

## **REGULATORY APPRAISAL**

### **WELSH PUBLIC SERVICES OMBUDSMAN**

#### **THE PUBLIC SERVICES OMBUDSMAN FOR WALES (JURISDICTION AND TRANSITIONAL PROVISIONS AND SAVINGS) ORDER 2006**

##### **Purpose and intended effect of the measure**

1. The purpose and intended effect of this measure is to ensure that when the Public Services Ombudsman (Wales) Act 2005 comes into force on 1 April 2006 the jurisdiction of that office is as accurate and comprehensive as possible and takes into account changes that have occurred in the public sector since the Act received Royal Assent in April 2005.
2. The Order will add certain bodies not currently within the jurisdiction of an ombudsman to that of the Public Services Ombudsman for Wales (the Ombudsman), bring the definition of family health service providers more closely into line with the definition in the Health Services Commissioners Act 1993 and make a consequential amendment as a result of the Inquiries Act 2005.
3. Matters which are excluded from the Ombudsman's jurisdiction are listed in Schedule 2 to the Act. Paragraph 8 of Schedule 2 refers to action, which is or has been the subject of an inquiry under section 84 of the National Health Service Act 1977, but this section has now been repealed by the Inquiries Act 2005. This Order makes the necessary consequential amendment, substituting a reference to action, which is or has been subject to an inquiry under the Inquiries Act.
4. It also deletes paragraph 10 of Schedule 2 to the Public Services Ombudsman (Wales) Act 2005, as it is considered otiose in view of the provision in section 4(2) of the Act that a listed authority acting in its capacity as such cannot make a complaint to the Ombudsman.
5. This Order adds the Board of Community Health Councils in Wales as a listed authority in Schedule 3 to the Act, so bringing the Board within the Ombudsman's remit. In their evidence to a joint committee of the National Assembly for Wales' Local Government and Public Services Committee and the House of Commons' Welsh Affairs Committee the Board requested that they be brought within the Ombudsman's jurisdiction and the Committees so recommended.
6. The Order also adds valuation tribunals in Wales as a relevant tribunal for the purposes of the 2005 Act. The effect of this is to bring the administrative functions of the valuation tribunal's staff within the remit of the Ombudsman, by treating them as the administrative functions of the listed authority (i.e. the National Assembly for Wales) which has consented to the appointment of those administrative staff. The valuation tribunal service is not currently within the

jurisdiction of an ombudsman and is being added with the agreement of the valuation tribunals.

7. Finally, the definition of family health service providers in Wales, which are already included as listed authorities in Schedule 3, is to be amended so as to bring it more closely into line with the definition in section 2A(2) of the Health Service Commissioners Act 1993.

### **Risk Assessment**

8. Failure to implement this legislation would mean that the Board of Community Health Councils and the valuation tribunals in Wales would not fall within the jurisdiction of the Public Services Ombudsman for Wales when that office is established on 1 April 2006. This would be acting against the express wishes of the bodies concerned and, in relation to the Board of Community Health Councils bodies, a recommendation of the National Assembly for Wales' Local Government and Public Services Committee and the House of Commons' Welsh Affairs Committee.

### **Options**

#### Option 1: Do Nothing

9. Failure to implement this legislation would mean that the Board of Community Health Councils and the valuation tribunals in Wales would not fall within the jurisdiction of an Ombudsman. This would be against the express wishes of those bodies and, in relation to the Board of Community Health Councils bodies, a recommendation of the National Assembly for Wales' Local Government and Public Services Committee and the House of Commons' Welsh Affairs Committee.

#### Option 2: Make the Legislation

10. Making this Order will ensure that when the Public Services Ombudsman (Wales) Act 2005 comes into force on 1 April 2006 the jurisdiction of that office is as accurate and comprehensive as possible and takes into account changes that have occurred in the public sector since the Act received Royal Assent in April 2005.

### **Benefits**

11. The Order will benefit those persons who do not currently have recourse to an ombudsman if they believe that they have suffered an injustice or hardship as a result of maladministration or service failure by the Board of Community Health Councils, or valuation tribunals in Wales.

### **Costs**

12. There are no additional financial implications associated with the making of this Order either for the Assembly or those bodies, which will fall within the jurisdiction of the Ombudsman.

### **Competition Assessment**

13. The introduction of this Order will not have any impact on other sectors and no competition filter is necessary.

## **Consultation**

### With Stakeholders

14. A consultation on this proposed Order was undertaken between 4-21 October 2005. A list of consultees is attached at Annex A. The consultation paper was also published on the Assembly's website at:

<http://www.wales.gov.uk/keypubconsultation/content/lgps/content-jo-e.htm>.

Three responses were received to the consultation none of which commented on the proposed Order.

### With Subject Committee

15. The Order was notified to the Local Government and Public Services Committee via the list of forthcoming legislation (Paper reference LGPS 07-05(p.2), Item no. PSOW 01) on 29 June 2005 and was identified for detailed scrutiny. The Committee scrutinised it at its meeting on 30 November 2005 and recommended the Order for approval without amendment.

## **Review**

16. This Order will not need to be kept under review as, to date, it is fully supported and there are no financial implications. Welsh Assembly Government officials will, however, be in regular contact with the Ombudsman when the Act comes into force so will become aware of any issues that may arise.

## **Summary**

17. This Order will ensure that when the Public Services Ombudsman (Wales) Act 2005 comes into force on 1 April 2006 the jurisdiction of that office is as accurate and comprehensive as possible and takes into account changes that have occurred in the public sector since the Act received Royal Assent. It will do so by bringing within the Ombudsman's jurisdiction the Board of Community Health Councils and valuation tribunals in Wales; re-defining the definition of family health service providers and making a consequential amendment as a result of the Inquiries Act 2005.

## **LIST OF CONSULTEES**

## **ANNEX A**

National Assembly for Wales, Assembly Members,  
National Assembly for Wales' Local Government and Public Services Committee

Department of Constitutional Affairs  
Department of Health  
Department for Work and Pensions  
Office of the Deputy Prime Minister

Local Health Boards in Wales  
Family Health Service Providers in Wales  
Board of Community Health Councils  
Community Health Councils in Wales

Unitary Authorities in Wales  
Valuation Tribunals in Wales

Public Services Ombudsman for Wales