

Finance Committee

# Scrutiny of Public Services Ombudsman for Wales's Estimate for 2018-19

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November 2017



**National Assembly for Wales**  
Finance Committee

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Finance Committee

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November 2017



**National Assembly for Wales**  
Finance Committee

# Finance Committee

To carry out the functions of the responsible committee set out in Standing Order 19; the functions of the responsible committee set out in Standing Orders 18.10 and 18.11; and consider any other matter relating to the Welsh Consolidated Fund.

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## Committee membership for consideration of the Estimate:



**Simon Thomas AM (Chair)**  
Plaid Cymru  
Mid and West Wales



**Neil Hamilton AM**  
UKIP Wales  
Mid and West Wales



**Mike Hedges AM**  
Welsh Labour  
Swansea East



**Steffan Lewis AM**  
Plaid Cymru  
South Wales East



**Eluned Morgan AM**  
Welsh Labour  
Mid and West Wales



**Nick Ramsay AM**  
Welsh Conservative  
Monmouth



**David Rees AM**  
Welsh Labour  
Aberavon



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## **Recommendations and conclusion**

**Recommendation 1.** The Committee commends the Ombudsman’s prudent approach in the preparation of this Estimate. The Committee recommends that in the remaining years of this Assembly, changes to the Ombudsman’s Estimates should remain either below or in line with the Welsh block. .... Page 8

**Recommendation 2.** The Committee recognises the work the improvement officers have undertaken with some Health Boards to reduce the number of complaints and upheld complaints. However, the Committee recognises that further progress is needed and recommends the Ombudsman provides an update on the work of the improvement officers and the impact of public interest reports. .... Page 12

**Recommendation 3.** Given the success of improvement officers in certain bodies, the Committee recommends the Ombudsman considers extending this approach to other bodies in jurisdiction. .... Page 12

**Recommendation 4.** Given the pressures on funds for public services, the Committee recommends that the Ombudsman demonstrates clearly the reasons for any related requests in future for additional resources, including the differential cost of elements of his caseload and the related financial pressures. .... Page 15

**Recommendation 5.** The Committee notes the importance of regularly reviewing the pension scheme and recommends continual monitoring by the Ombudsman given the related risks of his share of pension assets not being invested in a diverse portfolio, particularly given the likely impact of any changes in interest rates and other market conditions. .... Page 17

**Recommendation 6.** The Committee recommends that the Ombudsman produces an ICT programme for between 3-5 years to demonstrate the intended use of resources for ICT for 2018-19 and in future years is integrated in the strategic planning for his office. .... Page 19

**Conclusion 1.** The Committee notes the detail in the ‘Public Services Ombudsman for Wales: Estimate 2018/19’ and considers the Estimate to be both prudent and acceptable. Subject to the comments and recommendations in this report, the Committee supports the overall request for resource. .... Page 8

# 01. Introduction

## The Public Services Ombudsman for Wales's Estimate

1. The Public Services Ombudsman for Wales (the Ombudsman) produces an Estimate (the Estimate) for each financial year in accordance with the Public Services Ombudsman (Wales) Act 2005<sup>1</sup>, as amended by the Government of Wales Act 2006<sup>2</sup>. The Estimate is required to set out the resources required for the Ombudsman to carry out his statutory functions, with the exception of the Ombudsman's own salary (and associated costs) which are directly charged on the Welsh Consolidated Fund.<sup>3</sup>

2. Standing Order 20.23 sets out that:

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“The Ombudsman must submit the estimate of income and expenses required under paragraph 15 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 to the responsible committee as soon as practicable but in any event no later than 1 November in each financial year.”<sup>4</sup>

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3. The Estimate for 2018-19 was submitted to the Finance Committee (the Committee) on 25 September 2017, and is attached as an Annex to this report.

4. The Committee is responsible for reporting on this Estimate. Standing Order 20.24 sets out:

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“The responsible committee must consider and lay before the Assembly, no later than 22 November, the estimate, with any modifications which the Committee, having consulted and taken into account any representations made by the Ombudsman, considers appropriate.”<sup>5</sup>

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5. The Committee considered the Estimate on 11 October 2017 and took evidence from:

- Nick Bennett, Public Services Ombudsman for Wales;
- Chris Vinestock, Chief Operating Officer; and
- David Meaden, Financial Accountant.

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<sup>1</sup> [Public Services Ombudsman \(Wales\) Act 2005](#)

<sup>2</sup> [Government of Wales Act 2006](#)

<sup>3</sup> [Public Services Ombudsman \(Wales\) Act 2005, Schedule 1, paragraph 9\(6\)](#)

<sup>4</sup> [National Assembly for Wales, Standing Orders](#)

<sup>5</sup> [ibid](#)



## 02. The Ombudsman's overall estimate for 2018-2019

### Overall changes to the Ombudsman's estimate for 2018-2019

6. The Estimate seeks an increase of £232,000 in Total Managed Expenditure (TME) from £4,248,000 in 2017-18 to £4,480,000 in 2018-19: an increase of over 5 per cent. The corresponding increase in the Ombudsman's budget for 2017-18 when compared with the prior year was £158,000 or almost 4 per cent. However, in terms of the net cash requirement, the Ombudsman is seeking £4,410,000 for 2018-19, which is £50,000 less than the corresponding sum for 2017-18.

7. The Estimate sets out a breakdown of the net resource expenditure and net cash requirement for 2018-19. This also includes, for completeness, the costs associated with the new powers set out in the Public Services Ombudsman (Wales) Bill, which was introduced into the Assembly on 4 October 2017. In his Estimate, the Ombudsman notes that these costs are set out for completeness and are not part of the Ombudsman's formal budget submission.

8. The Ombudsman noted that his budget has not increased in line with corresponding changes in the Welsh Block. He said:

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“The difficulty we've had is that we can't keep up with the growth that there has been, historically, in the block. For example, this year...the committee gave 3.8 per cent to us over the last year, but of course, after that, during the November statement, we saw the block growing 4.3 per cent. So, we're a very small proportion of the Welsh block, but we're still falling down to about 0.26 per cent of the block, I think, by now. I think, historically— say, maybe eight or nine years ago— it was 0.03 per cent of the block. So, we know that there's been pressure on the block, but we've been under more pressure, and I hope that we can show today that we've coped with that and have ensured that we can do more with less, and if not less, well, certainly with a flat resource.”<sup>6</sup>

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9. The Ombudsman gave his assurance that he would keep the costs of his office within 0.03 per cent of the Welsh Block. The Estimate states:

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“The net resource expenditure sought for 2018/19 without new powers is £4,480k, with a net cash requirement of £4,410k. These figures represent the funding required to manage the workload of the Office at projected levels, whilst keeping my budget at no more than 0.03% of the Welsh Block.”

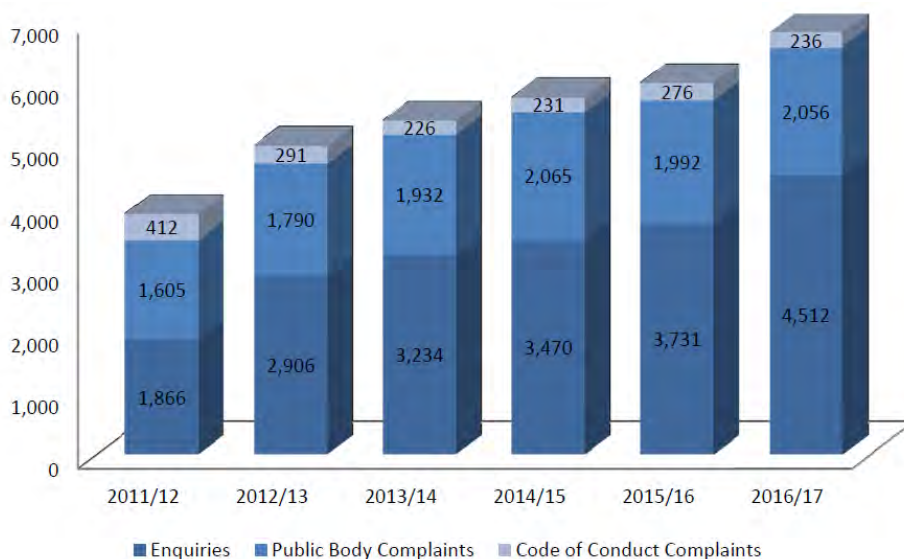
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10. The Ombudsman's **Annual Report and Accounts 2016-17** note that, over the six years to 2016-17, the Ombudsman's overall caseload has increased by 75 per cent. In the Estimate, the Ombudsman reports that in 2016-17 the number of enquiries and complaints (his 'caseload') increased by 13 per cent on the prior year. The trend is shown in Figure 1.

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<sup>6</sup> National Assembly for Wales, Finance Committee, Record of Proceedings (RoP), 11 October 2017, paragraph 16

Figure 1: Public Services Ombudsman for Wales, Total enquiries and complaints received in year (Number)



Source: Public Services Ombudsman for Wales Annual Report and Accounts 2016-17

**11.** The Ombudsman’s Annual Report and Accounts 2016-17 contains an analysis of the number of complaints by public body sector. The Ombudsman notes that county councils have always generated the most complaints due to the wide range of services they provide. This remained the case for 2016-17, although the number of complaints in respect of county/county borough councils decreased on the prior year, down from 906 to 881 from 2015-16 to 2016-17 respectively.

### Committee’s View

**12.** The Committee notes that the Ombudsman has not increased his Estimate in line with the Welsh block and is seeking less than 2017-18. However, the Committee recognises that the Ombudsman is seeing an increase in enquiries and complaints and a consistently reducing budget may not be sustainable in the long term.

**Conclusion 1.** The Committee notes the detail in the ‘Public Services Ombudsman for Wales: Estimate 2018/19’ and considers the Estimate to be both prudent and acceptable. Subject to the comments and recommendations in this report, the Committee supports the overall request for resource.

**Recommendation 1.** The Committee commends the Ombudsman’s prudent approach in the preparation of this Estimate. The Committee recommends that in the remaining years of this Assembly, changes to the Ombudsman’s Estimates should remain either below or in line with the Welsh block.

## 03. Innovation, improvement and influence

**13.** The Estimate states that over the past year there has been “substantial progress in the activities of the office” with specific reference to the Ombudsman’s three year strategic themes of innovation, improvement and influence. During Evidence he said he wanted to be very clear with his staff and bodies that come within his jurisdiction in terms of what his priorities are. He continued:

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“... first, we have to innovate. There is less resource around and more demand for our services, so we have to be more innovative. Secondly, we have to ensure that we have an influence on the bodies that need to improve their public services. And that’s the third point, I think: to ensure that there is a real genuine improvement when it comes to the experience of the people of Wales when it comes to public services.”<sup>7</sup>

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### Improvement Officers

**14.** In 2015-16 the Ombudsman noted the introduction of the role of ‘improvement officers’. These roles investigate complaints, undertake stakeholder engagement and are subject leads for health (with a separate lead for clinical advice), housing, local government planning services, social services and the code of conduct for local authority members.

**15.** When questioned on the impact of improvement officers and how they are driving improvement the Ombudsman said:

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“It’s early days, and what I hope our improvement and investigation officers can do is assist in a better culture of complaint handling and responsiveness from what I call some of our best customers—so, those bodies, perhaps five or six of them, that in the past have accounted for perhaps 25 or 30 per cent of the overall universe of complaints that I receive.”<sup>8</sup>

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**16.** The Ombudsman said Ceredigion Council was an example of where improvement officers had made progress:

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“Two years ago—sorry, three years ago— Ceredigion, with a population of only 2 per cent of the total Welsh population, accounted for 28 per cent of upheld local government complaints in Wales. Last year, it was 17 per cent. So far this year, it’s zero. So far this year—obviously that may change. I’ve got to say that that authority has responded.”<sup>9</sup>

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**17.** The Ombudsman also noted the progress improvement officers had made on early resolution. He said:

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“...clearly, they’ve done a lot of cultural work with some of the bodies in jurisdiction around issues like early resolution, so that, hopefully, more health boards and other bodies are ready to go down it.”<sup>10</sup>

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<sup>7</sup> Finance Committee, RoP, 11 October 2017, para 10

<sup>8</sup> Finance Committee, RoP, 11 October 2017, para 32

<sup>9</sup> Finance Committee, RoP, 11 October, para 33

<sup>10</sup> Finance Committee, RoP, 11 October 2017, para 98

## Ombudsman's Caseload

18. When looking at complaints by subject, health was the major part of the Ombudsman's caseload, representing 38 per cent of complaints. This was followed by housing 13 per cent and planning and building control 8 per cent. Social Services remained at a similar proportion as the previous financial year at 9 per cent.

19. The Ombudsman reported that improvements had been made by some Health Boards. He said over the past year there was a 25 per cent reduction in the volume of complaints against Abertawe Bro Morgannwg University Health Board (UHB). He said that whilst Hywel Dda UHB had an increase in complaints volumes, there was no corresponding increase in the number of upheld complaints and he reported a small reduction for Aneurin Bevan UHB.

20. The Ombudsman said that a large proportion of the increase in health complaints was due to a rise of 23 per cent in complaints received about Betsi Cadwaladr UHB and an increase in the volume of upheld complaints. Of the six public interest reports he had published, three related to that health board.

21. He said improvement so far had been "patchy, but there's been a lot of positives early on, given that you're talking about organisational cultural change, and that does tend to take a longer period of time".<sup>11</sup>

## Code of conduct complaints

22. The number of code of conduct complaints decreased by 14 per cent in 2016-17 (236 in 2016-17 against 274 in 2015-16). The Ombudsman notes, in his [Annual Report and Accounts 2016-17](#), that this is:

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"encouraging considering, historically, code of conduct complaints increase in the period before local elections."<sup>12</sup>

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23. The Ombudsman reported there had not been such an increase in the number of code of conduct complaints before the last local elections and he hoped this was for two reasons: firstly his office are better managing code of conduct complaints with a faster turn around and secondly that he had been:

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"very clear with the local government community that I'm serious about the public interest test, and that's a test that's always applied. It's not simply enough that somebody might have broken the code. Is there a definite public interest in us pursuing that matter? If there is, then somebody can expect to be pursued, but if there isn't, because somebody doesn't like the way that they click their pen, then I'm not going to waste public money on that."<sup>13</sup>

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## Collaboration with other bodies

24. The Estimate notes the influence and collaboration of the Ombudsman's office within Wales. Activity in this area included:

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<sup>11</sup> Finance Committee, RoP, 11 October 2017, para 39

<sup>12</sup> [Public Services Ombudsman for Wales, Annual Report and Accounts 2016-17, page 19](#)

<sup>13</sup> Finance Committee, RoP, 11 October 2017, para 30

- implementing joint Internal Audit arrangements with the Older People and Children’s Commissioners;
- providing payroll arrangements for the Future Generations Commissioner for Wales;
- participation in events hosted by the Wales Audit Office on complaints in North and South Wales; and
- signing Memoranda of Understanding with a number of Commissioners and the Health Inspectorate Wales.

**25.** The Annual Report and Accounts 2016-17 note that:

“We continue to look to identify opportunities to work towards any pooled arrangement for shared knowledge, skills and experience to achieve cost savings.”<sup>14</sup>

**26.** When questioned on opportunities for pooled arrangements and cost savings, the Chief Operating Officer said:

“The internal audit arrangements were clearly one of those, and that was an early project to try and bring together us and commissioners to try and save money, both in terms of the procurement process, but also in terms of the outcome of the process, and that has worked well. We’ve got a single supplier of internal audit, but each of us has got our own individual contracts. So, within the arrangements, each commissioner and ombudsman is self-contained.”<sup>15</sup>

**27.** He also noted that the Ombudsman’s office runs the payroll service for the Future Generations Commissioner for Wales which is “cost-effective” and that other initiatives such as shared arrangements for training with other commissioners are in place.<sup>16</sup>

**28.** The Ombudsman confirmed that he “would be very ready” to work with commissioners when it comes to “identifying back-office services”.<sup>17</sup>

## Committee’s view

**29.** The Committee notes and welcomes the steady progress leading to the reduction in complaints made by the introduction of improvement officers, which has led to a number of specific improvements in complaint handling cultures within some organisations.

**30.** The Committee was concerned with the number of upheld complaints against some NHS bodies, as this indicates that an improvement in NHS services is needed. The Committee is concerned that if this improvement is not forthcoming it is likely complaints against NHS bodies could increase year on year which could result in a rapid increases in the number of complaints dealt with in the Ombudsman’s office. The Committee is concerned this may lead to pressures on the Ombudsman’s staff and the possibility of a need to increase his budget.

<sup>14</sup> Public Services Ombudsman for Wales, Annual Report and Accounts 2016-17, page 9

<sup>15</sup> Finance Committee, RoP, 11 October 2017, para 65

<sup>16</sup> Finance Committee, RoP, 11 October 2017, para 66

<sup>17</sup> Finance Committee, RoP, 11 October 2017, par 75

**31.** The Committee was pleased to see a decrease in the number of code of conduct complaints and recognises the work of the Ombudsman's office in proactively working to reduce complaints in this area.

**32.** The Committee acknowledges the Ombudsman has taken opportunities to share resources and to work collaboratively with other bodies in Wales. The Committee encourages the Ombudsman to continue to do this; managing appropriately any related risks and ensuring that resulting savings can be demonstrated.

**Recommendation 2.** The Committee recognises the work the improvement officers have undertaken with some Health Boards to reduce the number of complaints and upheld complaints. However, the Committee recognises that further progress is needed and recommends the Ombudsman provides an update on the work of the improvement officers and the impact of public interest reports.

**Recommendation 3.** Given the success of improvement officers in certain bodies, the Committee recommends the Ombudsman considers extending this approach to other bodies in jurisdiction.

## 04. Efficiencies

33. The Estimate notes that the Ombudsman had previously reported to the Committee on the “concerted effort” made to provide a more efficient and effective service in the early stages of the complaints-handling process, together with streamlining the investigation stage. He noted that these arrangements had continued to be “crucial” in the context of dealing with the “ever increasing” number of enquiries and complaints received by his office.

34. Figure 2 details the Ombudsman’s caseload, expenditure and the unit cost per case, as set out in the Estimate. This shows that, in the period 2010-11 to 2016-17, the Ombudsman’s caseload had increased by 140 per cent but the unit cost per case has decreased by 60 per cent over the same period.

Figure 2: Ombudsman’s unit cost per case (£)

	10-11	11-12	12-13	13-14	14-15	15-16	16-17	Change
Enquires	1,127	1,866	2,906	3,234	3,470	3,731	4,512	+300 per cent
Public Body Complaints	1,425	1,605	1,790	1,932	2,065	1,992	2,056	+44 per cent
Code of Conduct Complaints	277	412	291	226	231	276	236	-15 per cent
<b>Total Workload</b>	<b>2,829</b>	<b>3,883</b>	<b>4,987</b>	<b>5,392</b>	<b>5,766</b>	<b>5,999</b>	<b>6,804</b>	<b>+140 per cent</b>
Expenditure (£000) <sup>18</sup>	£3,684	£3,389	£3,672	£3,488	£3,585	£3,677	£3,580	-3 per cent
Unit Cost	£1,302	£873	£736	£647	£622	£613	£526	-60 per cent

Source: Public Services Ombudsman for Wales, Estimate 2018-19

### Cost of complaints

35. The Committee raised concerns about the pressure an increase in enquiries and complaints would have on the Ombudsman’s office. The Financial Accountant noted that they do not have different unit costs for each element of the Ombudsman’s caseload. The Ombudsman highlighted that “numbers can be quite a crude indicator” since not all complaints are the same nor are the costs of investigating them.<sup>19</sup>

36. The Ombudsman noted the additional pressures are not all about the numbers of cases but the type of complaint. He said:

“...you would expect me to put resource where the greatest need and public interest is. And I think, if somebody’s lost a member of their family, if there’s

<sup>18</sup> Adjusted for inflation

<sup>19</sup> Finance Committee, RoP, 11 October 2017, para 87

been an issue around some of the higher-profile public interest issues that we've had recently, those are much more expensive issues to deal with than the fact, perhaps, that somebody's unhappy about what time their bins are emptied or something."<sup>20</sup>

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**37.** The Ombudsman confirmed that 80 per cent of resources are invested on NHS complaints, which comprise 40 per cent of cases i.e. they are more expensive to investigate than other types of cases. So far in 2017-18, he has seen an increase in NHS complaints of 15 per cent.<sup>21</sup>

**38.** The Committee questioned the Ombudsman about capacity and the extent to which he can continue to see an increase in his caseload without a corresponding increase in his budget. The Ombudsman said he had taken action to improve efficiency, which had led to a 16 per cent increase in terms of outcome and a 26 per cent in early resolutions.<sup>22</sup> His Chief Operating Officer said that in terms of day-to-day management of enquiries and complaints they had undertaken work in reviewing processes to ensure "that they are as streamlined as they can be".<sup>23</sup>

**39.** On the issue of early resolution, the Ombudsman said:

"If we can do that faster, so that there is less cost and bureaucracy, particularly to important services such as the NHS, less cost to ourselves, but there is a solution for the complainant earlier on, then I think that's certainly an area where we could do more."<sup>24</sup>

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**40.** However, he said these "quick fixes" are still a commitment from a body in jurisdiction to a citizen in Wales and he expected them to be "honoured in the same way as they should honour a recommendation that they've agreed to from our full investigation".<sup>25</sup> Failure to meet an obligation of an early resolution incurs costs for the Ombudsman and the organisation in respect of which the complaint has been made. This is because the Ombudsman often has to chase the 'remedy' accepted by the complainant.

**41.** The Ombudsman gave the example of the young man whose mother had made a complaint on his behalf following a procedure to his eye. They had agreed to accept an apology and £250 from the health board. The Ombudsman made numerous requests of the health board to honour that early resolution since it had not been forthcoming. As a result the Ombudsman issued a Section 22 Report in order that this happen.<sup>26</sup> The Ombudsman set out why he did this:

"I don't want bodies in jurisdiction thinking, 'Oh, we'll just sign up to an early resolution because we avoid having an upheld complaint against our names.' It's important that bodies in jurisdiction don't just sign up to these resolutions willy-nilly because you're avoiding a black mark. Do it because it's the right

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<sup>20</sup> Finance Committee, RoP, 11 October 2017, para 88

<sup>21</sup> Finance Committee, RoP, 11 October 2017, paras 87 and 101

<sup>22</sup> Finance Committee, RoP, 11 October 2017, para 78

<sup>23</sup> Finance Committee, RoP, 11 October 2017, para 85

<sup>24</sup> Finance Committee, RoP, 11 October 2017, para 94

<sup>25</sup> *ibid*

<sup>26</sup> Finance Committee, RoP, 11 October 2017, para 95



thing to do, do it because you're happy, you're still the custodian of public services, you think it's fair, and it's appropriate and proportionate."<sup>27</sup>

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**42.** The Committee questioned the Ombudsman, in relation to his response to the Welsh Government's consultation on the Welsh Language Bill to deal with Welsh Language complaints. The Committee asked the Ombudsman if he had made any provision in his Estimate for dealing with such complaints. The Ombudsman said:

"It does lie beyond that budget, and I'm pleased that you've raised this issue because I know that it has had a response. I want to be very clear: I don't want to regulate the Welsh language. I'm not trying to be the Welsh Language Commissioner. I thought it was important. I had a public duty to respond, because the Welsh Government paper didn't reflect the good practice that's available in the Basque Country, in Catalonia and in other countries where there is a minority language. And what's happening there—and, certainly, the ombudsman in the Basque Country feels very strongly about this—is that early resolution is an important part of protecting people's linguistic rights. And I do feel that, at present, because early resolution is ultra vires, from what I understand, under the current standards, that means that if someone comes forward with a linguistic complaint, they don't have the same equal rights as what they'd have if they came to my office with a complaint about something else. And I believe in equal rights linguistically, and that's why I've made that proposal."<sup>28</sup>

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### Committee's view

**43.** The Committee noted that whilst unit costs have decreased, the number of enquiries and complaints have increased. The Committee is concerned that, with the rise of NHS complaints which are expensive to investigate relative to other elements of the Ombudsman's caseload, the unit cost could start to increase. In previous years the Ombudsman has been able to absorb the annual increase without a corresponding increase in resources. However, as referred to in chapter 2, the Committee is concerned that it may be difficult for the Ombudsman to sustain this in the future.

**44.** The Committee welcomes the increase in the number of early resolutions and the positive impact this has had on reducing costs for the Ombudsman and organisations concerned. However, the Committee is disappointed to learn that some organisations have agreed to an early resolution, but then failed to meet its obligation to the early resolution, which results in further costs for the Ombudsman.

**Recommendation 4.** Given the pressures on funds for public services, the Committee recommends that the Ombudsman demonstrates clearly the reasons for any related requests in future for additional resources, including the differential cost of elements of his caseload and the related financial pressures.

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<sup>27</sup> Finance Committee, RoP, 11 October 2017, para 95

<sup>28</sup> Finance Committee, RoP, 11 October 2017, para 20

## 05. Pay and Pensions

### Staff numbers and pay

45. The Annual Report and Accounts 2016-17 show that the organisation employed 58 staff as at 31 March 2017 (60 at 31 March 2016).

46. The Estimate notes that staff pay is linked to the Local Government National Joint Council pay negotiations. Although the latest submission by the Trade Union Unite is for an increase over 5 per cent, the Ombudsman notes that the budget reflects the assumption that pay would increase by 1 per cent. The budget also reflects funding for a new finance officer post and the cost of planned appointments to vacant posts during 2017-18, maternity pay and small sums to support staff development in key investigative roles.

47. In relation to the £173,000 increase for staff costs, the Ombudsman confirmed that approximately half (£86,000) was to cover maternity costs, with 10 per cent of the workforce seeking maternity leave.

48. In relation to other staffing issues, the Chief Operating Officer confirmed they now had an ICT Project Manager who was solely responsible for ICT and no longer carried out a financial role. As a result it was necessary to backfill for a finance officer role.

49. The Chief Operating Officer also noted they had not replaced a direct replacement for the policy and communications manager who had left the organisation, on a like for like basis. He said this had allowed them to use more resource for investigations. He continued:

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“Those are the key issues that are reflected in the budget submission, and it is very much about focusing on the key priorities of the front-line service, but also about identifying and managing some of the key risks we think we face.”<sup>29</sup>

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50. In relation to staff sickness levels, the Ombudsman said he was pleased with the progress made:

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“...when I started the job, we had a sickness problem in the office. Our sickness rate was 10.6 days on average. It’s now, I’m pleased to report, four days. So, a saving of 6.0 days per employee—there are 60 employees; I think that works out at almost two days full-time equivalent.”<sup>30</sup>

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### Local Government Pension Scheme

51. Some of the Ombudsman’s staff are in the Cardiff and Vale Local Government Pension Scheme (LGPS), which is administered by Cardiff Council and for which a deficit had been identified since 2010-11. The Ombudsman had previously advised the Committee that the liability for the deficit was being paid in additional annual instalments until the deficit was eliminated in 2017-18. These deficit payments were paid through Annually Managed Expenditure by way of the estimate each year. The LGPS deficit was £230,000 as at 31 March 2016. The Estimate for 2017-18 included £292,000 for LGPS related costs.

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<sup>29</sup> Finance Committee, RoP, 11 October 2017, para 116

<sup>30</sup> Finance Committee, RoP, 11 October 2017, para 78

52. The Financial Accountant confirmed:

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“The deficit was due to be eliminated this year, and, at the last time we met, we included £292,000 for that, but it was actually eliminated a year earlier and we’ve given that £292,000 back.”<sup>31</sup>

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53. He went on to say they have moved into a low-or no-risk fund within the local government pension scheme, with its share of pension assets fully invested in Government bonds. Previously, 75 per cent of the investment was in stocks and shares, 8 per cent in property and approximately 8 or 9 per cent in Government bonds. He further noted that:

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“...the actuary has made a statement in writing to say that he does not believe that a deficit will ever arise in the future. I guess there are no guarantees, but he has actually said that based on the decisions we’ve made. I think it was important to say, ‘This has happened. There was a £1.6 million deficit a few years ago. How can we stop that happening again?’ And we feel we’ve done just about everything we can to eliminate that risk.”<sup>32</sup>

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### Committee’s view

54. The Committee notes that £86,000 of the additional £173,000 requested for staff costs is to cover maternity costs. It is therefore to cover a specific set of circumstances in 2018-19 and is not a recurrent cost to the Ombudsman’s office in carrying out his statutory functions.

55. The Committee was pleased that the pension deficit had been eliminated earlier than expected and noted the return of £292,000 by the Ombudsman to the Welsh Consolidated Fund in 2017-18.

56. The Committee noted the move, within the Cardiff and Vale Local Government Pension Scheme administered by Cardiff Council, to a ‘low or no risk’ spread of investments and that the Ombudsman’s share of pension assets is now wholly invested in Government bonds.

**Recommendation 5.** The Committee notes the importance of regularly reviewing the pension scheme and recommends continual monitoring by the Ombudsman given the related risks of his share of pension assets not being invested in a diverse portfolio, particularly given the likely impact of any changes in interest rates and other market conditions.

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<sup>31</sup> Finance Committee, RoP, 11 October 2017, para 138

<sup>32</sup> Finance Committee, RoP, 11 October 2017, para 144

## 06. Technology

**57.** In the Estimate, the allocation for 'Computer systems and support' increased from £191,000 in 2017-18 to £225,000 in 2018-19. The Estimate explains that the total cost of £225,000 includes extra funding to manage the transition of suppliers or processes and the estimated increased costs for systems and support. It also includes £25,000 to bring the planned expenditure on ICT to around 5 per cent of resource budgets.<sup>33</sup>

**58.** The Chief Operating Officer noted that, in the past, they had not invested sufficient resources in systems, nor did they have a member of staff dedicated to only ICT work. He confirmed that the ICT manager no longer carried out any finance functions and was able to focus entirely on ICT. He said:

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“So, we’ve identified that, actually, we haven’t put enough resource into IT. That is really in two parts. That is partly the systems themselves, but it’s also our internal resource for managing IT and IT projects. So, one of the key changes is that we’ve got an IT project manager within the office who was previously doing a whole host of things but is now focusing entirely on the IT projects, and those are particularly going to be a new website and a new case-management system, which we’re seeking tenders for at the moment.”<sup>34</sup>

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**59.** The Chief Operating Officer said that the new case management system would assist in collecting and analysing data:

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“One of the things that we’ve been working on over the course of the last two or three years is getting more detailed data about the nature of complaints that we actually investigate, so that we can do analysis.”<sup>35</sup>

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**60.** Given that a lot of complainants interact with the office using ICT, the Ombudsman identified ICT systems failures and security as significant risks. He cited the cyber-attacks on the NHS in England as an example. His Chief Operating Officer said:

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“It is a key part of it, particularly because that is the way that a lot of our complainants interact with us, and it’s key to our analysis of data and key to our systems, and we want to make sure that those work well. So, that’s one of the biggest risks. If something does go wrong in terms of data security, the implications are quite serious. If our systems fail, our ability to provide a service is obviously immediately affected.”<sup>36</sup>

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### Committee’s view

**61.** The Committee notes that as well as seeking an increase in resource for ICT for 2018-19, the Estimate notes that future budgets would also seek additional funding for ICT. Whilst the Committee recognised the need to continually invest in ICT the Committee would like to see more detail as to how the Ombudsman intend to use the additional resources for ICT in future years.

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<sup>33</sup> Annex 2

<sup>34</sup> Finance Committee, RoP, 11 October 2017, para 115

<sup>35</sup> Finance Committee, RoP, 11 October 2017, para 55

<sup>36</sup> Finance Committee, RoP, 11 October 2017, para 115

**Recommendation 6.** The Committee recommends that the Ombudsman produces an ICT programme for between 3-5 years to demonstrate the intended use of resources for ICT for 2018-19 and in future years is integrated in the strategic planning for his office.

## Annex 1 – List of oral evidence sessions

The following witnesses provided oral evidence to the Committee on the date noted below. A [transcript](#) of the oral evidence session can be viewed on the Committee’s website.

<b>Date</b>	<b>Name and Organisation</b>
11 October 2017	Nick Bennett, Public Services Ombudsman for Wales Chris Vinestock, Chief Operating Officer David Meaden, Financial Accountant



**Ombudsman**  
PUBLIC SERVICES OMBUDSMAN FOR WALES

**Estimate for the Financial Year 2018/19**

INNOVATION  IMPROVEMENT  INFLUENCE

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## Review of 2016-17

**I am delighted to be able to report substantial progress in the activities of the office over the past year, with specific reference to our three year strategic themes of innovation, improvement and influence, which have led to substantial increases in outcomes for complainants and, I hope, positive impacts on public services.**

In terms of innovation the office made further progress on compliance, working to ensure that recommendations for improvement are implemented and that we ensure that the learning from complaints is acted upon.

The improvement function has started well. All Improvement Officers have developed specific action plans for the relevant bodies in jurisdiction. This has led to a number of specific improvements in their complaint handling cultures.

One area of particular improvement was the improvement on timescales – with a move towards complainant-centred timescales. The establishment of the internal Code Advisory Group has meant the proactive oversight of code of conduct complaints, and a seven per cent reduction in cases taking longer than six months.

I was delighted that my first thematic report on Out of Hours services led to a peer review by the Welsh Government to be implemented throughout 2017. I produced a further thematic report Ending Groundhog Day: Lessons from Poor Complaint Handling in March 2017.

In 2016/17 there was a further increase in the use of Voluntary Settlement, an increase of some 26 per cent on the previous year. However, whilst this can lead to speedier resolution for complainants and cheaper processes for public services, it is important that Early Resolution is not seen as some form of easy escape for bodies in my jurisdiction.

I published six public interest reports in the course of the year, three of which were in relation to Betsi Cadwaladr University Health Board, a number of health reports also related to Out of Hours services.

In terms of our influence and collaboration with other bodies inside and outside Wales 2016/17 was a busy year. We implemented joint Internal Audit arrangements with the Older People and the Children's Commissioners and also implemented payroll arrangements for the Future Generations Commissioner. I was also delighted to participate in Wales Audit Office events on complaints in both North and South Wales. Memoranda of Understanding were signed with a number of Commissioners and the Healthcare Inspectorate Wales.

During 2016/17 we submitted a Regulatory Impact Assessment to the Finance Committee and I am very hopeful that the legislation will now be taken forward in 2017/18.

Finally, 2016/17 was a year of not just positive activity, but of positive outcomes. Despite the challenge of increasing workloads the number of complainants who received a positive outcome from my office, either through voluntary settlement or an upheld complaint, increased by 16 per cent!



## Introduction to this estimates submission

I submit this budget estimate as required by paragraph 15 of Schedule 1 of the Public Services Ombudsman (Wales) Act 2005, as amended by the Government of Wales Act 2006. It sets out the resources required from the Welsh Consolidated Fund to carry out my statutory functions apart from my salary, National Insurance and pension costs, which are a separate direct charge on the Welsh Consolidated Fund and do not, therefore, form part of this estimate. However, they are reported in my Annual Accounts in order to ensure that they reflect the total running costs of the office.

This is the second submission of the Public Services Ombudsman for Wales's (PSOW) estimates to the Fifth Assembly. The Finance Committee is responsible for considering this estimates submission. The Equality, Local Government and Communities Committee is responsible for considering the work of the office. The PSOW also appears before the Public Accounts Committee to discuss the Annual Accounts as and when required by that Committee. The information provided in this paper relates particularly to those matters within the remit of the Finance Committee.

The Public Services Ombudsman (Wales) Act 2005 establishes the office of the Ombudsman as a 'corporation sole'. The Ombudsman is accountable to the National Assembly for Wales, both through the mechanism of the annual report, and as Accounting Officer for the public funds with which the National Assembly entrusts the Ombudsman to undertake his functions.

The net resource expenditure sought for 2018/19 without new powers is £4,480k, with a net cash requirement of £4,410k. These figures represent the funding required to manage the workload of the Office at projected levels, whilst keeping my budget at no more than 0.03% of the Welsh Block. It accommodates both staff pay awards and other inflationary pressures, although the annual pension deficit payment is no longer required. The detail in this paper supports this estimate submission.

If new legislation, governing the work of the Ombudsman, is introduced the net resource requirement increases to £4,820k and cash to £4,750k in a full year. The costs associated with new powers are shown in the Annex for completeness but are not part of the formal budget submission.

## The role of the Public Services Ombudsman for Wales

As Ombudsman, I have two specific roles. The first is to consider complaints about public service providers in Wales; the second role is to consider complaints that members of local authorities have broken the Code of Conduct. I am independent of all government bodies and the service that I provide is free of charge.

### Complaints about public service providers

Under the PSOW Act 2005, I consider complaints about bodies which, generally, are those that provide public services where responsibility for their provision has been devolved to Wales. The types of bodies I can look into 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; and
- privately arranged or funded social care and palliative care services.

When considering complaints, I look to see whether people have been treated unfairly or inconsiderately, or have received a bad service through some fault on the part of the service provider. Attention will also be given to whether the service provider has acted in accordance with the law and its own policies. If a complaint is upheld I will recommend appropriate redress. The main approach taken when recommending redress is, where possible, to put the complainant (or the person who has suffered the injustice) back to the position they would have been in if the problem had not occurred. Furthermore, if from the investigation I see evidence of a systemic weakness, then recommendations will be made with the aim of reducing the likelihood of others being similarly affected in future.

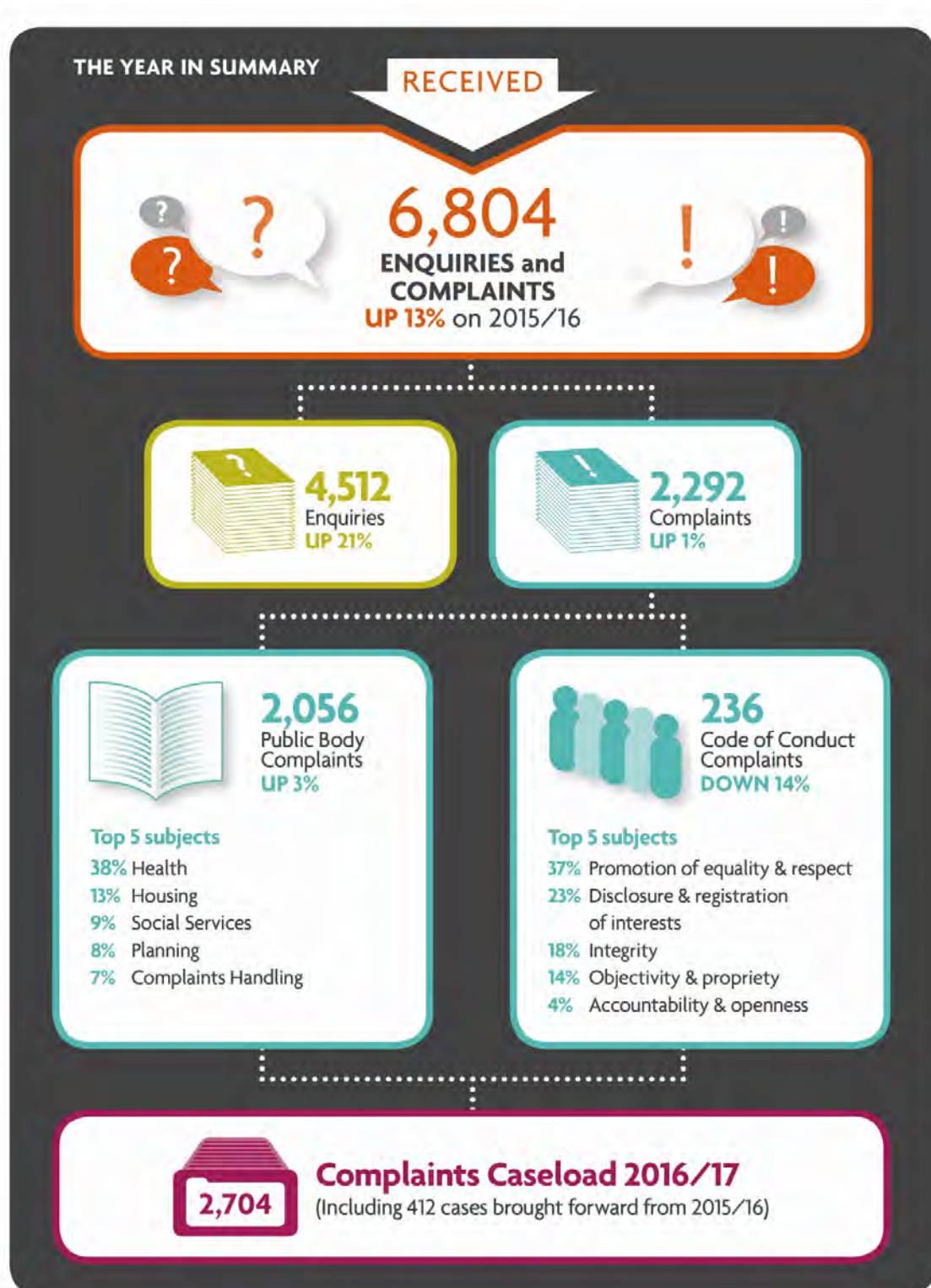
My Complaints Advice Team also provides the Complaints Wales signposting service, which is an independent and impartial telephone and web based service. It offers advice to members of the public on how to complain about a public service and signposts their complaint to the organisation that provides the service that they wish to complain about, or to the appropriate independent complaint handler or ombudsman

### Code of Conduct Complaints

Under the provisions of Part III of the Local Government Act 2000 and also relevant Orders made by the National Assembly for Wales under that Act, I consider complaints that members of local authorities have breached their authority's Code of Conduct. I can consider complaints about the behaviour of members of:

- county and county borough councils
- community councils
- fire authorities
- national park authorities and
- police and crime panels.

## The Complaints Service





## Complaints Caseload 2016/17

(Including 412 cases brought forward from 2015/16)

CLOSED

2,362

COMPLAINTS  
UP 2% on 2015/16



2,114  
Public Body  
Complaints  
UP 3%



248  
Code of Conduct  
Complaints  
DOWN 6%

544 detailed  
consideration/  
investigation  
UP 4%



44 investigated  
UP 19%



462 Resolution or Upheld  
UP 16%

**Of these:**  
55% Health  
10% Complaint Handling  
9% Housing  
9% Social Services  
4% Planning

22 Evidence of Breach  
UP 38%

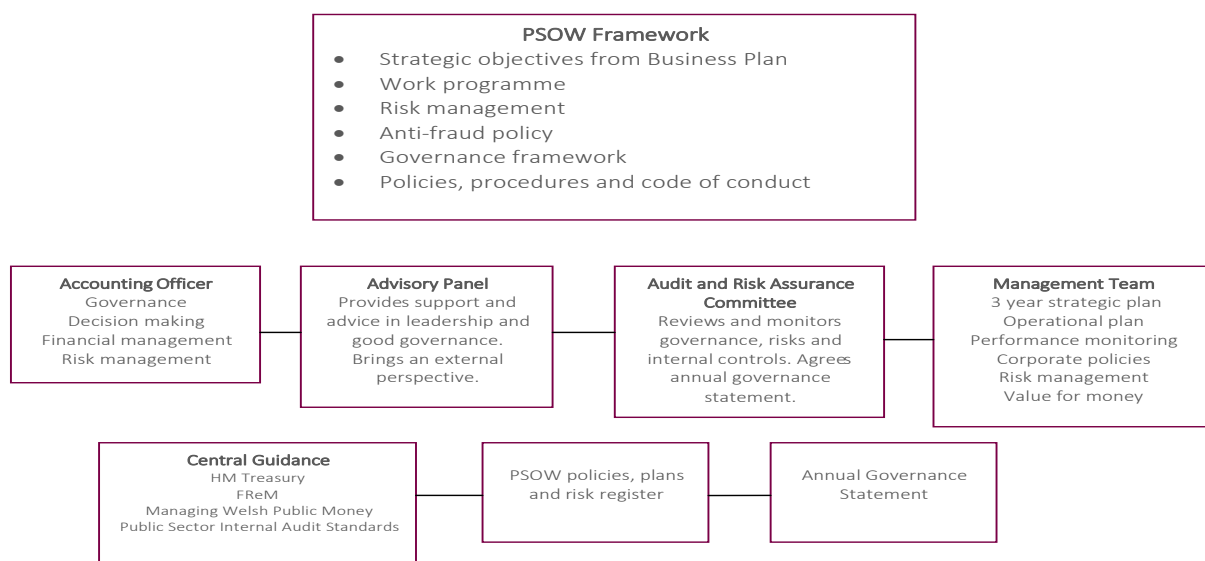
**Of these:**  
45% Promotion of equality & respect  
32% Disclosure & registration of interests  
9% Integrity  
9% Objectivity and propriety  
5% Accountability and Openness

## Corporate Governance

The constitutional position of a corporation sole means that responsibility and accountability for the activities carried out by my office must remain with me, as Ombudsman.

Whilst bearing in mind the constitutional position of a corporation sole, I have established an Advisory Panel which provides both challenge and support to me as Ombudsman. There is also an Audit & Risk Assurance Committee, a sub-committee of the Panel, which provides particular support to me in relation to my responsibilities as Accounting Officer. The work of both these for over the past year has been addressed in greater detail as part of the Governance Statement within my Annual Accounts for 2016-17, which was published in July 2017.

### Risk Assurance Framework Arrangements



### Assurance Map Components



## Financial Performance

The arrangements for financial management and internal control have been independently reviewed by Deloitte as the PSOW's internal auditors. Their reports have highlighted the satisfactory internal control framework within the organisation and made recommendations for improvement where necessary. Their Internal Audit Annual Report in respect of the year 2016/17 stated: "Based on the work we have undertaken during the year we are able to conclude that the Public Services Ombudsman for Wales (PSOW) has a basically sound system of internal control, which should provide substantial assurance regarding the achievement of PSOW's objectives."

The Auditor General gave the annual accounts for the year 2016/17 an unqualified audit opinion in keeping with all previous years.

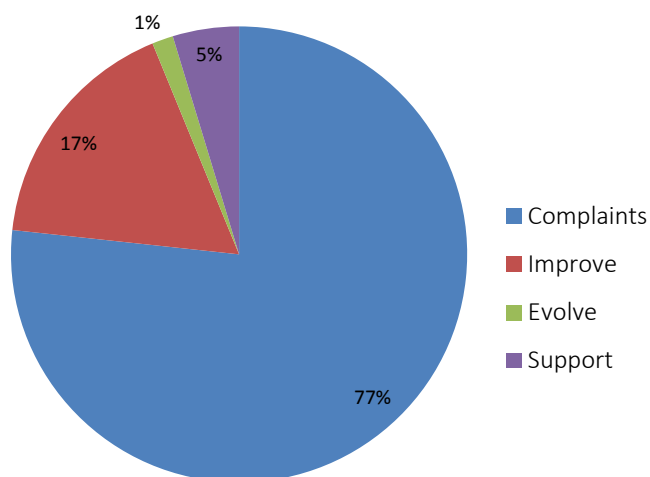
The PSOW has worked on the principle that the overheads of the office should be less than 5% of the total expenditure. This has always been achieved since the office was established under the Public Services Ombudsman (Wales) Act 2005 and is a principle that was derived from good practice within the public sector. This is evidenced in the analysis of expenditure based on the aims and objectives of my Strategic Plan as set out in the Annual Accounts where overheads are identified as 5% of total costs.

Aim 1: To provide a **complaints service** that is of the highest quality, proportionate and effective.

Aim 2: To use the knowledge and insight obtained from the complaints we consider to **improve complaint handling** by public services providers and to have an impact on improving public service delivery and informing public policy.

Aim 3: To continue to **evolve and grow** as an office, specifically planning for implementation of the Ombudsman's new powers should the National Assembly for Wales create a new Public Services Ombudsman (Wales) Act.

Aim 4: To be accountable for the **service and support** we provide and the public money we spend.



## Efficiency and Effectiveness

The PSOW has previously reported to the Finance Committee on the concerted effort made to provide a more efficient and effective service at the early stages of the complaints handling process, together with streamlining the investigation stage. These arrangements have continued to be crucial in the context of dealing with the ever increasing number of enquiries and complaints received by my office.

	10-11	11-12	12-13	13-14	14-15	15-16	16-17	Change
Enquiries	1,127	1,866	2,906	3,234	3,470	3,731	4,512	+300%
Public Body Complaints	1,425	1,605	1,790	1,932	2,065	1,992	2,056	+44%
Code of Conduct Complaints	277	412	291	226	231	276	236	-15%
<b>Total Workload</b>	<b>2,829</b>	<b>3,883</b>	<b>4,987</b>	<b>5,392</b>	<b>5,766</b>	<b>5,999</b>	<b>6,804</b>	<b>+140%</b>
Expenditure (£000s) <sup>1</sup>	£3,684	£3,389	£3,672	£3,488	£3,585	£3,677	£3,580	-3%
Unit Cost	£1,302	£873	£736	£647	£622	£613	£526	-60%

Over the period 2010/11 to 2016/17 workload increased by 300% whilst the unit cost reduced by 60%.

Enquiries +300%

Complaints:  
Public Body +44%  
Code of Conduct -15%

Over the same period resource expenditure decreased from £3.7m to £3.6m when adjusted for inflation – a reduction of 3%.

Workload compared to Unit Cost



<sup>1</sup> Adjusted for inflation



## PSOW Vision, Mission, Strategic Aims and Values

Our **Vision** is:

A public service culture that values complaints and learns from them to improve public service delivery.

Our **Mission** is:

By considering complaints, to put things right for service users and contribute to improved public service delivery and standards in public life.

Our **Four Strategic Aims** are:

1. To provide a complaints service that is of the highest quality, proportionate and effective throughout the various stages through the complaint journey.



2. To use the knowledge and insight obtained from the complaints we consider to improve complaint handling by public services providers and to have an impact in improving public service delivery and informing public policy.
3. To continue to evolve and grow as an office, specifically planning for implementation of the Ombudsman’s new powers should the National Assembly for Wales create a new Public Services Ombudsman (Wales) Act.
4. To be accountable for the service we provide and the public money we spend.

Our **Values**, underpinning the above and to support our delivery of administrative justice, are:

- Equality and Fairness
- Independence and Impartiality
- Improvement and Effectiveness
- Transparency and Accountability.



## Budget Submission

Enquiries and complaints increased by 13% in 2016-17. Enquiries for the first four months of 2017-18 show an increase of 12% whilst, although complaints overall have fallen over the same period, NHS complaints have risen by 15%. Our assumption is that enquiries and complaints will rise between 5% and 12% in 2018-19.

Staff pay is linked to Local government National Joint Council pay negotiations. Although the latest pay submission by Unite is for over 5% we have included a 1% pay increase for 2018-19. This budget will also provide full year funding for a finance officer post (allowing an existing member of staff to focus on IT developments and IT security). The proposed budget reflects the full year cost of planned appointments to vacant posts during the current year, maternity pay and maternity cover, and small sums to support staff development in key investigative roles.

The Pension Fund deficit was eliminated at the end of March 2017 and £292k was returned to the Welsh Consolidated Fund in 2017-18. It is anticipated that with the move to a low risk pension funding strategy no further deficit payments will be required. This has an effect on cash only.

We continue to rent our offices in Pencoed at a low cost of £9 per square foot, providing value for money for office space, but are subject to inflationary pressures on business rates, insurance and utilities.

IT contracts will be re-tendered during 2017-18 and there is a need to continue to invest in IT to increase efficiencies. The total cost of £225k includes costs to manage the transition of suppliers or processes and estimated increased costs for systems and support. It also includes a further increase of £25k to bring planned expenditure on IT to around 5% of resource budgets. Whilst there is no universal proportion of budget that organisations should expect to spend on IT, it is generally accepted that between 4% and 6% is appropriate. In view of the PSOW focus on moving to paper-light and paperless working, and the need to enhance IT resilience and recovery arrangements (in view of internal audit recommendations and concerns expressed by the Audit & Risk Assurance Committee), this is considered appropriate. The budget would support development of our critical IT systems to provide updated and effective systems that are flexible but secure. This additional funding is anticipated to be required also in future years.

Income of £17k represents the recharged costs of managing the Future Generations Commissioner's payroll as well as staff secondments.

Our training budget includes participation in the All Wales Public Service Graduate Programme, coordinated by Academi Wales, at a cost of approximately £15k per annum.

This budget estimate does not include any contingency provision for meeting unexpected items of expenditure, such as legal challenges to my casework decisions.

In view of the additional powers included in the draft Public Services Ombudsman (Wales) Bill, the Annex shows, as well as the submission for the 2018/19 financial year, an indication of the full year budget requirement once the legislation is in place. This is for completeness and does not imply any assumption that the legislation will proceed in its current form or at all. The costs included in the final

column include the costs of staff and associated office and IT costs arising from the additional powers to consider oral complaints, to undertake own initiative investigations and introduce a complaints standards function. (No costs are included in respect of the proposed limited extension of powers to investigate health complaints that include an element of private health treatment. It is expected that these can be absorbed within the existing resources available to the office.)

The costs associated with the additional powers in the new legislation are those included and explained in the draft Regulatory Impact Assessment, which will be considered in detail as part of the legislative process.

## Annex

### Public Services Ombudsman for Wales - Estimate for 2018-19

	Actual 2016/17	Budget 2017/18	Estimate 2018/19	New Powers Estimate 2018/19
	£000s	£000s	£000s	£000s
<b>A Capital</b>	<b>27</b>	<b>25</b>	<b>25</b>	<b>25</b>
<b>B Fiscal Revenue</b>				
Salaries and related costs	2,827	2,934	3,107	3,372
LGPS related costs	280	292	0	0
	<b>3,107</b>	<b>3,226</b>	<b>3,107</b>	<b>3,372</b>
Leases, including premises	435	416	435	435
Computer systems and support	177	191	225	243
Office costs	113	130	130	151
Professional fees	230	294	300	320
Communications	57	78	70	70
Training and recruitment	45	30	55	62
Travel and subsistence	39	31	40	49
Audit fee	20	20	20	20
<b>Sub total</b>	<b>4,223</b>	<b>4,416</b>	<b>4,382</b>	<b>4,722</b>
Income	-5	-1	-17	-17
<b>Total Revenue</b>	<b>4,218</b>	<b>4,415</b>	<b>4,365</b>	<b>4,705</b>
<b>C Non cash DEL</b>				
Depreciation	82	80	70	70
<b>Revenue DEL (B+C)</b>	<b>4,300</b>	<b>4,495</b>	<b>4,435</b>	<b>4,775</b>
<b>Total DEL (A+B+C)</b>	<b>4,327</b>	<b>4,520</b>	<b>4,460</b>	<b>4,800</b>
<b>D Annually Managed Expenditure</b>				
<b>Movement on LGPS</b>	<b>-280</b>	<b>-292</b>	<b>0</b>	<b>0</b>
<b>Provisions movement</b>	<b>21</b>	<b>20</b>	<b>20</b>	<b>20</b>
<b>Total AME</b>	<b>-259</b>	<b>-272</b>	<b>20</b>	<b>20</b>
<b>E Total Managed Expenditure</b>	<b>4,068</b>	<b>4,248</b>	<b>4,480</b>	<b>4,820</b>
<b>Resources Required</b>	<b>4,068</b>	<b>4,248</b>	<b>4,480</b>	<b>4,820</b>
Depreciation	-82	-80	-70	-70
Annually Managed Expenditure	259	272	-20	-20
Other non-cash movements	0	20	20	20
<b>Total cash requirement from the WCF</b>	<b>4,245</b>	<b>4,460</b>	<b>4,410</b>	<b>4,750</b>