

STANDARDS COMMITTEE

Date of Meeting	Monday, 13 th January 2025
Report Subject	Public Services Ombudsman for Wales Consultation on the notification of complaints
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

When a complaint is made to the Public Services Ombudsman for Wales (PSOW) her staff assess it against the 2-stage test, in order to determine whether it should be investigated or not. Currently the PSOW does not notify the accused councillor that a complaint has been received until after this initial assessment. Until a few years ago, that was not the case, and councillors were notified of a complaint as soon as one was received.

The PSOW is now consulting on whether to resume its previous practice or whether to continue with the current approach.

RECOMMENDATIONS

1	That the proposed responses to the consultation at Appendix 2 are approved in principle.
2	That the Chief Officer Governance is given delegated authority to amend the proposed response in consultation with the Chair of this Committee, to reflect the outcomes of consultation with councillors.

REPORT DETAILS

1.00	EXPLAINING THE COMPLAINT TO THE PSOW
1.01	When the Public Services Ombudsman for Wales receives a complaint, her staff assess whether it should be investigated, applying the so called “two stage test” to establish whether there is sufficient evidence and public interest to justify an investigation.
1.03	Previous practice was to notify the accused councillor as soon as a complaint is received. That practice was changed some years ago and now a councillor only finds out about a complaint once the assessment has been completed and the Ombudsman has decided whether to investigate or not. The rationale for making that change is set out in the consultation paper itself.
1.04	In response to widespread press coverage of inappropriate comments by an ex-Ombudsman employee, the PSOW commissioned an independent review. That review was 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.
1.05	The second recommendation of that review was “(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 unsuspected of the complaint and learns of its existence via a third party or the media...”.
1.06	The chief reason the PSOW changed its process was to reduce unnecessary worry for members on complaints which are not ultimately investigated. Only about 15% of complaints “pass” the 2-stage test and proceed to investigation. 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.
1.07	The PSOW has issued a consultation paper which is attached at Appendix 1. In it, she asks a specific series of questions which, along with suggested responses, are attached at Appendix 2. The deadline for responses is 31 st January 2025.
1.08	All councillors have been sent a copy of this report and appendices. They have been asked for their views but clearly consultation over the Christmas period is not ideal. They have been given the deadline of Wednesday 22 nd January 2025 to respond, hence seeking delegated authority to amend the proposed responses in Appendix 2 in light of comments received.

2.00	RESOURCE IMPLICATIONS
2.01	None arising directly from the report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	All councillors have been asked for their views on the consultation questions.

4.00	RISK MANAGEMENT
4.01	The balance of risk between the two different approaches seems fairly evenly balanced. The accused councillor may feel as though they have lost an opportunity to influence a significant process as it relates to them under the current process. Conversely, the majority of complaints do not proceed to investigation so there is a risk of causing anxiety and potentially generating unnecessary correspondence on a complaint that won't proceed, by reverting to the previous practice.

5.00	APPENDICES
5.01	Appendix 1 – PSOW consultation paper Appendix 2 – proposed responses to the consultation questions

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None Contact Officer: Gareth Owens, Chief Officer Governance Telephone: 01352 702344 E-mail: Gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	None.