

# **Consideration of powers for the Public Services Ombudsman for Wales**

## **Response from the Standards and Ethics Committee – City of Cardiff Council**

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

*We regard the act as wholly effective. We have had concerns in the past about delays in dealing with member complaint but performance in recent times has greatly improved . We remain concerned that the proposed changes would result in a significant increase in running costs – approximately 5-6% per annum. Is this affordable in the current financial climate? Is it possible to link this increase to cost reduction opportunities within the proposed changes?*

### **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 own investigations without having first received a complaint about an issue. Please explain your answer.**

*The principle of this is acceptable and looking at the examples given and comparing with the investigations carried out by the Local Authority this would not affect our current procedure.*

*Own initiative investigations should be by exception and/or where there are opportunities to tackle wider ranging issues which affect a large number of public service organisations. If this new power is implemented, it should ensure that it does not duplicate resources or intervene where the organisation is capable of investigating the matter effectively using its own resources.*

*In advance of initiating an investigation, sufficient engagement should take place with affected parties and other organisations that may have relevant responsibilities.*

*There should be clear guidelines and criteria developed, in consultation with public service organisations, as to when an own initiative can or should be launched.*

*The potential cost implications should be assessed at the outset of any own initiative investigation and weighed against the potential benefits*

### **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?**

*Please see comments above at 2*

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

*Please see comments above at 2*

**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.**

*It is essential that the Public Service Ombudsman is accessible to all. Accepting oral complaints contributes to this but also allowing complaints through digital means by email and web form will enable better access.*

*If there is evidence to suggest that there will be a significant proportion of oral complaints, there will be time and cost implications and there will need to be the capacity to handle these. Perhaps, there may be some value in identifying an intermediary/independent person who can be assigned a specific remit for providing practical support to those who need it (e.g. Complaints Wales, Citizen's Advice Bureau), to progress a complaint. This could prove useful in filtering the direct enquiries received by the Ombudsman and provide practical support to complainants that need it.*

*Digital technologies (email and web) should be used to their maximum effect to improve the efficiency of the complaints process. The Ombudsman is currently very outdated in this respect. Those who can use digital methods should be encouraged to do so by communication via the Public Service Ombudsman website and other public service bodies.*

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

*Again maximising the channels of choice to the customer would be the right thing to do.*

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

*We would accept the Ombudsman's decision to accept complaints orally or via the other forms of submission stated. However, if the Ombudsman decides to accept a case, we would appreciate clear justification be provided to the Council for why he has decided to set aside the usual requirement for a complaint to be made in writing while also allowing that though the Ombudsman may have accepted the complaint, the Council may possess further information as to why a complaint had been refused originally.*

**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.**

*We should aim for standardisation of the complaints policy across public service organisations, with a view to reducing administration costs, enabling greater efficiency and using a model of best practice. However, it is also important to recognise that some organisations will have differing powers and resources, which will need to be taken into consideration.*

*A Model Complaints Policy already exists and most Unitary Authorities follow this approach. Any change that can enhance this by sharing of information and performance improvements should be supported and, therefore, bring greater benefit to all public services.*

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

*Please see comments above at 8.*

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

*No comments*

**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?**

*We would support this but any change will create new legal risks and needs to be managed carefully.*

**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.)**

*No comments*

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

*No comments*

**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.)**

*Complainants must have options available and any changes that supports this are acceptable*

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

*We would support this*

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

*We agree that complainants should be given the opportunity to decide which route is most appropriate for them. However, we would appreciate some clarification on what services would be covered by 'tribunal or other mechanism for review' should there be any conflicts with what is covered by the Council's Complaints Policy.*

**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 examples held by the Council though it would presumably be the complainants who could offer comments on this.*

**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?**

*No comments*

**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 current act is now being evaluated after 10 years of operation, we would suggest 5 years for the next evaluation.*

**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?**

*No comments*

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

*No comments*

**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;**

*No comments*

- **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;**

*As long as there remains a draft stage to a report where public bodies have the chance to comment on the Ombudsman's findings before it is finalised (in case of any discrepancies or areas of ambiguity), we have no concerns.*

- **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;**

*No comments*

- **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.**

*We would support this . The local resolution procedure has been implemented successfully at Cardiff and has been adopted by all the 22 local authorities although a variance exists in practice.*

**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?**

*No comments*

**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 comments*

Richard Tebboth

Independent Chair of the Standards and Ethics Committee

Cardiff Council

19 March 2015