

**Response of the Public Services Ombudsman for Wales
to the UK Government’s consultation on
Prescribed Bodies: Annual Reporting Requirements on Whistleblowing**

1. 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 breached their Code of Conduct. It is mainly in connection with the latter role that I am responding to the UK Government’s consultation on reporting requirements for those persons classified as ‘prescribed persons’. I focus upon one aspect and that is the fact that the Public Services Ombudsman for Wales is included within the Prescribed Body List.

2. The ‘List of prescribed people and bodies’ issued in February 2013 sets out the following:

“The Local Commissioner in Wales
about breaches to a local authority’s code of conduct”

and then gives details of the office of the Public Services Ombudsman for Wales, with the relevant address and contact details.

The office of the Local Commissioner in Wales was abolished in 2006. The Public Services Ombudsman (Wales) Act 2005 made provision for the Ombudsman to investigate matters relating to potential breaches of a local authority’s code of conduct that were previously considered by the Local Commissioner in Wales.

3. In my view it is misleading for members of the public for the Public Services Ombudsman for Wales to be included within the list of prescribed persons:

(a) **Code of Conduct –**

- In relation to the consideration of complaints against local authority members, I may only investigate cases where a written allegation is made to me by any person that a member may have failed to comply with their authority’s Code of Conduct.

- Following my investigation of any complaint, I may refer the accused member to the Adjudication Panel for Wales or their local standards committee which may, if any breaches of the code are proven, suspend or disqualify the member from holding office. In view of the serious sanctions which may be imposed on a member, complainants are required to sign an undertaking that they understand and accept that the details of their complaint will be passed on to the member about whom they are making a complaint and that they may become public knowledge. They also have to confirm that they are prepared to give spoken evidence in public in support of their complaint to the authority's standards committee or any case tribunal which may be appointed to consider any report which the Ombudsman may issue if he decides to investigate their complaint.
- Furthermore, I cannot operate in the same way as a regulator. It is not sufficient for a someone to raise a concern with me, they must when presenting their complaint provide evidence of how they believe the member concerned has breached the Code of Conduct.

(b) **Complaints about public service providers** - I would also confirm that whistleblowing does not fall within my remit in relation to the consideration of complaints about services provided by public bodies. In particular, I cannot consider staffing matters (apart from recruitment or appointment procedures). Additionally, anyone complaining to me must be personally affected by the matter they are complaining about.

4. I do not consider that any of my functions, including those in relation to the code of conduct for local authority members in Wales, fall within the definition of whistleblowing. I, therefore, propose that the UK Government should not only remove from the prescribed persons list the reference to the now abolished office of the Local Commissioner in Wales but also any reference to the Public Services Ombudsman for Wales.

Public Services Ombudsman for Wales
September 2014
