

Meeting of:	Standards Committee
Date of Meeting:	Thursday, 26 September 2024
Relevant Scrutiny Committee:	No Relevant Scrutiny Committee
Report Title:	Public Services Ombudsman for Wales Annual Report and Accounts 2023/24
Purpose of Report:	To present to Members extracts from the Annual Report and Accounts for the Public Services Ombudsman for Wales for the year ending 31st March, 2024 in respect of Members' Code of Conduct matters
Report Owner:	Victoria Davidson, Monitoring Officer/Head of Legal and Democratic Services
Responsible Officer:	Karen Bowen, Principal Democratic and Scrutiny Services Officer
Elected Member and Officer Consultation:	This report does not require consultation to be undertaken
Policy Framework:	This is a matter for decision by the Standards Committee
<p>Executive Summary:</p> <ul style="list-style-type: none"> • The Public Services Ombudsman for Wales Annual Report 2023/2024 provides details relating to the functions of the Public Services Ombudsman for Wales (the Ombudsman). The link to the full report can be found in paragraph 2.1 of this report. • Standards Committee Members are requested to consider the references detailed in the Ombudsman's Report in respect of complaints of Members of Local Authorities who have breached their Authority's Members' Code of Conduct • The Annual Report of the Ombudsman has been produced in a different format to previous reports and the relevant sections for the Committee's consideration can be found on pages 9 and 10 Key statistics and pages 26 – 30 regarding Code of Conduct complaints. 	

Recommendation

1. THAT the Standards Committee consider the aspects within the Annual Report of the Public Services Ombudsman for Wales referring to Code of Conduct matters within the remit of the Standards Committee.

Reason for Recommendation

1. For consideration by Members of the Standards Committee.

1. Background

- 1.1 The Annual Report is a combined report addressing matters relating to the dual functions of the Public Services Ombudsman for Wales (the Ombudsman) including financial management.

2. Key Issues for Consideration

- 2.1 The Ombudsman's Report addresses the three main roles of the Ombudsman, which are to investigate complaints about public service providers in Wales, to consider complaints of Members of Local Authorities who have breached their Authority's Members' Code of Conduct and to drive systematic improvement of public services (page 9 of the document). The link to the full Annual Report can be found at <https://www.ombudsman.wales/app/uploads/2024/08/Annual-Report-and-Accounts-2023-24.pdf>

- 2.2 The Ombudsman's Office has also produced an Executive Summary and an Easy Read Version of the document which can also be found via the Ombudsman's website on the links below:

<https://www.ombudsman.wales/app/uploads/2024/08/Executive-Summary-Annual-Report-and-Accounts-2023-24.pdf>

Easy read - <https://www.ombudsman.wales/app/uploads/2024/08/Public-Services-Ombudsman-for-Wales-Annual-Report-23-24-English.pdf>

- 2.3 With particular reference to Members' Code of Conduct complaints, the Ombudsman may consider complaints about the behaviour of:

- County and County Borough Councils;
- Town and Community Councils;
- Fire Authorities;
- National Park Authorities;
- Police and Crime Panels.

- 2.4** The Annual Report notes that all the Authorities' Members' Code of Conduct set out in detail how Members must follow recognised principles of behaviour in public life. The Ombudsman further states that if a County Councillor wishes to make a complaint about another County Councillor in their own Authority, it is expected that they first of all make their complaint to that Authority's Monitoring Officer as it may be possible to resolve the matter locally without the Ombudsman's involvement.
- 2.5** The Ombudsman's office sets out on page 9 and 10 of the report infographics which provide, amongst other statistics, some key statistics on the percentage of enquiries and complaints received; public awareness of the service, percentage case intervention, and notes that 67% of the Ombudsman's recommendations to public bodies were complied with on time. Interestingly, 55% of Code of Conduct complaints were about the promotion of equality and respect, albeit a lower proportion than last year at 61%. 85% of Code of Conduct breaches referred to were upheld by Standards Committees or the Adjudication Panel for Wales.
- 2.6** In 'delivering justice' the Ombudsman received 9,863 cases (enquiries, pre-assessments and complaints about Public Services and Code of Conduct in the period) being up by 17% from the previous year's total of 8419, representing an upward trend of their caseload, which has seen an increase by 37% since 2019/20. With 6,630 being enquiries and Code of Conduct pre-assessments, of these 328 Code of Conduct complaints saw an increase of 16% on the previous year.
- 2.7** Of those cases closed, there was a 6% increase in cases which were closed compared to last year, with an overall 11% increase since 2019/20.
- 2.8** Standards Committee Members' attention is drawn to the following pages of the report copies of which have been reproduced as an Appendix to this report :
- Pages 21 to 23 'Early Resolution' refer to how matters were dealt with via early resolution within 4 weeks of their 6 week target,
 - Complaints about the Code of Conduct and case examples can be found at pages 26 to 30, following a small drop in Code of Conduct complaints in the previous year the Ombudsman's officer received 518 complaints about the Code of Conduct but only had information to investigate 328, 16% more than last year. Of these, 176 were complaints about town and community councillors, 151 about Principal Council Councillors and 1 regarding a national park councillor. Generally, the cases categorised under 'respect' are lower-level complaints which are generally determined more quickly, not investigated, or where the Ombudsman's officer recommend the complaint is best resolved locally. Those cases categorised as 'equality' commonly involve more serious allegation of bullying or discrimination.
 - Page 28-30 provides statistics on close Code of Conduct complaints and some case examples.
 - Further, on page 30 reference is made to the Independent review and the appointment of Melissa McCullough to undertake a review of the Ombudsman's

office handling of Code of Conduct complaints. A link to the terms of reference is embedded with in the report, with a final report on the review to be shared with the Senedd's Finance Committee and publication in the Autumn of 2024.

- Details regarding the quality of decisions at page 31-32, and the quality of the service can be found at pages 33 -35,
- Pages 76 – 78 refer to key risks and issues and in particular the social media post made by a former member of staff.

2.9 The Full Annual Report has not been reproduced in its entirety in this report as the remaining sections refer primarily to the organisation's strategic aims, internal governance arrangements, and accountability, a people section, sustainability, and the organisations financial management. Set out with the report is the organisations Corporate Governance report from page 62 including the annual governance statement for 2023/24.

2.10 Committee are requested to consider the information contained in the PSOW's Annual Report with regard to Code of Conduct Complaints.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

3.1 This report relates to the role of the Standards Committee to promote and maintain high standards of conduct of Members as detailed in the Council's Constitution.

4. Climate Change and Nature Implications

4.1 None as a direct result of this report.

5. Resources and Legal Considerations

Financial

5.1 None as a direct result of this report.

Employment

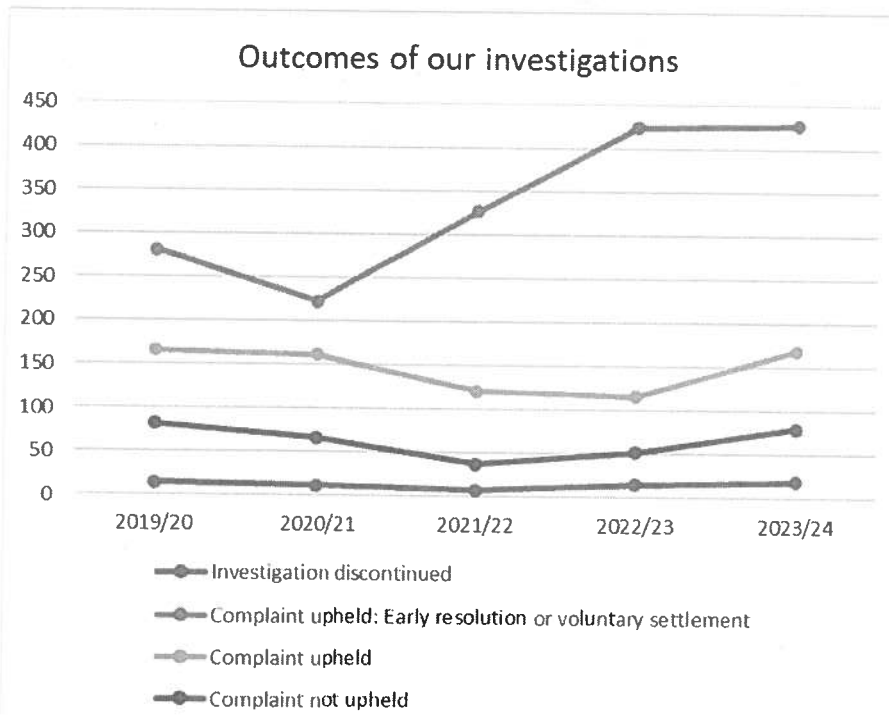
5.2 None as a direct result of this report.

Legal (Including Equalities)

5.3 None as a direct result of this report.

6. Background Papers

None



Despite our increased workload, we exceeded our target of reducing our aged investigation (those over 12 months) cases by **50%**. We managed to reduce our aged investigations by over 70%.

We have also reduced the cost for each case and investigation we handle to the lowest cost to date.

How quickly we consider complaints

We understand that the people who come to us want their complaints resolved as rapidly as possible, and we are committed to dealing with them in a timely manner. We are pleased that we assessed incoming complaints or intervened with an Early Resolution, within 4 weeks; well within our target of 6 weeks.

The increasing number of investigations we carried out last year and the fact that many of these cases were aged cases, impacted our investigation time targets. Investigations took, overall, 15% longer than we had hoped for.

However, as we closed over 70% of our aged investigation cases, this has had the effect of reducing our individual Investigation Officers' case holdings to more manageable levels. This has placed us in a good position from which we can aim to improve the timeliness of our investigations during 2024/25.

Detailed performance information against our targets can be found in the Appendix.

3,020 We closed 3,020 complaints about public services – 6% more than last year.

Assessing complaints

2,739
(+3%)

We closed 2,739 complaints after we assessed them, 3% more than last year.

We look at all complaints carefully, to decide if we should investigate and whether things need to be put right.

There are many cases that we cannot - or decide not to - take further action on, or we may intervene by resolving the complaint early. However, assessing all these cases requires a lot of detailed work from our staff.

Investigating complaints

281
(+38%)

We closed 281 complaints after we had investigated them, 38% more than year.

We only investigate in more complex cases that we cannot resolve in any other way. Most of our investigations related to health.

With our caseload increasing year on year, it is even more important that we investigate only when there is no other way for us to deliver justice.

We closed **2,323** complaints at assessment because we did not have the powers to investigate them further, or they had come to us prematurely.

We closed **416** complaints by intervening early, a small increase on last year (1%) but a 52% increase since 2019/20.

99: We did not uphold the complaint, or we discontinued the investigation.

182: We upheld the complaint or agreed a voluntary settlement.



Health Boards



We intervened this year in **31%** of the complaints about the Health Boards that we closed – slightly higher than in the previous two years (30%).

The Health Board with the highest intervention rate was Aneurin Bevan University Health Board at **37%**, while we saw the lowest rate of intervention for Powys Teaching Health Board at **14%**.

Local councils



We intervened this year in **15%** of complaints about local councils. This was slightly higher than last year (14%).

The council with the highest intervention rate was Isle of Anglesey, at **24%**. We did not intervene in any complaints about Conwy County Borough Council.

Housing Associations



We intervened this year in **10%** of complaints about Housing Associations – compared to **13%** last year.

For many Housing Associations, we only investigate a small number of complaints, if any at all, and all our interventions were resolved early, at the assessment phase.

We include details of our performance against our targets in the Appendix.



Our complaints about the Code of Conduct

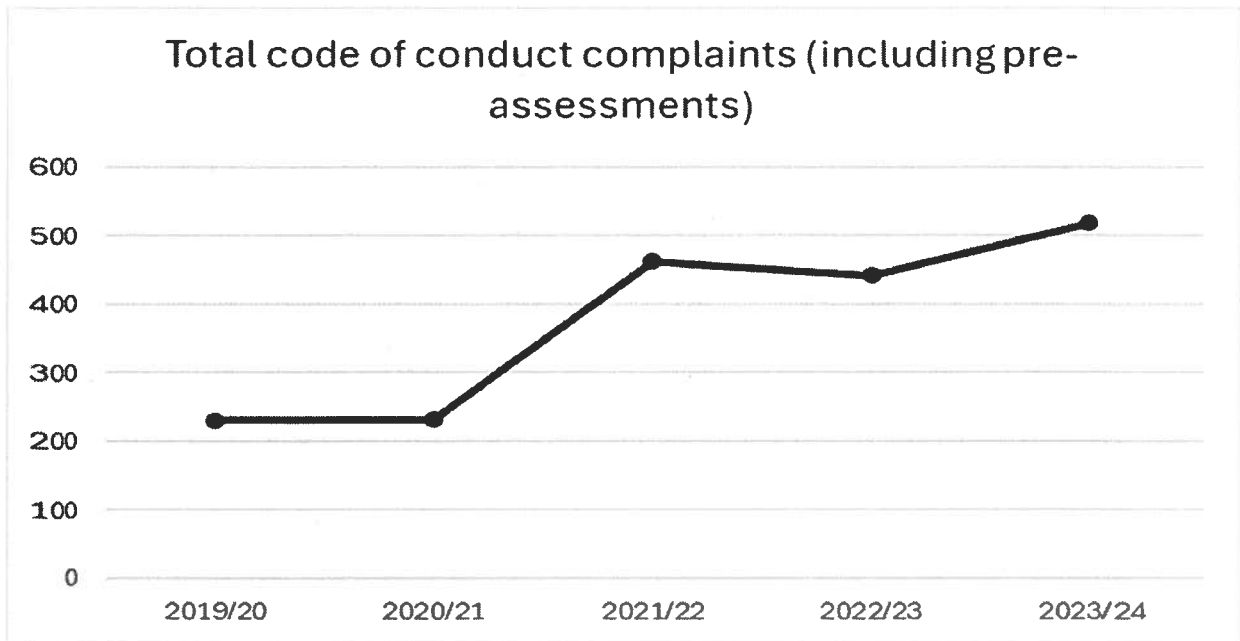
The Model Code of Conduct, introduced in Wales in 2008, sets out a set of enforceable minimum standards for the way in which councillors and members of some other public bodies⁵ should conduct themselves, both in terms of their official capacity and (in some instances) in their personal capacity as well.

New Code of Conduct complaints

We received more complaints about the Code of Conduct this year, following a small drop in the previous year.

Of these, 176 were complaints about town and community councillors, 151 about Principal council councillors and 1 regarding a national park councillor.

We received 518 complaints about the Code of Conduct but only had enough information to investigate 328. This was 16% more than last year.

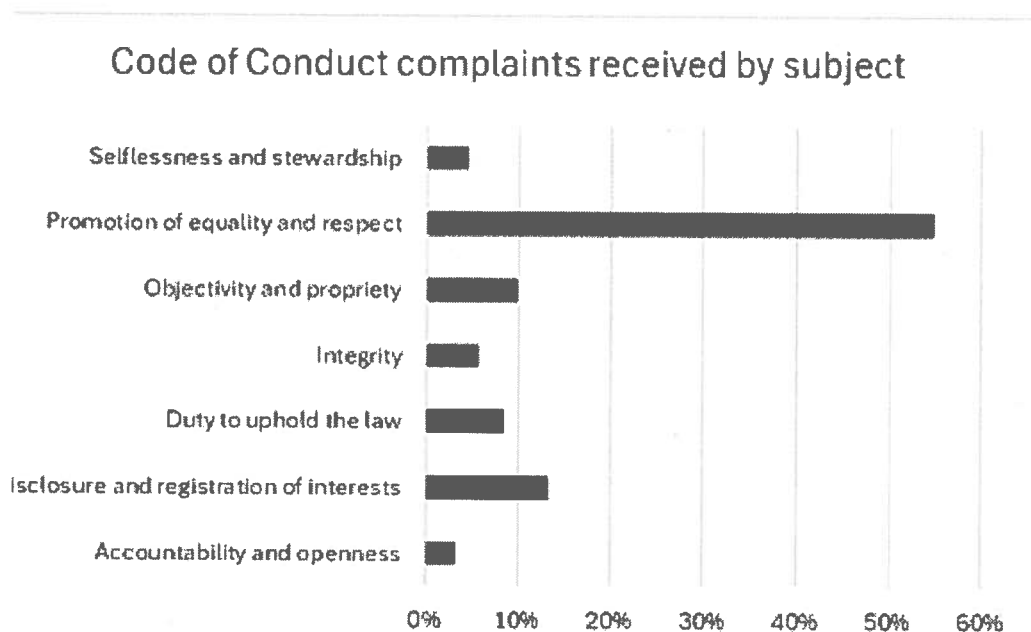


⁵ The public bodies that the Model Code of Conduct applies to include: local authorities; town and community councils; fire and rescue authorities; national park authorities and police and crime panels in Wales.

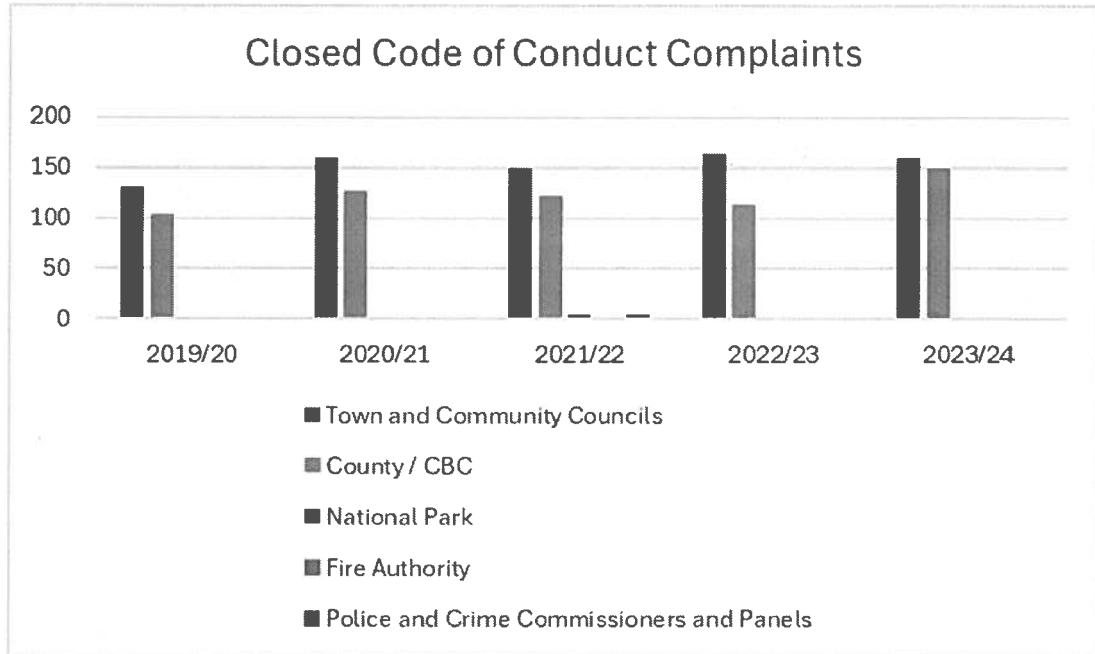


We analyse and report on the subject of the Code of Conduct complaints, based on the **Nolan Principles**, which are designed to promote high standards in public life. 55% of the complaints that we could investigate were about the promotion of equality and respect. This was a lower proportion than last year (61%).

Generally, the cases that we categorise under 'respect' are lower-level complaints. These are the ones where we tend to decide quickly that we will not investigate or where we recommend the complaint is best resolved locally. The complaints that we categorise under 'equality' commonly involve more serious allegations of bullying or discrimination.



Closed Code of Conduct complaints



We investigated a higher proportion of Code of Conduct complaints this year than last year. We referred 21 Code of Conduct cases to either the relevant Standards Committee or the Adjudication Panel for Wales. 85% of our referrals were upheld.

We apply our 'public interest test' to decide which cases we should investigate. Public interest can be described as something which is of serious concern or benefit to the public.

Generally, we investigate only a small proportion of the Code of Conduct complaints we receive. This shows that the standards of conduct in local government are generally good.

In 2023/24, we assessed 311 complaints about the Code of Conduct - an increase of 11% on the previous year.

We investigated 48 of these complaints: 13 more than we investigated last year.

It is not up to us to decide whether a councillor has breached the Code. We investigate and consider that there may have been a serious breach of the Code of Conduct and we then refer the complaint and our findings to a local Standards Committee or to the Adjudication Panel for Wales to determine.

These bodies then independently look at the evidence we have gathered, together with any information put forward by the councillor concerned.

They then decide whether the councillor breached the Code of Conduct and if so, what sanction to impose.

In 2023/24, we referred 21 complaints to the Standards Committees of the relevant local authorities and to the Adjudication Panel for Wales. This was a 43% increase than the previous year. This reflects the larger number of Code of Conduct complaints we investigated and closed this year.

Here, we give examples of two decisions, following our referrals, that the Adjudication Panel for Wales issued this year.

Case example 1

It was found that a former member of Mumbles Town Council made a series of vexatious complaints to our office targeting a small group of the Council's members. She also covertly recorded a confidential session of a Council meeting and had offered to play the recording to a member of the public. Swansea Council's Standards Committee decided that the Former Councillor had failed to comply with the Code of Conduct and decided to censure the Former Councillor, whilst noting that, had they remained a member of the Council, it would have suspended them for 6 months.

The Former Councillor went on to appeal the decision of the Standards Committee to the Adjudication Panel for Wales, who endorsed the decision. Its decision can be found [here](#).



Case example 2

Whilst investigating a complaint about a member of Ceredigion County Council and Aberystwyth Town Council, the Ombudsman issued an interim report to the Adjudication Panel for Wales ('the APW'), recommending that it was in the public interest for the Councillor to be suspended immediately from his role as a councillor on both local authorities, pending the conclusion of the investigation of the complaint.

The APW's Interim Case tribunal agreed that it was in the public interest to suspend the Councillor for a period of up to 6 months, pending the outcome of the Ombudsman's investigation. The investigation has now been concluded and the case will be determined by the Adjudication Panel during 2024/25.

Independent review

On 26 March 2024, the Ombudsman was informed by a member of the public that a member of staff had been making inappropriate and unacceptable social media posts of a political nature. The member of staff was promptly suspended pending a disciplinary investigation and shortly afterwards resigned from her role.

The demonstrable independence, fairness and impartiality of the Office are core to our work and so the Ombudsman appointed Melissa McCullough (Standards Commissioner for the Northern Ireland Assembly and for the Jersey & Guernsey States Assemblies) to undertake an independent review of our handling of our Code of Conduct complaints.

The aim of the review is to provide assurance on whether our Code of Conduct processes, delegations and decisions have been sound, free from political bias and that any lessons are learned from what has happened. The Terms of Reference for the review can be found [here](#).

Once completed, we will share the final report on the review with the Senedd's Finance Committee and publish it on our website. At the time of writing, we anticipate that this will be in the Autumn of 2024.

The quality of our decisions

We do our best to make sure that we handle complaints fairly and in a transparent way. We have a process to deal with requests for a review of our decisions. Those reviews are considered by a member of staff who was not previously involved in the case.

Review requests

In 2023/24, we received 198 requests from complainants asking us to review our decision. This was 16% less than the previous year. In addition, we had carried forward 13 requests from the previous year. We managed to deal with 191 of these requests.

Once we have issued our review decision, we sometimes receive further correspondence from complainants. We log these as a 'follow-up'. Last year, we received 27 of these, which is 42% less than the previous year. We responded to all that we received.

We upheld 8% of the review requests that we dealt with – about the same proportion as in 2022/23. We include follow-ups in this calculation as we take care to consider everything sent to us. This is a very small number of our complaints overall (0.5%) and gives us confidence that our process is sound.

Where we upheld a review request, as in previous years, this was occasionally because we received more evidence from the complainant. However, our review sometimes concludes that we could have done more. When this happens, we take steps to make sure we learn any lessons.

Cases subject to judicial review

The Ombudsman is a Corporation Sole. This means that the person appointed to the role is fully responsible for casework decisions. Complainants can request an internal review of a casework decision that they are unhappy with (we talk about this in more detail in the 'Quality of Our Decisions' section of this Report). However, the appropriate route to challenge our decisions is through judicial review.



One application for permission to bring a judicial review to challenge a decision we took was made during 2022/23. This was refused by the High Court.

A case involving a former councillor who applied to the High Court for permission to appeal a decision of the Adjudication Panel for Wales to disqualify them from being a member of a local authority in Wales for 12 months in March 2022, remained ongoing during 2023/24. Permission has recently been refused. However, a further application will be considered by the Court in due course.



The quality of our service

We want to deliver an excellent service. We have 5 Service Standards that explain the service people can expect from us. Read more about our Standards [here](#).

To check how we are doing, every year we monitor and analyse our performance and gather feedback from our service users and from organisations that we look into.

What complainants think about our service

Every February, we organise a telephone survey of about 200 people who have complained to us during that year.

We are concerned that, despite an improvement in our feedback last year, the overall assessment of our customer service has declined. Only 40% of people said that they were happy with the service they received from us. This figure increased to 98% for those satisfied with the outcome of their complaint and dropped to 21% for people who were not satisfied with the outcome. Generally, people tend to be happier with our service if they are happy with the outcome of their complaint.

We take this feedback seriously and are considering ways we can provide a more personal, empathic and considerate service.



83% of respondents said we were easy to get in touch with

Complaints about our service

In 2023/24, we also handled 38 complaints about our service. Of those that we investigated and closed, we upheld or partially upheld 36%, the same as last year.

These complaints related to issues around how we communicated, how quickly we considered complaints and how we paid attention to detail. We communicated the findings internally to help ensure we do not make the same mistakes again.



To ensure that we are open and accountable, if people are unhappy with how we handled their complaint about us, they can ask for that complaint about our service to be considered by an external independent review service. During 2023/24, 12 people referred their complaints about our service to our external review service compared to 19 last year. These referrals often raise several issues that the complainants want reviewed. The external review service upheld 10% of issues raised in these complaints.

What organisations think about our service

We also invite comments on our work from the organisations that people complain about.

This year, we issued an online survey to 78 public bodies. We asked them for comments on their most recent complaint with us, as well as on our work in general. We received 22 complete responses. The results were broadly positive and showed improvement in critical areas. Overall satisfaction with our service scored 8/10 (the same as last year).

We also held three Sounding Board sessions in March and April 2024, with local councils, Health Boards and Housing Associations. We had feedback on the concerns public bodies had about the challenges they face and our deadlines, questions about the new own initiative investigation and we were able to provide advice on non-responsive complainants.

90% felt our findings positively influence their organisation, up from 84% last year.

Service quality

In the last year, we enhanced our focus on our Service Quality provision. The goal of this function was to provide feedback to our staff, and management, on how the actions of our investigation officers, in their day-to-day handling of complaints, impacted the level of service we provided to the general public.

Service Quality operates in real time – checking investigations which are still ongoing, giving us the opportunity to remedy poor service more quickly – as opposed to providing feedback on a closed case.

We created a multi-point check for every case we reviewed and, with a small Service Quality provision, completed 204 checks throughout the year. We set an ambitious target in the first year of operation - 75% of cases checked with little or no feedback.

Overall, our Service Quality checks highlighted the hard work and dedication of our investigation officers – providing a good service on often challenging and complex matters – with 67% of cases checked meeting our threshold.

We'll look to develop our Service Quality approach as time goes on, ensuring that the feedback we provide ensures that we give the best service possible to the people of Wales.



I am continuing to enhance the robust internal control arrangements to ensure that the office has the capacity to identify, assess and manage risk effectively.

In undertaking this responsibility during the year ended 31 March 2024, I am supported by a Chief Operating Officer to whom some of my responsibilities have been delegated.

I am satisfied that the systems in place identify potential risks at an early stage and enable, through active management, the appropriate action to be taken to minimise any adverse impact on the office.

The Audit & Risk Assurance Committee receives regular reports on the risks relating to this office, explores the office's approach to those risks and provides comments and suggestions on current and emerging risks.

Risks are considered across a number of key areas or risk themes. These are:

- Casework
- Staffing
- Technology
- Financial
- Reputational
- Governance and Legal
- Data & Information Management

Key risks and issues

The last Annual Governance Statement (2022/23) highlighted two high risks. The first of these related to the impact of increasing numbers of complaints without a corresponding increase in resources. Progress in closing older complaint investigations and funding for an additional member of staff in 2024/25 mean that this risk has reduced and is now moderate/amber.

The other high risk was that future financial settlements might be insufficient to meet Strategic Plan priorities. Financial pressures continue, for the office and wider public services, but the 2024/25 estimate submission was approved and work is ongoing to secure efficiencies to mitigate financial pressures. The risk is currently moderate/amber.



The organisation, and the Audit & Risk Assurance Committee, have continued to recognise and work to reduce the risk of cyber-attack, malware, virus or ransomware on our IT systems. Whilst that risk remains, considerable work has been done during the year to reduce the likelihood and impact of a successful attack. This risk requires constant and active management, but the risk rating at the year-end was moderate/amber level.

However, events at the turn of the year (March/April 2024), involving the inappropriate social media posts of a (now former) member of staff, have had a significant impact on the reputation of the office and on staff. As the risks have materialised, they are issues with high/red rating. At the end of 2023/24, the two issues were:

Risk horizon	Risk and risk impact:	Risk management and mitigation:	Residual risk:
<p>Reputation</p>	<p>As a result of social media posts made by a (now former) member of staff and the negative media this has caused, there is a risk of a loss of public trust and confidence in PSOW and our ability to provide a service to complainants.</p> <p>Impact: significant damage to the perception of PSOW, with concerns that PSOW may not be impartial.</p>	<p>Extensive engagement with key stakeholders (including Finance Committee, key politicians, Monitoring Officers, Standards Committee chairs and Welsh Government), independent review into our Code of Conduct processes and past decisions.</p>	<p>The reputational damage caused by this incident means that the residual risk is considered RED.</p>



Risk horizon	Risk and risk impact:	Risk management and mitigation:	Residual risk:
<p>Staffing</p>	<p>As a result of the social media incident, there is a risk that this negatively impacts on the morale and wellbeing of current staff and that the repercussions will impact on their ability to perform their role.</p> <p>Impact: staff feeling under increased pressure, coming under increased scrutiny from complainants (sometimes publicly) and some staff feeling like their jobs are at risk as a result of comments made about PSOW.</p>	<p>Wellbeing is discussed with staff at all team meetings and all staff have access to trained Mental Health First Aiders. Staff are encouraged to debrief with their line manager and to report instances of negative complainant behaviour so that this can be addressed.</p>	<p>We will continue to protect and look after our staff, but the residual risk is considered RED.</p>

