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**Response by the Public Services Ombudsman for Wales
to the Draft Statutory Guidance Establishment of Corporate Joint Committees**

I am pleased to have the opportunity to respond to the Welsh Government's consultation on the Draft Statutory Guidance Establishment of Corporate Joint Committees.

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 can consider complaints about privately arranged or funded social care and palliative care services and, in certain specific circumstances, aspects of privately funded healthcare.

I also investigate complaints that elected members of local authorities have breached their Codes of Conduct, which set out the recognised principles of behaviour that members should follow in public life.

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 through model procedures, training and collecting and publishing complaints data.

Complaints Handling

Aside from a passing reference to my powers to investigate Code of Conduct complaints in section 12 of the guidance on 'The Ethical Framework', I am disappointed to find no references to the PSOW Act 2019, arrangements for complaints handling procedures, or complaints more generally in the draft statutory guidance. As the guidance seeks to provide advice on how CJs are governed and run, the lack of any guidance on the PSOW Act 2019, or complaints handling standards and procedures, is a concerning omission.

Effective and fair complaints services play a crucial role in delivering justice for people who have suffered hardship as a result of public service failure or maladministration. My thematic report '[Ending Groundhog Day: Lessons from Poor Complaint Handling](#)' highlights the considerable proportion of complaints that I receive that stem from a failure by public bodies to effectively deal with complaints, that is in part born from a closed, defensive blame culture.

It is essential that, as a 'one Welsh public service', we collectively learn from our mistakes to ensure that they are not repeated. This can only be achieved with a shift to a culture where transparency, and an openness to constructive challenge and honest reflection is core. In recognition of this principle and CJs being considered an integral part of the wider local government family, they were added to Schedule 3 of the PSOW Act 2019 as listed authorities in the summer. They now come under my powers to investigate complaints made by the public about services they have provided and will be subject to complaints standards in the future. These powers play a critical and important role in supporting public services to improve, by investigating and putting right injustices that members of the public have experienced because of failures in services or breaches of the relevant Codes of Conduct for local authority members.

As their principal members are drawn from constituent councils already subject to complaint handling standards, with maturing complaint handling processes, asking CJs to incorporate complaint handling arrangements when developing their organisational infrastructure should not be a significant reach for them. As such, incorporating guidance on the PSOW Act 2019 and complaints handling in Chapter 6, 'Other Statutory Duties', would seem a proportionate amendment to the guidance.

The Ethical Framework

I have commented in [my responses to previous consultations on CJC regulations](#) about my concerns regarding the timing of the amendments to the Local Government Act 2000, and the resulting temporary period in which co-opted members or participants will not be subject to an ethical framework. I have also commented on the lack of clarity about those invited to sit on sub-committees. However, the guidance could do more to resolve these issues of ambiguity.

It was our understanding through conversations with Welsh Government officials that once the amendment to Part 3 of the Local Government Act 2000 is made,

CJCs will adopt a Code of Conduct which all members, including co-opted participants, will need to adhere to. However, the wording in the guidance adds to the uncertainty contained within the current set of regulations.

Paragraph 12.3 states:

“CJCs will want to consider if co-opted participants, with or without voting rights, should be required to sign up / adhere to a code of conduct as part of the ‘terms of co-option’. It is recommended that all co-opted participants should be required to adopt the code of conduct as good practice. Any such requirement should be set out in the notice of co-option.”

This wording suggests that it will be at the discretion of individual CJCs whether to apply the Code to co-opted participants or not. There is the potential that co-opted participants could equal member representation on a CJC but be subject to differing expectations of standards of conduct and scrutiny, especially in CJCs made up of only a small number of constituent councils, such as Mid Wales. A similar risk exists where the CJC has delegated the discharge of its duties to sub-committees, some of which may have no elected council members sitting on them.

In addition, the guidance advises that ad hoc observers and advisors should follow the Nolan Principles. There is no requirement for co-opted participants to follow the Nolan Principles, either in the period prior to changes to Part 3 of the Local Government Act 2000, or afterwards, in situations where CJCs chose not to ask co-opted participants to adhere to a Code of Conduct.

The lack of a clear and consistent approach to standards of conduct for different categories of members has the potential to undermine public confidence in our democratic bodies in Wales. As such, it is my opinion that all voting CJC members and participants, co-opted or otherwise, should be subject to an Ethical Framework and a relevant code of conduct.

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

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