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**Response by the Public Services Ombudsman for Wales
to the Draft statutory guidance -Performance and
governance of principal councils**

I am pleased to have the opportunity to respond to the Welsh Government's consultation on the draft statutory guidance: Performance and Governance of Principal Councils.

Our role

As Public Services Ombudsman for Wales (PSOW), I 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, which essentially includes all organisations that deliver public services devolved to Wales. These include:

- local government (both county and community councils)
- the National Health Service (including GPs and dentists)
- registered social landlords (housing associations)
- the Welsh Government, together with its sponsored bodies.

I am also able to consider complaints about privately arranged or funded social care and palliative care services and, in certain specific circumstances, aspects of privately funded healthcare.

The 'own initiative' powers I have been granted under the Public Services Ombudsman (Wales) Act 2019 (PSOW Act 2019) allow me to investigate where evidence suggests there may be systemic failings, even if service users themselves are not raising complaints. The Act also establishes the Complaints Standards Authority (CSA) to drive improvement in public services by supporting effective complaint handling through model procedures, training and collecting and publishing complaints data.

General Comments

The shift in emphasis in performance and governance to a position that supports a culture in which councils actively reflect on their current position, and seek and embrace challenge is one that I broadly welcome. My thematic report '[Ending Groundhog Day: Lessons from Poor Complaint Handling](#)' highlights the considerable proportion of complaints that I receive that stem from a failure by public bodies to effectively deal with complaints, that is in part born from a closed, defensive blame culture. It is essential that, as a 'one Welsh public service', we collectively learn from our mistakes to ensure that they are not repeated. This can only be achieved with a shift to a culture where transparency, and an openness to constructive challenge and honest reflection is core.

It is my [mission](#) to uphold and improve public services and as such I appreciate the definition of improvement in paragraph 1.9 in the draft guidance, which introduces a sense of clarity and consistency on what improvement means in driving better outcomes for people living and working in Wales both now and for the future.

In this context, the PSOW has a critical and important role in supporting public services to improve, by investigating and putting right injustices that members of the public have experienced because of failures in services or breaches of the relevant Codes of Conduct for local authority members. With a focus on injustice to members of the public, the PSOW core functions of handling complaints, the work of the CSA and our 'own initiative' investigations substantially differs from the roles of auditors, inspectors and commissioners. In addition, the relatively new powers from the PSOW Act 2019, and their purpose to drive improvement on the wider scale are less well known or understood. As such I believe that the lack of reference to the Ombudsman's role and function as part of the wider regulatory environment is a crucial omission.

The reference to the PSOW as a source for evidence that principal councils or peer assessment panels may consider, gives a limited picture of the types of evidence available from my office. This contrasts with the points in the guidance on the type of evidence that could be sought from the Equality and Human Rights Commission, the Future Generations Commissioner or Audit Wales. Whilst many of my published Casebook examples and public interest reports on principal councils are specific to a service or incident, they often are symptomatic of failings in performance and governance. In addition, my thematic reports, CSA reports and own initiative reports can highlight evidence of systemic maladministration. Specific reference to the range of evidence that the councils could source from the PSOW, in a similar vein to the EHRC and the FGC, would highlight and direct councils to potential evidence that they may not be aware of that could be available to them.

In the guidance there is no specification as to how the AGW or Welsh Government would determine that a special inspection or into a principal council was warranted. Whilst this aspect of the guidance is not directly relevant to my office, our investigations could play a role in highlighting issues relating to corporate performance or governance in a principal council. As such, should further guidance

be published on inspections by the AGW, I would offer my publications as evidence that could be used, where relevant, in any considerations that a council is meeting its performance requirements and the potential need to carry out a special investigation. This evidence may also help Welsh Ministers in determining whether a principal council is in need of support and assistance.

Closing remarks

I trust that you will find my comments useful. Should you wish to discuss any of my points further, please do not hesitate to contact Tanya Nash, my acting Head of Policy (tanya.nash@ombudsman.wales).



Nick Bennett

Public Services Ombudsman for Wales

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