



**Ombwdsmon  
Ombudsman**  
Cymru · Wales

Your ref:

Ask for: Michelle Morris

Our ref: MAM/mdm



Date: 29 April 2025



Peredur Owen Griffiths MS  
Chair, Finance Committee

**By email only**  
seneddfinance@senedd.wales

Dear Peredur

### **Review into operations, processes and investigations - Councillor Code of Conduct Complaints**

I refer to the Committee's report on its 'Review into the operations, processes and investigations carried out by the Public Services Ombudsman for Wales' (November 2024) and Dr Melissa McCullough's report on her Independent Review of my office's Code of Conduct processes and investigations (September 2024).

I welcomed both Dr McCullough's conclusion that my office's decision making, in respect of Code of Conduct complaints, is free from political bias and the Committee's conclusion that we engaged transparently with the Independent Review and were responding positively to Dr McCullough's recommendations and lessons learned. Further to my letters of 29 October 2024 and 24 January 2025, I now write to update the Committee on the work we have taken forward.

### **Dr McCullough's recommendations and lessons learned**

I am pleased to confirm that we have taken forward all of the recommendations and lessons learned in Dr McCullough's report. The action plan which I shared with the Committee in October has been updated and is attached for information. It shows how each recommendation and lesson learned has been implemented.

As I outlined in January, Dr McCullough is undertaking a follow up review in the first quarter of this year, to look at our progress in implementing the recommendations of the Independent Review.

ombwdsmon.cymru  
holwch@ombwdsmon.cymru  
0300 790 0203  
1 Ffordd yr Hen Gae, CF 35 5LJ  
Rydym yn hapus i dderbyn ac  
ymateb i ohebiaeth yn y Gymraeg.

ombudsman.wales  
ask@ombudsman.wales  
0300 790 0203  
1 Ffordd yr Hen Gae, CF 35 5LJ  
We are happy to accept and respond  
to correspondence in Welsh.

An update on this work and Dr McCullough's follow up review will be included in my next Annual Report and Accounts for 2024/25.

**Finance Committee's recommendations**

I am also pleased to provide an update to the Committee on the recommendations in its report, which have also been added to the action plan. It shows how each recommendation has been taken forward.

As the Committee will note, in relation to the Committee's Recommendation 2, our new key performance indicators based on the sampling of decisions taken by Investigation Officers and the Code Team Manager, will be reported in my Annual Report and Accounts. Dr McCullough will be sampling 5% of closed Code assessment decisions annually for a period of 3 years, for the purpose of quality sampling decisions.

I look forward to discussing the progress made by my office with the Committee further, when it considers my Annual Report & Accounts. I would, of course, be happy to provide any further information or clarification you may need in the meantime.

Yours sincerely

Handwritten signature of Michelle Morris in black ink.

**Michelle Morris**  
Public Services Ombudsman

**Dr Melissa McCullough's Independent Review of investigations into  
code of conduct complaints (September 2024)**

**Recommendations & Lessons Learned**

**Recommendations**

	<b>Recommendation</b>	<b>Action to be taken</b>	<b>Update on Actions</b>	<b>Completion Date</b>
<b>1</b>	<b>Documenting the political affiliation of the Accused Member</b>			
	In order to mitigate the risk of unconscious bias on the part of the Investigation Officer and to underpin the fairness of the complaint assessment process, it is recommended that steps are taken to ensure that the political affiliation of the Accused Member is not recorded on the Pre-assessment and Assessment Form ('PAAF'). The process manual will need to be amended accordingly, with updated instructions for the Intake Team.	Agreed. The Complaints Process will be updated to clarify that a member's political affiliation must not be included on the case file when the case record & PAAF form is being created and this change will be implemented in practice.	Completed – process amended and PSOW staff updated.	26 September 2024
<b>2</b>	<b>Accused Member not informed of complaint until after assessment</b>			
	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.	Agreed. PSOW will undertake a consultation on this aspect of its procedure to seek the views of Monitoring Officers, One Voice Wales, the WLGA and members of public authorities in Wales via these representative groups. 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 also be considered.	Completed. Consultation exercise and benchmarking of other organisations undertaken.  The PSOW decided to revert to its previous practice of notifying the Accused member of the complaint once it is received.	19 February 2025

	Recommendation	Action to be taken	Update on Actions	Completion Date
		PSOW will carefully consider the responses and other information gathered when deciding whether to revert to its previous practice. It will publish its decision on this recommendation and implement any changes to its process.	Change in practice took effect on 1 April 2025.	
<b>3</b>	<b>Investigation Officer decisions not to investigate</b>			
	Notwithstanding the applicable provisions in the process manual and in the Decision Review Process, it is recommended that an additional review/ check mechanism is put place for the purpose of quality assuring the Investigation Officer decisions in this regard, particularly around the public interest test, and as a further safeguard against the potential for unconscious bias on the part of the Investigation Officer. This recommendation is supported by findings from the staff interviews. Given the volume of complaints, however, the proposed measure needs to be proportionate and it is suggested that this could be achieved by way of occasional random sampling of Investigation Officer decisions.	<p>Agreed.</p> <p>PSOW will introduce an additional review/check mechanism to quality assure Investigation Officer decisions, particularly around the public interest test.</p> <p>This will be undertaken on an at least annual basis and achieved by way of random sampling of Investigation Officer decisions.</p>	<p>Complete</p> <p>Dr Melissa McCullough has been appointed to sample 5% of Code assessment decisions taken by Investigation Officers on an annual basis, for the purpose of quality assuring decisions, for a period of 3 years.</p>	28 January 2025

	Recommendation	Action to be taken	Update on Actions	Completion Date
4	<b>Code Team Manager's delegated authority to overrule Investigation Officer proposals to investigate and Investigation Officer proposals to extend the investigation or commence a new investigation against another member</b>			
	<p>Notwithstanding the applicable provision in the Decision Review Process, it is recommended that an additional review/check mechanism is introduced in respect of these delegated decisions, in order to mitigate the risk of unconscious bias on the part of the Code Team Manager when deciding not to agree Investigation Officer proposals. It is suggested that this measure could also be achieved by way of random sampling of Code Team Manager decisions. Also, the Scheme of Delegation should be updated to include these Code Team Manager decision-making powers.</p>	<p>Agreed.</p> <p>PSOW will introduce an additional review/check mechanism to quality assure decisions taken by the Code Team Manager to overrule Investigation Officer proposals to investigate; to extend an investigation or to commence a new investigation against another member. This will be undertaken on an at least annual basis and achieved by way of random sampling of decisions.</p> <p>PSOW will update its Scheme of Delegation to include the Code Team Manager's decision-making powers.</p>	<p>Complete</p> <p>Dr Melissa McCullough has been appointed to sample 5% sample of Code assessment decisions where the Code Team Manager has overruled Investigation Officer proposals to investigate, on an annual basis for the purpose of quality assuring decisions, for a period of 3 years.</p> <p>Scheme of delegation updated.</p>	<p>28 January 2025</p>

	Recommendation	Action to be taken	Update on Actions	Completion Date
5	<b>Opportunity for the Accused Member to provide comment</b>			
	<p>The review recognises that, as part of the combined PSOW and Adjudication Panel for Wales/standards committee process, the Accused Member has a number of opportunities to comment on the facts of the case. The review therefore found the process to be demonstrably fair. That said, the PSOW may wish to consider whether there are any additional points in the process in which there would be a benefit in providing the Accused Member with the opportunity to comment further on relevant facts, particularly in advance of reaching draft conclusions/findings on whether the evidence is suggestive of a breach.</p>	<p>Agreed.</p> <p>Members have the opportunity to comment on the facts of the case on three occasions under the current Code process. PSOW will consider whether there are any additional points in the process in which there would be a benefit in providing the Accused Member with further opportunity to comment on the facts of the case. PSOW will seek views from the President of the Adjudication Panel for Wales on this issue in light of the Tribunal's expertise and experience of adjudicating cases which the PSOW refers to it for hearing.</p> <p>PSOW will publish its decision on this recommendation and implement any changes to its process.</p>	<p>Complete.</p> <p>As PSOW's process is demonstrably fair and aligns with other similar regulatory processes, PSOW decided not to add any additional points in the process. However, we have reviewed and updated our communication with members to ensure that we clearly inform them that they may comment on the facts of the case on the three available occasions in the process.</p>	19 February 2025
6	<b>Public interest factors and considerations</b>			
	<p>The review recognises the factors and considerations listed are non-exhaustive, but recommends that PSOW gives consideration to developing more detailed internal guidance on assessing the public interest test. Additionally, the public interest factors and considerations should be reviewed regularly.</p>	<p>Agreed.</p> <p>PSOW will introduce more detailed internal guidance for staff on assessing the public interest test and provide training for staff on this.</p>	<p>Complete</p> <p>Detailed internal guidance for staff on assessing the public interest has been developed with staff and introduced.</p>	19 February 2025

FIN(6)-12-25 PTN 5

	Recommendation	Action to be taken	Update on Actions	Completion Date
		PSOW will review its public interest factors and considerations on an annual basis.	The Guidance will be reviewed on an annual basis.	

FIN(6)-12-25 PTN 5

	Recommendation	Action to be taken	Update on Actions	Completion Date
7	<b>Clarificatory amendments</b>			
I	The process manual is amended to address the apparent contradiction in terminology whereby “direct evidence that a breach of the Code took place” is a requirement for a complaint to pass assessment stage (paragraphs 5.4 and 5.5) whereas an investigation can be concluded based on the finding that there is “no evidence of a breach of the Code” (paragraph 13.1(a))	Agreed.  Paragraph 5.4 and 5.5 of the process manual will be amended to ‘direct evidence that a breach of the Code may have taken place’.	Complete. Complaints process amended.	29 November 2024
II	The process manual is amended to reflect the existing practice that, when the Lead Review Officer upholds a complaint review request, the reassessment/ reconsideration is undertaken by a different Investigation Officer to the Investigation Officer who undertook the original assessment/investigation	Agreed.  The process manual will be amended to reflect existing practice that when the Lead Review Officer upholds a complaint review request, the reassessment/ reconsideration is undertaken by a different Investigation Officer to the Investigation Officer who undertook the original assessment/investigation	Complete. Complaints process amended.	29 November 2024
III	The Scheme of Delegation is updated in light of the retitling of the Lead Review Officer post to make clear that the Lead Review Officer has delegated authority in respect of decisions on whether to uphold a review request that the complaint should be reassessed/reconsidered.	Agreed.  The Scheme of Delegation will be amended to make it clear that the Lead Review Officer has delegated authority in respect of decisions on whether to uphold a review request that the complaint should be reassessed/reconsidered.	Complete. Scheme of delegation updated.	29 November 2024

## Lessons Learned

	Lesson Learned	Action to be taken	Update on Actions	Completion Date
1	Whether the PSOW's Staff Code of Conduct, policies and practices relating to social media usage could be more comprehensive in relation to setting out the circumstances in which social media activity by an employee amounts to misconduct, both in their work and private lives, with consideration of current case law in relation to freedom of expression (Article 10) and other relevant precedent cases.	Staff Standards of Conduct Policy will be reviewed and Social Media requirements will be expanded and clarified. This will be subject to staff and trade union consultation: <ul style="list-style-type: none"> <li>• Review existing policies</li> <li>• Revised policies drafted</li> <li>• Management Team and Advisory Panel consideration</li> <li>• Consultation with staff and TU – responses</li> <li>• Management Team approval of new policies</li> <li>• Implementation</li> </ul>	Complete.  Revised policies approved following consultation.  Training provided for all staff on the revised policies.	31 March 2025
2	Whether steps need to be taken to ensure clear information is provided as part of any PSOW recruitment processes to ensure candidates are made aware of any necessary curtailment of PSOW employees' right to freedom of expression, including activity on social media.	Information in recruitment packs will be revised.	Complete.  Recruitment information updated.	28 October 2024
3	Whether bias/unconscious bias assessments should be a mandatory part of the recruitment process.	Consideration will be given to this, available assessments, value and costs to inform decision on future approach.	Complete.  Agreed to continue external Critical thinking assessments for prospective caseworkers. This assesses the ability of candidates to distinguish between	31 March 2025

FIN(6)-12-25 PTN 5

	Lesson Learned	Action to be taken	Update on Actions	Completion Date
			<p>fact and opinion and their ability to make decisions based on evidence.</p> <p>Also decided to trial a personality and values based recruitment test.</p>	
4	Whether mandatory refresher training on unconscious bias and on social media usage should be implemented on an annual basis.	<p>Unconscious bias annual training arranged for all staff.</p> <p>Social media usage training and unconscious bias training will be included in each annual training plan</p>	<p>Complete.</p> <p>Unconscious bias training arranged for all staff and completed.</p> <p>Social media and unconscious training included in annual training plan.</p>	30 September 2025
5	Whether, should similar exceptional circumstances arise, the PSOW requires any further policies or processes to be in place to support its staff.	<p>We will engage with staff to understand the scope for additional measures, policies or procedures to support staff</p> <p>Review of policies and support arrangements for staff</p>	<p>Complete.</p> <p>Staff suggestions considered and agreed.</p>	12 March 2025

FIN(6)-12-25 PTN 5

	Lesson Learned	Action to be taken	Update on Actions	Completion Date
6	Whether, due to the particular challenges arising from investigating the conduct of elected members, appropriate training is in place for applicable PSOW staff in relation to resilience in managing the pressures and vulnerabilities which come with this role.	<p>We will engage with staff to review resilience training and identify need for additional training for staff</p> <p>Review of policies and support arrangements for applicable staff</p>	<p>Complete.</p> <p>Existing training reviewed and resilience training arranged for staff.</p> <p>Stress risk assessment lunch and learn sessions offered to all staff.</p>	12 March 2025

**Finance Committee's Recommendations following its review into the operations, processes and investigations carried out by PSOW (November 2024)**

	<b>Recommendation</b>	<b>Action to be taken</b>	<b>Update on Actions</b>	<b>Completion Date</b>
FC1	The Committee recommends the Ombudsman provides a formal response to our report and recommendations as well as regular updates, including updates in its Annual Reports, to the Committee on progress thereafter in implementing the recommendations and lessons learned identified in the Independent Review.	Response to be drafted, translated and sent by 31 January 2024.	Response sent to the Committee on 24 January 2024.  Further update sent on 29 April 2025 and to be included in 2024/25 Annual Report.	24 January 2025
FC2	The Committee recommends the Ombudsman considers introducing a new key performance indicator based on a sample of decisions made by Investigating Officers and Code Team Managers undergoing additional checks.	Consideration of new KPI to be discussed & agreed by Management Team in February.	Complete.  New KPIs introduced from 1 April 2025.	31 March 2025
FC3	The Committee recommends that the Ombudsman provides an update as to whether any follow-up work would be conducted following the Independent Review, including any associated financial and resource implications.	Ombudsman to discuss engagement of Dr McCullough to undertake a follow up in April/May to provide external QA that the Recommendations & Lessons Learnt have been delivered and addressed.	Complete.  Dr McCullough engaged to undertake follow up work by the end of Q1 to provide external assurance that the Recommendations and Lessons Learned	24 January 2025

	Recommendation	Action to be taken	Update on Actions	Completion Date
			have been delivered and addressed.	
FC4	The Committee recommends that the Ombudsman provides updates to the Committee on how it is monitoring staff compliance in respect of its social media policy.	Ombudsman to consider how compliance can be assured, while respecting staff rights to a private life.	<p>We have reviewed and strengthened our internal policies on social media use; provided staff briefings to explain the requirements and expectations and give guidance to staff on how to comply; introduced annual reminder briefings to staff.</p> <p>We have also reviewed our recruitment processes, made it clear at application stage that PSOW staff are subject to restrictions on their political activity and are required to comply with our policy on social media use and introduced pre-employment checks of social media accounts, to identify</p>	24 January 2025

FIN(6)-12-25 PTN 5

	<b>Recommendation</b>	<b>Action to be taken</b>	<b>Update on Actions</b>	<b>Completion Date</b>
			any concerns or issues.	