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PSOW Consultation on its practice of not informing an Accused member of a complaint until after it has been assessed

The consultation will close on 31 January 2025, 23:59.

Recommendation 2 of Dr Melissa
McCullough's
[Independent Review](#)

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Mae'r ddogfen hon hefyd ar gael yn y Gymraeg.

This document is also available in Welsh.

Introduction

Following the discovery of the inappropriate use of social media by a former team manager in the spring of this year, concerns were raised about the impartiality and independence of the office, particularly in relation to the handling of complaints about local councillors who may have breached the Code of Conduct for members.

The Public Services Ombudsman for Wales (“PSOW”) therefore commissioned an independent review, to establish whether processes, delegations, and decisions in relation to the assessment and investigation of complaints by the Code of Conduct Team, and the former team manager, had been sound and free from political bias.

Dr Melissa McCullough¹ was appointed to lead the review.

¹ Dr Melissa McCullough is the Commissioner for Standards for the Northern Ireland Assembly (since 2020) and also the Commissioner for Standards for the Jersey and Guernsey States Assemblies (since March 2023).

Key Findings from the Independent Review

The Review concluded that:

- The PSOW's Code of Conduct processes and delegations are robust, in terms of safeguarding, fairness and impartiality. They are systematic, well documented and supplemented with appropriate guidance and the reasoning for decisions is required to be recorded and explained, as applicable.
- All decision-making is based solely on evidence, facts, and solid, well-articulated reasoning and, as such, there was no evidence of political bias. The case review found no evidence that the decision-making on any of the cases reviewed was influenced by any political affiliation of the person who made the complaint and/or the member who was complained about.
- There was no evidence that the former team manager expressed her personal views on political matters "akin to her social media posts" in the office and/or inappropriately influenced any other staff members, in the performance of their duties under the Local Government Act 2000.

The review made recommendations to improve the current safeguards for ensuring fairness and impartiality. Lessons learned were also identified to lessen the risk of this type of thing happening again in the future.

PSOW Response

The Public Services Ombudsman for Wales welcomed the report and accepted all of the recommendations and the lessons learned in the Report.

Recommendation 2 of the Report was as follows:

“(2) Accused Member not informed of complaint until after assessment: in the interests of fairness and transparency, it is recommended that the PSOW considers reverting to the previous practice of notifying the Accused Member of the complaint once it is received. This would also protect the PSOW from criticism in that regard, which might arise from circumstances in which the Accused Member is unsighted of the complaint and learns of its existence via a third party or the media. If the PSOW decides to revert to the previous practice, the process manual will need to be amended accordingly”.

This issue was considered in terms of the fairness of the process. The PSOW’s current practice is that a member who is complained about (“Accused Member”) is not informed about the complaint until after the assessment process has been completed and the complaint is either rejected or is deemed to have met

the 2-stage test for an investigation to commence. If it is decided not to investigate, the Accused Member is provided with a redacted copy of the statement of reasons but generally does not receive a copy of the complaint. If it is decided to investigate, the Accused Member is provided with a redacted copy of the complaint when they are informed of the PSOW’s decision to investigate the complaint.

Previous to the process referred to above, the PSOW would have notified the Accused Member of the complaint once it was received. Prior to taking the decision to change the process, the PSOW consulted with Monitoring Officers via the Local Government Monitoring Officers’ Group network to explain the reasons for the change. The chief reason was to reduce unnecessary worry for members on complaints which are not ultimately investigated. Another reason was that notification to the member of the full complaint on receipt of the complaint sometimes prompted the member to begin gathering their own evidence to defend their position and this also led to some “tit for tat” complaints being made and involved pre-assessment discussions with the Accused Member. PSOW were of the view that changing

the approach to the current one was a more efficient use of resources. After trialling this new approach for a few months, no concerns were raised by Monitoring Officers, and this process was adopted.

Code of Conduct Complaints data

The PSOW publishes annual complaints data in its [Annual Reports](#).

During [2023/24](#), we assessed 311² complaints about the Code of Conduct, of which 48 (approximately 15%) were investigated and 263 were closed at the assessment stage of our process (approximately 85%).

In line with our Key Performance Indicators³ we aim to close cases at the assessment stage of our process or take decisions to start investigations within 6 weeks of having all the information we need from a complainant.

PSOW's response to this recommendation

As part of its response to this Recommendation, the PSOW is consulting on this aspect of its procedure.

This consultation seeks the views of Monitoring Officers, One Voice Wales, the WLGA, members of county and county borough councils, community & town councils, fire and rescue authorities, national park authorities and police and crime panels in Wales via these representative groups, the President of the Adjudication Panel for Wales and local standards committees.

The responses to this consultation, together with evidence gathered on the practice of other regulatory bodies who undertake work of a similar nature to PSOW's Code of Conduct work and any resource implications for PSOW will be carefully considered before the PSOW decides whether to revert back to its previous practice.

² Closed Code of Conduct Complaints – Page 28 of PSOW's Annual Report for [2023/24](#)

³ Key Performance Indicators are shown on Page 128 of PSOW's Annual Report for [2023/24](#)

Consultation Questions

1. Do you consider that the PSOW should continue its current practice of notifying the Accused Member of a complaint once it has been closed at the assessment stage of its process or when notifying an Accused Member of a decision to start an investigation?

If so, please outline your reasons for holding this view.

What effects do you think there would be of continuing this practice?

2. Do you consider that the PSOW should revert back to its previous practice of notifying the Accused Member of a complaint once it has been received?

If so, please outline your reasons for holding this view.

What effects do you think there would be of adopting this practice?

3. We have asked these specific questions to help us respond to Recommendation 2 of the Independent Review. If you have other comments to make about this specific Recommendation, please outline them for us.

How to Respond

Please submit your comments by **31 January 2025** by emailing responses to communications@ombudsman.wales.

Privacy Statement

For this consultation we may publish a summary of the responses but will remove personal data before publication. We will not publish individual responses. Read more about what we do with personal data in our [Privacy Notice](#).

Public Services Ombudsman for Wales

1 Ffordd yr Hen Gae

Pencoed

CF35 5LJ

Tel: 0300 790 0203

Website: www.ombudsman.wales

Email: ask@ombudsman.wales

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