

**Evidence of the Public Services Ombudsman for Wales
to the National Assembly for Wales's Communities, Equality and
Local Government Committee
on the Local Government (Democracy) (Wales) Bill**

1. Introduction

- 1.1 I pleased to have the opportunity to provide evidence in respect of the Communities, Equality and Local Committee's scrutiny of the Local Government (Democracy) (Wales) Bill.
- 1.2 As Public Services Ombudsman for Wales, I have two roles. The first is to investigate complaints made by members of the public who believe they have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction. The second is to consider complaints alleging that members of local authorities have broken their Code of Conduct. My comments are based on my experience in both of these roles.

2. The Local Government Boundary Commission

- 2.1 The current Local Government Boundary Commission for Wales is outside of the jurisdiction of the Public Services Ombudsman for Wales. This has previously been identified as something of an anomaly. I am pleased therefore that the Bill brings the Commission in its new form of the Local Democracy and Boundary Commission for Wales within the Ombudsman's jurisdiction. This means that the Ombudsman will in future be able to accept for consideration complaints about maladministration or service failure by this public body.

3. Other Changes to Local Government

- 3.1 **Access to Information** – I welcome the elements of the Bill that require community councils to make available electronically information on how to contact the council to the public. Community councils come within the jurisdiction of my office. Finding up to date contact details and information about the 730 or so town and community councils in Wales is not always easy. It also presents difficulties when seeking to signpost members of the public making enquiries about these authorities to the right place. A website presence of some form is important in today's world. Whilst I understand that some town and community councils are small and have limited resource, there are possibilities that other organisations, such as principal authorities, could host these on their behalf. However, they would need to do so in a way that would enable the relevant web pages to be returned prominently in any results from an internet search engine.

3.2 Joint Standards Committees –

3.2.1 In my role of considering complaints alleging that members of local authorities have broken their Code of Conduct I have on a number of occasions expressed my concern about certain aspects of the current local government ethical framework. The proposal in relation to joint standards committees will at least address some of those concerns.

3.2.2 By way of background information, outcomes of cases which I have referred to standards committees over recent years are as follows:

Year	No. of referrals	Outcome and Sanction applied by Standards Committee (if any)
2012/13 to date	12	Breach x 3: <ul style="list-style-type: none"> • 3 month suspension x 1 • 28 day suspension x 1 • Censure x 1 (9 cases yet to be heard)
2011/12	15	Breach x 14: <ul style="list-style-type: none"> • 6 month suspension x 1 • 18 week suspension x 1 • Censure x 8 • No action x 4 (1 case yet to be heard)
2010/11	16	Breach x 14: <ul style="list-style-type: none"> • 6 month suspension x 1 • 3 month suspension x 1 • 2 month suspension x 1 • 1 month suspension x 1 • 28 day suspension x 1 • Censure & training x 1 • Censure x 5 • No action x 3 No evidence of breach x 1 No case to answer x 1

3.2.3 Some of the problems that I as Ombudsman have witnessed in relation to the current standards committee arrangements are:

- (a) Standards committees sometimes face problems in forming suitably ‘independent’ committees. For example, sometimes the whole council has been involved in the matter complained about. This occurred in a recent complaint I investigated which concerned remarks which had been made during a council meeting and the members who were present at the meeting were witnesses who had been contacted by my investigator during the investigation. I consider that the rules of natural justice dictate that it would not be appropriate for those members who witnessed the events and who are also members of the council’s standards committee to play any part in any subsequent hearing of the matter. One member who was a witness in the recent case was extremely unhappy about this and whilst he eventually heeded his Monitoring Officer’s advice to play no part in the hearing had he not done so the hearing might have been prejudiced.

- (b) Some local authority standards committees are rarely called to consider code of conduct complaints. This leads to a position where members are insufficiently au fait with procedures and that lack of familiarity can lead for example to lenient sanctions in what I consider to be serious breaches of the Code. A couple of case examples to illustrate this point are:

A member of a community council attended meetings of his council and of the relevant national park authority concerning the draft Local Development Plan (LDP), despite having both a personal and prejudicial interest in the matter because he had submitted land in his ownership to be included in the LDP. He should therefore have declared his interest and taken no part in any discussions concerning the draft LDP. I considered the breaches of the code to be serious and ones that would cause public concern. However, the Standards Committee took the view that no action needed to be taken against the member.

A member of a county borough council disclosed confidential information which had been revealed to her in her role as cabinet member for education relating to a fellow councillor's employment during an exchange she had with him in a council meeting. Although the cabinet member was a very experienced member and the information which was disclosed in the public arena could have affected the fellow councillor's future employment prospects the standards committee censured the member and did not impose any period of suspension.

- (c) Some authorities, such as fire authorities, have called into question the need for them to constitute standards committees so rarely do they have call to meet to discuss complaints about failure by their members to adhere to their Code of Conduct, if ever.

3.2.4 In each of these scenarios above, the proposed arrangement for joint standards committees would help to resolve the issues identified. Joint standards committees could:

- overcome the problems of conflict of interest and constituting appropriately 'independent' committees for standards hearings and issues
- build the necessary expertise so that unduly lenient sanctions of the type that currently happen do not occur in the future
- address the concerns of those authorities who feel that they are unnecessarily required to constitute a standards committee because they rarely if ever have to meet. The proposal contained in the Bill would allow such authorities to access a joint standards committee should they require it.

3.2.5 I also believe that a joint standards committee arrangement would strengthen public confidence in high standards of conduct within local democracy.

Finally, if the National Assembly for Wales's Communities, Equality and Local Government Committee would find it helpful, I would be happy to discuss further the above comments.

**Public Services Ombudsman for Wales
January 2013**
