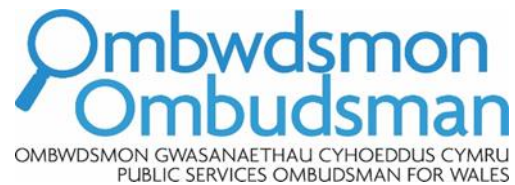


Mae'r ymateb yma hefyd ar gael yn Gymraeg.

This response is also available in Welsh.



**Response by the Public Services Ombudsman for Wales
to the draft the Town and Country Planning (Strategic Development Plan)
(Wales) Regulations 2021 (SDP Regulations)**

I am pleased to have the opportunity to respond to the Welsh Government's consultation on the draft the Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021 (SDP Regulations).

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 established the Complaints Standards Authority (CSA) to drive improvement in public services by supporting effective complaint handling.

General Comments

In my role as Public Services Ombudsman for Wales, 7% of the complaints I received in 2019/20 were associated with planning matters. That said, I receive very few complaints that refer to the development planning process. They mainly comprise of issues relating to alleged maladministration regarding local planning decisions and enforcement issues, breaches of Code of Conduct by members of local planning authorities and problems with how planning complaints are handled by the relevant local authority.

I appreciate the intention to largely mirror the key stages and plan preparation

requirements of the Planning and Compulsory Purchase Act 2004 and the associated Local Development Plan regulations. This pragmatic approach will bring consistency across the hierarchy of development plans, and aids better understanding by stakeholders, including the general public, of the technical and procedural processes required to prepare a robust land use development plan.

I also welcome the intention to place early, effective and meaningful community involvement at the centre of these procedures. I hope that these regulations and future guidance ensures that the CJs use innovative approaches to engage those people who are traditionally under-represented during consultation exercises. I know from our complaints that as well as disabled people and BAME people, older and younger people are less likely to raise issues with my office. As such I am surprised that bodies that represent the interests of these people are not listed under the general consultation bodies in Annex 1.

The 'own initiative' investigations I can now undertake take a pro-active approach to investigating where I have a reasonable suspicion of maladministration or service failure. I would encourage CJs to consider the reports from these investigations as well as the public interest reports I publish. They are an opportunity to give a voice to the voiceless and may contain evidence of systemic injustice that may be relevant to the development of Strategic Development Plans (SDP) in areas such as housing or transport.

I have responded to the consultation of the Establishment Regulations for Corporate Joint Committees (CJs) highlighting my concerns that whilst the principle that the CJs be treated effectively as part of the 'local government family' is appreciated, currently the responsibility for the consideration of complaints about CJs appears ambiguous and have asked that the CJs are designated as 'listed authorities' in Schedule 3 of the PSOW Act 2019. This action will ensure that the new CJs fall fully within my jurisdiction, and my powers to investigate complaints regarding maladministration and service failures, including those that relate to SDPs.

Code of Conduct

Members of CJs, who are also members of local authorities or national parks, will have different responsibilities to the CJC with regard to the preparation of and adoption of an SDP, and responsibilities to the local planning authority on local development plans (LDPs) and planning decisions where the SDP and LDPs will be the determination frameworks. Whilst there should be conformity across the plan hierarchy, I am concerned that this may lead to perceived conflicts of interest and complaints from the public. I would ask that these different roles are clearly explained in future guidance and that members are provided with appropriate training.

This highlights the need for all CJC members (local authority, national parks and co-opted members) to be subject to the same Code of Conduct and ethical standards regime as for all others performing a member role in Wales, and that members of the public will be able to complain to my office if they consider that a member of a CJC has breached the Code of Conduct. The need for probity, transparency and

good ethical standards in planning decisions is crucial so that public confidence is maintained in both the planning system and local government in Wales.

Complaints Handling

The number of complaints I receive regarding planning issues, especially as many of these are about poor complaint handling, emphasises the need for CJsCs to have clear complaints procedures available to them, in line with the expectations on local authorities and national parks, as set out in the PSOW Act 2019.. The draft Establishment Regulations do not set out whether there is an intention that the CJsCs will be expected to have complaints handling procedures in compliance with the Complaints Standards Authority’s (CSA) principles and guidance. As such, we consider that CJsCs should be included as a “listed authority” in the PSOW Act 2019 so that there is uniformity of approach with all local authorities and National Parks in Wales.

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
December 2020
