis has been undertaken to assess the impact of such a reform or the Assembly's competence in this arena given the territorial jurisdiction of the courts. The WLGA also notes that in his oral evidence, the Ombudsman suggested that of his 5 proposed areas for reform, removal of the statutory bar (given the above complexity) was not the highest priority reform.*

## **Other issues**

**17. Do you have any specific examples where the Ombudsman having the additional powers proposed could have been useful in securing a successful conclusion to an issue?**

*No.*

**18. Schedule 3 of the current 2005 Act, provides a list of authorities that are within the Ombudsman's jurisdiction to investigate complaints. Please provide details of any other bodies/organisations that should be included in this list?**

*The list in Schedule 3 appears appropriate, although it should be updated to incorporate bodies established or renamed after the 2005 Act.*

**19. If extended powers were given to the Ombudsman in a new Bill/Act, at what point should the impact of this legislation be evaluated?**

*As the Ombudsman and noted in oral evidence to the Committee, there is significant and ongoing reform of public services and the devolution settlement for Wales and there would probably not be an 'ideal time' to take stock. That said, the current timeframe of ten years for reviewing the current Public Services Ombudsman (Wales) Act 2005 is probably too long given the anticipated changes to public services and a five year review would probably be more appropriate.*

**20. What unintended consequences could arise as a result of these provisions becoming legislation and what steps could be taken to deal with these consequences?**

*As noted above, the main concern regarding unintended consequences is the potential for jurisdiction between the Ombudsman and the Auditor General for Wales around 'self-initiative' investigations. This could be mitigated by clear criteria for such investigations, agreement of protocols between inspection bodies or a process by which the Ombudsmen requests that other bodies carries out follow-up inspections or investigations after his initial work.*

**21. What factors should be measured to determine the cost-benefit analysis of this legislation being brought forward?**

*It is difficult to determine an appropriate cost-benefit analysis given limited data has been presented to date which could be used to assess the likely impact in terms of additional complaints and, subsequently, upheld complaints as a result of any legislative changes. Should this Inquiry lead to legislation, a more thorough Regulatory Impact Assessment should be completed which should assess the potential impact, particularly in terms of workload on the Ombudsman's office and public services as a result. In principle however, it is difficult to quantify the value of a regulatory or complaints regime which seeks to provide assurance and public confidence about public services, provides support and redress to individuals who have had a complaint upheld and contributes to wider service improvements.*

## **22. Do you have any comments on the following issues:**

- **jurisdiction – changes to the devolution settlement have led to new areas coming into jurisdiction over time, should consideration be given to other bodies being included in the Ombudsman's jurisdiction;**

*See 18 above*

- **recommendations and findings - should the recommendations of the Ombudsman to public bodies be binding. This would mean that bodies cannot decide to reject the findings;**

*The current approach to Ombudsman recommendations works effectively in Wales. The relationship between the Ombudsman and public services is based on early, open and constructive dialogue, where 'quick fixes' are encouraged. The regulatory relationship would shift significantly if recommendations were made to be binding, with implications for local democratic discretion and/or challenge or appeal.*

- **protecting the title - there has been a proliferation of schemes calling themselves ombudsmen, often without satisfying the key criteria of the concept such as independence from those in jurisdiction and being free to the complainant. Should anyone intending to use the title ombudsman gain approval from the Ombudsman;**

*The WLGA does not have strong views on this matter.*

- **code of conduct complaints – the Ombudsman would prefer to focus on the element of his work that deals with service users and service delivery, rather than local authority and town and community councils' resolutions. Whilst a local resolution procedures exists and has been adopted by 22 local authorities, variance exists in practice.**

*The Ombudsman was specifically established to investigate complaints about councillors' conduct as well as complaints about public services. Although the Ombudsman's own workload and priorities have varied during recent years,*

*his role in independently investigating complaints about councillors' conduct remains a vital back-stop role which local government would wish to retain, particularly for most serious breaches of the code of conduct.*

*Local resolution procedures have been developed by local authorities, the WLGA and the Ombudsman and they are increasingly effective in managing lower level complaints about the conduct of councillors. These procedures have meant a reduced burden on the Ombudsman's office, but in turn has meant a transfer of workload (but not of resources) to local authorities. The Ombudsman's latest Annual Report shows that code of conduct complaints were down 22% in 2013-14 at 228 new complaints, of which only 111 related to county or county borough councils. Of the 228 complaints, only 41 were investigated and only 6 investigation reports led to referral to either a standards committee or the Adjudication Panel for Wales.*

**23. Do you have any views on any aspects of future planned or proposed public sector reforms that would impact on the role of the Ombudsman?**

*See preamble above.*

**24. Do you have any other issues or concerns about the current Act and are there any other areas that need reform or updating?**

*No*

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