



## Questions and Responses from the Ombudsman

Question	
1	<p>The Local Government (Democracy) (Wales) Act 2013 allows for regional Standards Committees to be formed. When the regulations are in place, how does the Ombudsman suggest that this power should be exercised among the North Wales Authorities. What is the current timetable for bringing this power into effect?</p> <p><b>Michael Wilson (Chair) - Isle of Anglesey</b></p> <p><b>OMBUDSMAN :-</b> I worked on the Williams Commission and am a strong supporter of collaborative working in the public sector. I am supportive of regional Standards Committees being formed, and believe it is the way forward. I understand that the Welsh Government are looking to bring the regulations into place next year, however, I do not have a timetable for this.</p>
2	<p>Why do cases accepted by the Ombudsman take so long to investigate?</p> <p>Surely a member who has been accused of misconduct has a reasonable expectation that the allegation(s) be addressed and determined as soon as possible?</p> <p>There is also a public interest for the electorate in knowing as soon as possible whether their democratically elected representative has breached the code of conduct.</p> <p><b>John Roberts (Vice-Chair) – Conwy</b></p> <p><b>OMBUDSMAN :-</b> If there is a problem with the timescale for dealing with complaints I will look at this. There is a graph within the Williams Report known as the “graph of doom” which states that demand for public services is going up, whereas the budget is going down.</p> <p>There has not been a huge increase in the number of code of conduct complaints received, and in fact there has been a decline. This however does change during election years where the numbers of complaints increase. The problem we have is with vexatious complaints. We need to make sure that vexatious complaints are not investigated and are thrown out as soon as possible.</p> <p>We are funded by tax payers’ money, and also investigate life or death NHS failures, which we believe has a higher public interest for investigation, rather than vexatious complaints raised on code of conduct issues.</p>

	<p>The statistics for the timescales in which we deal with code of conduct complaints are as follows :-</p> <ol style="list-style-type: none"> <li>1. We decide whether or not to investigate 81% of complaints received within 4 weeks;</li> <li>2. 85% of complaints which are then passed to investigation stage are investigated within 9 months;</li> <li>3. Only 15% take longer than 9 months.</li> </ol> <p>However, where we can make further improvements to timescale in which we deal with complaints, we will. We cannot do anything to speed up the Adjudication Panel for Wales' timescales, or that of the Standards Committees, as these are outside our control. I want to bring in a third test to my two stage test and that "is there a public interest in investigating the complaint?" It makes sense that any matter which is not in the public interest should be set aside. I am not saying that we are going to do less work, we are going to do more, but we cannot indulge in wasting tax payers money in investigating vexatious complaints.</p>
3	<p>In a letter to the Ombudsman from the Chairman of the North Wales Standards Committee Forum (NWSCF) it was asked whether:-</p> <ol style="list-style-type: none"> <li>(i) The Ombudsman would be willing to provide sanctions guidance specifically tailored to the needs and powers of standards committees rather than seeking to apply relevant passages from the Adjudication Panels Guidance; and</li> <li>(ii) The first issue of "The Ombudsman's Code of Conduct Casebook" was considered very useful. However, the NWSCF considers that it would be even more useful if case summaries could be published as and when the cases are concluded, perhaps on the Ombudsman's website? It was asked whether or not this could be accommodated or, alternatively, might the case summaries be published quarterly?</li> </ol> <p>Negative responses to each request was received from the former Ombudsman. Is the current Ombudsman willing to re-visit these issues and, if not, could he elaborate on the reasoning behind his predecessor's decision.</p> <p><b>Ian Trigger (Chair) – Denbighshire</b></p> <p><b>OMBUDSMAN :-</b> We do not have the resources to publish a monthly casebook, but we may be able to publish information on reported cases on the website as soon as they go live.</p> <p>In relation to the sanctions guidance, I have not discussed this matter with my predecessor, however, I am not convinced there is a problem with consistency of sanctions being provided by the Standards Committees across Wales, however, it is something we can consider if you think it would be helpful.</p>
4	In the Ombudsman's Guidance on Local Resolution Protocols (page 6 of the

	<p>Guidance to the Code) it is mentioned that there is an expectation on County Councils to implement local resolution procedures to deal with low level complaints and that: <b>“these mechanisms are initially being adopted by principal councils, but I am supportive of this extending to cover community councils in due course”</b>.</p> <p>This anticipates that County Councils may be expected to operate local resolution protocols in community council disputes? Alternatively, does the Ombudsman envisage that such protocols should be adopted by Community Councils themselves and operated by those Councils? Even if these anticipated arrangements are not “rolled out” does the Ombudsman think that Standards Committees should take an active role in sorting out minor complaints within Town and Community Councils, before they are escalated to the Ombudsman?</p> <p><b>Edwards Hughes (Chair) – Flintshire</b></p> <p><b>OMBUDSMAN :-</b> Currently 50% of the Code of Conduct of complaints we receive are from Community Councils.</p> <p>In a conference held by One Voice Wales recently, the Community Councils attendees seemed keen for the Local Resolutions Protocol to be extended to Community Councils, however Monitoring Officers appeared less keen.</p> <p><i>The Monitoring Officer for Gwynedd County Council confirmed that he is yet to be persuaded that there is capacity to deal with Community Councils’ Local Resolution Protocols, both within the Council, and within the Community Councils themselves due to the time restraints on the Clerk. However, introducing the public interest test may assist in reducing the number of Community Council complaints raised.</i></p>
5	<p>It is understood that the Ombudsman will publish new Guidance on the Code of Conduct (particularly in light of Calver). Is the Ombudsman able to give any indication as to when this new guidance will be available and to provide some information regarding the timeframe for consultation on any draft?</p> <p><b>David Vaughan (Chair) – Snowdonia National Park</b></p> <p><b>OMBUDSMAN :-</b> The Guidance on the Code of Conduct has been amended in light of Calver but it will need to be revisited again as a result of the Heesom judgment, and the fact that we want to introduce a new public interest test.</p>
6	<p>Within our Whistleblowing Policy we refer to the Ombudsman as a regulator to whom an employee may speak regarding their concerns. Does the Ombudsman have a role here? If so, what kind of whistleblowing complaints would fall within the Ombudsman’s remit? Should this be removed from our policy?</p> <p><b>Michael Wilson (Chair) – Isle of Anglesey</b></p> <p><b>OMBUDSMAN :-</b> I am not a regulator but am of course prepared to receive whistleblowing complaints which relate to the Code of Conduct and its breach.</p>

7	<p>What percentage of complaints received by the Ombudsman, investigated by the Ombudsman, referred by the Ombudsman to a Standards Committee/Adjudication Panel, are from Community Councils as opposed to unitary authorities? The concern is that the public will see the word “Councillor” and be unable to distinguish between County Councillors and Community Councillors.</p> <p><b>Robert Dewey (Chair) – Flintshire</b></p> <p><b>OMBUDSMAN :-</b> 50% of the complaints we receive are from Community Councils; 15% of these are investigated and 5% are referred to Standards Committee.</p> <p>In respect of the 50% of complaints received against County Councillors, 19% are investigated, and 1% are referred to the Standards Committee.</p>
8	<p>Where the Ombudsman refers a matter to a Standards Committee for hearing and the Council's own Legal Section is conflicted by the subject matter of the referral, what (if any) are the Ombudsman's views on whom should provide the legal advice to the Standards Committee?</p> <p><b>Ian Trigger (Chair) – Denbighshire</b></p> <p><b>OMBUDSMAN :-</b> I am of the view that neighbouring authorities should assist.</p> <p>It was accepted within the Committee that where they can, legal services will assist each other, however, this may be difficult on specific issues due to each Council's own graph of doom.</p>
9	<p>How does the Ombudsman intend to develop his role in relation to the Code of Conduct? Does he have any new initiatives in mind?</p> <p><b>John Roberts (Vice-Chair) - Conwy</b></p> <p><b>OMBUDSMAN :-</b> I do not have any new initiatives in mind, however, I wish to add a third public interest test and will also be providing simple guidance on personal and prejudicial interests.</p>
10	<p>The NWSCF wrote to One Voice Wales earlier this year requesting support for Community Councils in developing the ethical content of their websites when this becomes a statutory requirement (see letter attached). We are yet to receive a response. What advice will the Ombudsman provide to Community Councils on this issue?</p> <p><b>Edwards Hughes (Chair) – Flintshire</b></p> <p><b>OMBUDSMAN :-</b> I would like to see a copy of any response you receive from One Voice Wales on this as I would be interested in receiving their views. Equally, I would also be happy to listen to any comments you may have on what sort of guidance you would like to receive, and we can see if it's something that we are able to assist</p>

	with.
11	<p>Will you as the Ombudsman, consider passing more breaches of the Code of Conduct, to the Standards Committees to deal with at a local level.</p> <p><b>Howie Roberts (Chair) – Conwy</b></p> <p><b>OMBUDSMAN :-</b>  Yes, we will consider passing more breaches of the Code of Conduct to Standards Committees, and during a meeting in Swansea last week in which I was present, there was an expectation that this would happen. The take up was however poor with only four cases being investigated at local level up to April this year. The problem appears to be that Standards Committee do not appear to have an appetite for taking on local hearings. It is however noted that the Standards Committees present would be happy to take more matters on at a local level and I will continue to refer cases where appropriate.</p>
12	<p>Whether the Ombudsman has any intention of clarifying paragraph 10 (2) (b) of the Members' Code beyond that contained in the Guidance issued in September 2012 (page 27). That Guidance indicated that the then Ombudsman would review that Guidance in light of any future decisions and case law on the effect of this provision.</p> <p><b>David Vaughan (Chair) – Snowdonia National Park</b></p> <p><b>OMBUDSMAN :-</b>  The Welsh Government has indicated that it is going to remove paragraph 10 (2) (b) of the Members' Code of Conduct when relooking at the Local Government (Democracy) (Wales) Act 2013.</p>
13	<p>A complaint is usually made against a member as a member of a particular authority. Consequently any suspension would be from acting as a member of that authority. Often however, the member will also be a member of another relevant authority (e.g. a county councillor who is also a community councillor). This can lead to a situation, where a member is suspended for behaviour which is considered unacceptable for a member of any authority (e.g. conduct that brings the office into disrepute) but he/she is free to continue to act as a member of another authority in the meantime.</p> <p><b>Robert Dewey (Chair) – Flintshire</b></p> <p><b>OMBUDSMAN :-</b>  Any suspension prevents a Councillor from acting on the authority from which they have been suspended, but does not ordinarily suspend that member from any Community Council to which they have been appointed, unless the allegations are sufficiently serious, in which case the suspension can be extended to other committees and other Authorities such as Community Councils.</p>
14	<p>Do you think that the North Wales Standards Committee Forum is a good idea?</p> <p><b>Howie Roberts (Chair)</b></p> <p><b>OMBUDSMAN :-</b></p>

	Yes I do believe the Forum is a very good idea as it encourages sharing expertise, and also provides consistency across North Wales.
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