

Report



Standards Committee

Part 1

Date: 18th January 2024

Subject Ombudsman's Annual Report 2022/2023

Purpose To report the Ombudsman's Annual letter and Annual Report and the numbers of complaints of maladministration and misconduct dealt with during 2022/23

Author Head of Law and Standards

Ward General

Summary Following the publication of his Annual Report for 2022/23, the Ombudsman has issued the Council with his Annual letter, which sets out information relating to the numbers of complaints of maladministration and misconduct which were referred to his office during this period relating to Newport City Council and its Councillors

Proposal To note the Report and the Ombudsman's Annual letter and Annual report for 2022/23

Action by Head of Law and Standards

Timetable Immediate

Background

1. The role of the Public Services Ombudsman for Wales is to investigate complaints about public services and independent care providers in Wales. The Ombudsman also considers complaints that members of local government bodies have breached their authority's code of conduct. The Ombudsman aims to put things right when they have been treated unfairly or received poor service, and to promote improvement in public service delivery and standards in public life.
2. The Ombudsman's office publishes an Annual Report every year, which provides an overview of its activities, achievements and challenges during the previous financial year. The report also includes statistical information on the number and type of complaints received, the outcomes of investigations and the actions taken by public bodies and councillors in response to the Ombudsman's recommendations.
3. Following the publication of their Annual Report for 2022/23, the Ombudsman has issued the Council with their Annual letter, which sets out information relating to the numbers of complaints of maladministration and misconduct which were referred to their office during this period relating to Newport City Council and its Councillors.
4. The report covers the period from 1 April 2022 to 31 March 2023, which was the first term of office by the newly appointed Ombudsman, Michelle Morris. The new Public Services Ombudsman for Wales developed a new Strategic Plan setting out how her office would work to continue to deliver a fair and independent complaints service, for those dissatisfied with public services, and use the learning from complaints to make improvements. The Ombudsman's strategy has four key aims:
 - Delivering justice with a positive impact for people and public services
 - Increasing accessibility and inclusion
 - Increasing the impact of our proactive improvement work
 - Ensuring that we are a healthy, efficient and accountable organisation.
5. The Ombudsman reported an increase of 3% overall in reports made to them compared to the previous year, and they now receive double the number of cases they received a decade ago. 1,020 complaints regarding local authorities were referred to the Ombudsman in 2022/23 - a reduction of 11% compared to the previous year. During this period, the Ombudsman intervened in (upheld, settled or resolved at an early stage) 12% of local authority complaints and 19% of all complaints received about public services. The Ombudsman reflected on the challenges that the current climate posed and that will continue to challenge for public services, and remarked on the positive and productive way in which local authorities continued to engage with her office.
6. One of the features of the Annual Report is the annual letter that the Ombudsman sends to each local authority in Wales, summarising the complaints and inquiries received about their services and performance. The letter also provides feedback on how the local authority has responded to the Ombudsman's recommendations and suggestions for improvement.
7. The annual letter for Newport City Council for 2022/23 is included in background papers. The letter acknowledges the challenges and pressures faced by the council and the impact on service delivery and complaint handling. The letter also commends

the council for its positive engagement with the Ombudsman's office and its willingness to learn from complaints and implement changes where appropriate.

8. During the financial year from April 2022 to March 2023, the Ombudsman received 1,020 new complaints of maladministration on the part of local authorities in Wales. 48 of these complaints were concerning Newport City Council compared to the total of 39 in the previous year, an increase of 23%. For context, this represents 0.26 per 1,000 residents, which remains the same as figure for the previous year. The average for Wales overall was 0.33 complaints per 1,000 residents. The letter notes that the main areas of complaint for Newport were housing and complaints handling, which accounted for 57% of all complaints received.
9. 4% of all of the complaints received by Newport City Council during the year were referred to the Ombudsman by the complainant. There was an increase in the level of interventions (upheld, settled or resolved at an early stage) with the Ombudsman's office intervening in 17% of complaints against Newport City Council local authorities compared with 11% in the previous year. The Wales average for interventions in 2022/23 was 12%. There were no public interest reports issued in 2022/23 relating to findings of serious maladministration.

Key Statistics

10. A summary of the key statistics lifted from the Ombudsman's Annual Report 2022/23



Governance

11. In May 2021, the Governance and Audit Committee agreed new terms of reference to align with the Local Government and Elections (Wales) Act 2021. One of the new requirements of the Committee is to: Make reports and recommendations in relation to the authority's ability to handle complaints effectively.
12. In September 2023 the Committee was presented with an overview of how the Council manages Compliments, Comments and Complaints and the annual report on the Council's performance in 2022/23.
13. All annual statistics and corporate actions for improvement are passed onto the Chief Internal Auditor and are then fed into the Annual Governance Statement and Annual

Corporate Self-Assessment Report. The policies and procedures in place for Compliments, Comments and Complaints comply with the legislative requirements of the Welsh Language (Wales) Measure 2011 and associated standards, specifically ensuring that the Council promote the 'Active Offer'. Social Services statutory requirements remain in operation alongside the Corporate Policy to ensure they are aligning with; Social Services Complaints Procedure (Wales) Regulations 2014 and the Representations Procedure (Wales) Regulations 2014, ("the Regulations").

Code of Conduct

14. Code of Conduct complaints regarding City Councillors and Community Councillors are dealt with under a separate ethical standard's regulatory framework. In accordance with Part III of the Local Government Act 2000, all complaints about breaches of the Member Code of Conduct are referred to the Ombudsman to consider whether any breach has been committed and, if so, whether that breach is serious enough to warrant any sanction. Serious breaches are then investigated and reported to either Standards Committee or the Adjudication Panel for Wales. Standards Committee have the power to suspend a Councillor for up to 6 months and the Adjudication Panel can suspend for up to 1 year or disqualify for up to 5 years. All Code of Conduct complaints received by the Ombudsman are reported to Standards Committee, on an anonymised and confidential basis, and they are also notified of the reasons why the Ombudsman has decided not to accept or investigate the complaints.
15. The Report provides some data on the Code of Conduct complaints received by the Ombudsman in 2022/23. The Ombudsman's office received 283 new Code of Conduct cases in 2022/23, which was a slight reduction of 4% compared with the previous year. Over a half of these complaints (56%) were about councillors at Town and Community Councils. However, for the first time since 2019/20, the Ombudsman saw a decrease in the number of complaints about this group of councillors. In contrast, they received 7% more complaints about councillors at principal councils.
16. The Ombudsman applies a 'public interest test' to decide which cases they should investigate. Public interest can be described as something which is of serious concern or benefit to the public. Generally, they investigate only a small proportion of the Code of Conduct complaints received. This shows that the standards of conduct in local government are generally good. In 2022/23, they assessed or investigated 280 complaints about the Code of Conduct - about the same number as the previous year. They investigated 35, or 13%, of these complaints – a slightly lower proportion than the previous year (14%).
17. 61% of the complaints that the Ombudsman could look into were about the promotion of equality and respect. This was a higher proportion than the previous year (51%). Generally, the cases that categorised under 'respect' were lower level complaints. These are the concerns where the Ombudsman tends to decide quickly that they will not investigate, or where they recommend that the complaint is resolved locally. The complaints that they categorise under 'equality' commonly involve more serious allegations of bullying or discrimination.
18. The Report highlights that 12 of the 35 reports they investigated were referred to the relevant standards committees or the Adjudication Panel for Wales for determination, which was fewer than the previous year when 20 were referred.

19. In Newport, 7 Code of Conduct complaints were referred to the Ombudsman about City Councillors in 2022/23 and 8 complaints regarding Community Councillors. 6 of the complaints against City Councillors were not accepted for investigation as there was no evidence of any breach and 1 was referred to Standards Committee. Of the 8 community council complaints, 6 were not investigated, 1 was found to have no action necessary, and 1 was found to have no evidence of a breach of the Code. The outcome of these complaints has been reported to Standards Committee throughout the year, on an anonymised basis.

Whistle-blowing

20. The Annual Report notes that, since 1 April 2017, the Ombudsman is a 'prescribed person' for the purposes of whistle-blowing under the Public Interest Disclosure Act 1998. The Act provides protection for employees who make a whistle-blowing complaint in the public interest about alleged wrongdoing.
21. As a 'prescribed person', the Ombudsman is required to report annually on whistleblowing disclosures made in the context of Code of Conduct complaints only. In 2022/23, the Ombudsman received 24 Code of Conduct complaints that would potentially meet the statutory definition of disclosure from employees or former employees of a council. 8 of these complaints related to promotion of equality and respect. The Ombudsman investigated 13 of these complaints. They have discontinued 1 of those investigations, as the Ombudsman decided that it was not in the public interest to pursue it. In 2022/23 they concluded an investigation into 1 relevant complaint that was ongoing since 2020/21 and concluded that they found no evidence of breach. The Ombudsman also concluded investigations into 6 relevant complaints which were received in 2021/22. Of these:
- 4 were referred to the Adjudication Panel for Wales.
 - it was determined that no further action was needed for 2 complaints.
22. Of the 4 referred to the Adjudication Panel for Wales, a former member of St Harmon Community Council was disqualified by the Panel from holding office as a councillor for 12 months. The other 3 cases are awaiting hearing. 4 investigations opened in 2021/22 are still ongoing.

Case studies

23. The Annual Report makes reference to a number of case studies, as examples of misconduct and sanctions:-
- Carmarthenshire County Council
Carmarthenshire County Council's Standards Committee suspended a councillor for 1 month for breaches of the Council's Code of Conduct, which included a failure to show due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion.
 - Pembrokeshire County Council

A member of Pembrokeshire County Council was disqualified from holding office as a councillor for 3 years for bullying behaviour towards another councillor, harassment of a member of the public and other serious misconduct which brought his Council into disrepute. You can read about this decision on the Adjudication Panel's website which is included as a link in background papers.

- Llansantffraed Community Council

A former member of Llansantffraed Community Council was disqualified from holding office as a councillor because she brought her office as a councillor into disrepute, having been convicted of the criminal offence of causing bodily harm by 'wanton and furious driving' contrary to Section 35 of the Offences against the Person Act 1861. You can read about this decision on the Adjudication Panel's website which is included as a link in background papers.

Promoting better practice

24. Each quarter all local authorities in Wales report to the Ombudsman. The Complaints Standards Authority (CSA) continued its work with public bodies in Wales last year, with more than 50 public bodies now operating within their model policy. They have also provided more than 400 training sessions to local authorities since September 2020. They continue to publish complaints statistics into their second year, with data now published twice a year. This data allows us to see information with greater context – for example, last year 4% of all Newport City Council's complaints were referred to the Ombudsman. The Ombudsman continues to determine that authorities and other organisations should not view complaints as negative. If volumes of reported complaints are too few, this calls into question whether processes are clear enough and whether residents are given enough opportunities and access points to raise these concerns. The Ombudsman does not provide benchmarking information, however they do support Local Authorities with advice and guidance. We will continue to engage with the Ombudsman's Complaints Standards work, accessing training for officers, fully implementing the model policy, and providing complaints data.
- There will also be a focus on training for elected members and community councillors in 2024/25 as part of the ongoing programme of development and support.
25. The Ombudsman also welcomes the additional responsibilities that Group Leaders at principal councils have to promote good standards of behaviour by working with Monitoring Officers and Standards Committees concerning their additional duties.

Financial Summary

There are no financial implications

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
Failure to comply with the requirements of the Public Services Ombudsman for Wales (PSOW) in dealing with complaints	H	L	<p>The Council has.</p> <ul style="list-style-type: none"> • All policies have been reviewed in line with Public Services Ombudsman (Wales) Act 2019 • Policy revised in March 2023 • Training and support for elected members and community councillors • Code of Conduct is part of the Constitution • Elected members have signed up to the Code of Conduct • Regular updates from Group Leaders on work undertaken to encourage upholding standards within their group • Regular reports and updates considered by Standards Committee • Complaints recording, monitoring and performance is also embedded in the Council's wider governance arrangements 	Head of Law and Standards

Links to Council Policies and Priorities

The Nolan principles, which underpin the ethical standards framework, and principles of good governance, are all enshrined in the Council's corporate and well-being objectives.

Proposed action

To note the report and the Ombudsman's annual letter and Annual Report for 2022/23

Comments of Chief Financial Officer

There are no financial implications arising from this report.

Comments of Monitoring Officer

Set out in the Report.

Comments of Head of People Policy and Transformation

The annual letter for Newport City Council for 2022/23 acknowledges the challenges and pressures faced by the council and the impact on service delivery and complaint handling. The letter also commends the council for its positive engagement with the Ombudsman's office and its willingness to learn from complaints and implement changes where appropriate. It is noted that the Ombudsman encourages the Council, through the Governance and Audit Committee, to use the data in the report to better understand performance on complaints and consider how good complaints handling is embedded throughout the Authority.

There are no direct staffing implications in this report.

Scrutiny Committees

Not Applicable, however complaints are also reported through certain service plans to performance Scrutiny Committee.

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

The principles of fairness and equality are embodied within the Members Code of Conduct and the Ethical Framework. No FEIA is required, as the Ombudsman's Annual letter is for information purposes only.

- There are no negative impacts in terms of equalities or social disadvantage.
- In terms of the sustainable development principle and 5 ways of working

Long-term – The Annual Report will assist Standards Committee in taking a long-term view about improving ethical standards

Prevention – The Annual Report guide will help to prevent future complaints of maladministration and misconduct

Integration – The Annual Report has been produced in consultation with key stakeholders

Collaboration – The Annual Report will assist people in interacting with councils and elected members, in a more collaborative way. It will also facilitate collaboration between Standards Committee in discussing matters of common interest.

Involvement – The Annual Report will encourage greater involvement in reporting and resolving complaints

Whilst this is an information only report to the Standards Committee, this work is also reported in the Strategic Equalities Annual Report.

Consultation

Not Applicable.

Background Papers

[Ombudsman's letter 2022/23](#)

A copy of the Annual Report can be found at
[Annual-Report-and-Accounts-2022-23-19-07-2023-Auditor-signed.pdf \(ombudsman.wales\)](#)

[The Adjudication Panel Website](#)

Dated: 9th January 2024