

**Response by the Public Services Ombudsman for Wales  
to the Equality, Local Government and Communities Committee's inquiry  
into the general principles of the Local Government and Elections (Wales) Bill**

I am pleased to have the opportunity to respond to the Equality, Local Government and Communities Committee's inquiry into the general principles of the Local Government and Elections (Wales) Bill.

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.

### **General comments**

I very much welcome the changes proposed in the Bill. I also welcome the impact assessment focused specifically on the impact of the proposed changes on the jurisdiction of my office. My comments focus on Part 4 of the Bill. However, I also offer some general comments on Part 6, 7 and 8.

### **Part 4: Local Authority Executives, Members, Officers and Committees**

#### Ss 65 and 67

My experience of handling complaints of alleged breaches of the Code of Conduct in Wales suggests that leaders of political groups have a role to play in promoting and maintaining high standards of conduct in local government in Wales.

I therefore welcome the proposal that those in positions of leadership and influence within a principal council should have responsibility in respect of the promotion of equality and diversity and to combat bullying and harassment amongst elected members and council staff.

I also welcome placing a duty on leaders of political groups to take reasonable steps to promote and maintain high standards of conduct by the members of their group.

The Bill currently states that, in doing so, group leaders must co-operate with the council's standards committee and have regard to any guidance issued by the Welsh Ministers.

- Given my responsibility for the investigation of Code of Conduct complaints, I would welcome a provision in the Bill that group leaders should also have regard to statutory guidance issued under section 68 of the Local Government Act 2000.

### S 68

I welcome the proposals for expanding the role of standards committees across Wales. Practice in respect of local government standards differs across Wales, and the requirement for standards committees to report annually will help, in my view, to embed a culture of high standards within principal councils. It will also provide a means of standards committees across Wales being able to reflect on their performance annual and learn from best practice. To support this,

- I believe that it would be beneficial for the annual reports of standards committees to include as a matter of course information on the Code of Conduct complaints received by my office and the outcome of these complaints.

### S 69

As outlined in the explanatory note to the Bill, ss 60 – 63 of the LGA 2000 were repealed in England by the Localism Act 2011. Whilst the PSOW (Standards Investigations) Order 2006 (as amended) maintained the effect of ss 60 – 63 in Wales, the law in Wales has been inaccessible and very difficult to locate on databases available to the public. I warmly welcome recognition of my concerns in this respect by the Welsh Government and support the proposal to put the amended provisions in the 2006 Order on the face of the Local Government Act 2000.

While no substantive amendments to the provisions in the 2006 Order are proposed, the amendments within Schedule 8 to the proposed Bill ensure, in my view, that the provisions applicable to my investigations of breaches of the Code of Conduct by elected members, as far as possible, mirror the provisions applicable to my investigations of maladministration or service failure in the PSOW Act 2019.

### S 72

Finally, I welcome the proposal for community councils to have training plans. Many of the cases considered by my office involving town and community councils have demonstrated a lack of awareness and understanding about the effects of the Code, e.g. in relation to the duties to declare interests.

## **Part 6 Performance and governance of Principal Councils**

The Bill provides for the Auditor General for Wales to carry out special inspections of principal councils and coordinate this function with the relevant regulators. There is a regular liaison between my office and the office of the Auditor General on issues of mutual concern. Furthermore, the PSOW Act 2019 explicitly allows me to inform, consult and work jointly with the Auditor General where I consider it appropriate.

- I would like to emphasise that, where special inspections uncover evidence of systemic maladministration or service failure, the Auditor General should be able to share with my office the relevant information and refer such matters to me, as appropriate.

**Part 5: Collaborative Working by Principal Councils; and Part 7: Mergers and Restructuring of Principal Areas**

While I generally welcome the changes proposed in Part 5 and 7 of the Bill, I would like to emphasise that collaborative working between principal councils and mergers and restructuring of principal areas must not blur the lines of accountability for councils' functions, nor have an adverse impact on access to justice for the public. Any new arrangements should fall within the definitions of Schedule 3 to the PSOW Act 2019 so that members of the public continue to have the right to complain to my office.

I would also like to seek assurance that any transitional arrangements accompanying the merger or restructuring of principal areas would ensure continuity of any ongoing investigations by my office. I note that s 145(5)(c) of the Bill specifies that merger and restructuring regulations made by the Welsh Government may include provision for civil or criminal proceedings commenced by or against one principal council to be continued by or against another principal council.

- I would welcome an additional provision in this section, protecting the continuity of all existing investigations and confirming the need to ensure that future lines of accountability are clear.

**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 Ania Rolewska, my Head of Policy ([ania.rolewska@ombudsman.wales](mailto:ania.rolewska@ombudsman.wales)).



**Nick Bennett**

**Public Services Ombudsman for Wales**

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