

Annual Scrutiny of the Public Services Ombudsman for Wales

November 2022



The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

An electronic copy of this document can be found on the Senedd website:
www.senedd.wales/SeneddFinance

Copies of this document can also be obtained in accessible formats including Braille, large print, audio or hard copy from:

**Finance Committee
Welsh Parliament
Cardiff Bay
CF99 1SN**

Tel: **0300 200 6565**
Email: **SeneddFinance@senedd.wales**
Twitter: **@SeneddFinance**

© **Senedd Commission Copyright 2022**

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the Senedd Commission and the title of the document specified.

Annual Scrutiny of the Public Services Ombudsman for Wales

November 2022



About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:
www.senedd.wales/SeneddFinance

Current Committee membership:



Committee Chair:
Peredur Owen Griffiths MS
Plaid Cymru



Peter Fox MS
Welsh Conservatives



Mike Hedges MS
Welsh Labour



Rhianon Passmore MS
Welsh Labour

Contents

Recommendations and Conclusions	5
1. Introduction	7
2. Annual Report and Accounts 2021-22	9
3. Estimate 2023-24.....	21
Annex A: Public Services Ombudsman for Wales - Estimate 2023-24	30

Recommendations and Conclusions

Recommendation 1. The Committee recommends that the Ombudsman provides further information on nosocomial complaints, including; when she expects to start receiving complaints; when complaints are anticipated to be submitted; and the resources being directed to this area within her office.Page 17

Recommendation 2. The Committee recommends that the Ombudsman provides further information on the restructuring that has been undertaken.Page 18

Recommendation 3. The Committee recommends that the Ombudsman provides information on any future plans she may have to alleviate workload pressures.Page 18

Recommendation 4. The Committee recommends that the Ombudsman provides information on the outcome of the benefits realisation review into the first use of the own-initiative investigation powers under the Public Services Ombudsman (Wales) Act 2019. ...Page 19

Recommendation 5. The Committee recommends that the Ombudsman updates the Committee on the work being undertaken with housing associations in relation to signing up to the Complaints Standards Authority.....Page 19

Recommendation 6. The Committee recommends that the Ombudsman continues to quantify the cost of the new powers in the Public Services Ombudsman (Wales) Act 2019 and data about them in the Annual Report to inform the statutory review of the Act in 2024.Page 19

Recommendation 7. The Committee recommends that the Ombudsman provides evidence on the cost avoidance benefits arising from the Public Services Ombudsman (Wales) Act 2019 in future Annual Reports and Accounts and Estimates. This should include additional evidence on efficiencies and improvements arising from the legislation, as part of future disclosures.Page 20

Recommendation 8. The Committee recommends that the Ombudsman returns the unspent funding for National Insurance contributions from 2022-23 to the Welsh Consolidated Fund and adjusts the baseline for 2023-24 accordingly.Page 29

Recommendation 9. The Committee recommends that the Ombudsman provides an update on the review of accommodation once completed.Page 29

Recommendation 10. The Committee recommends that the Ombudsman provides an update on the Code of Conduct case that is seeking leave to appeal, as more information becomes available. Page 29

Conclusion 1. The Committee welcomes the Ombudsman’s commitment to ensure that the majority of members on the Advisory Panel are independent of the members on the Audit and Risk Assurance Committee. Page 18

Conclusion 2. The Committee notes the detail in the revised “Public Services Ombudsman for Wales: Estimate 2023-24” and considers the Estimate acceptable. Subject to the comments and recommendations in this report, the Committee supports the overall request for resource. Page 28

1. Introduction

Public Services Ombudsman for Wales's annual scrutiny

Background

- 1.** The Public Services Ombudsman for Wales (the Ombudsman) produces an Estimate of expenditure for each financial year in accordance with the Public Services Ombudsman (Wales) Act 2019¹ (PSOW Act). The Estimate must set out the resources required for the Ombudsman to carry out statutory functions, with the exception of the Ombudsman's own salary (and associated costs) which are directly charged to the Welsh Consolidated Fund (WCF).
- 2.** The Finance Committee (the Committee) is responsible for considering the Ombudsman's Estimate. The Standing Orders of the Welsh Parliament at 20.23 and 20.24² state that the Ombudsman must submit her Estimate by 1 November each financial year, with the Committee laying it before the Senedd, along with any modifications considered appropriate, by 22 November.
- 3.** The Committee is responsible for all oversight of the Ombudsman as set out under Standing Order 18A).³
- 4.** During 2021-22 a recruitment exercise was undertaken for a new Ombudsman, to replace Nick Bennett (appointed in August 2014). The Committee undertook a pre-nomination hearing with the preferred candidate, Michelle Morris, on 16 December 2021.⁴ The motion to appoint the new Ombudsman was agreed in plenary on 26 January 2022.⁵ Michelle Morris took up her post on 1 April 2022.
- 5.** The Committee considered the Ombudsman's initial Estimate 2023-24⁶ on 12 October 2022⁷, taking evidence from:
 - Michelle Morris, Public Services Ombudsman for Wales
 - Chris Vinestock, Chief Operating Officer and Director of Improvement

¹ Public Services Ombudsman (Wales) Act 2019

² Standing Orders of the Welsh Parliament at 20.23 and 20.24

³ Standing Orders of the Welsh Parliament at 18A

⁴ Finance Committee report: [Nomination of the Public Services Ombudsman for Wales](#)

⁵ [Plenary Record of Proceedings \(RoP\), 26 January 2022](#)

⁶ Public Services Ombudsman for Wales: [Initial Estimate 2023-24](#)

⁷ [Finance Committee, RoP, 12 October 2022](#)

- Katrin Shaw, Chief Legal Adviser and Director of Investigations

6. At this session the Committee also scrutinised the Ombudsman's Annual Report and Accounts 2021-22⁸ ("the Annual Report"), which was laid before the Senedd under paragraphs 15, 17 and 18 of Schedule 1 of the PSOW Act.

7. Following this evidence session the Committee wrote to the Ombudsman asking her to review her initial Estimate.⁹

8. Subsequently, on 19 October 2022, the Ombudsman resubmitted her Estimate for 2022-23 which is attached at Annex A.

⁸ Public Services Ombudsman for Wales: [Annual Report and Accounts 2021-22](#)

⁹ [Letter to the Public Service Ombudsman for Wales, 13 October 2022](#)

2. Annual Report and Accounts 2021-22

First Annual Report and Accounts by the new Ombudsman

9. While the new Ombudsman is responsible for the accounts, her term of office commenced after the end of the relevant financial year. The Ombudsman said this was a “strange situation” but she had assured herself that the information was “correct and accurate” by taking:

“a lead role in overseeing the compilation and the sign-off of the report, the corporate governance statement and the annual accounts.”¹⁰

10. The Ombudsman said she had received a handover letter from her predecessor that gave her “assurances around his confidence about the way that business had been conducted”. The Ombudsman also had conversations internally with the chair of the Audit and Risk Assurance Committee and with Audit Wales to:

“get their perspective on how we operate and whether they felt there were any particular issues that I needed to be aware of as the new ombudsman.”¹¹

11. The Ombudsman confirmed that there were proper internal controls in place “around risk management, financial management, performance management” in terms of how the organisation operates.¹²

Caseload

12. The Annual Report notes a drop in cases in 2020-21 (during the pandemic), but that cases are now increasing. The Annual Report compares public services, Code of Conduct and reviews caseload with 2019-20, rather than 2020-21, citing this as the last “normal” year.¹³

13. The Ombudsman highlighted that the number of cases coming into her office “continues to grow and increase”, with her caseload up 14 per cent, compared to the last “normal year before COVID”.¹⁴ She added:

“...over the last five years, there has been a trend upwards in terms of workload, but there hasn't been a proportionate increase in staffing to

¹⁰ Finance Committee, Record of Proceedings (RoP), 12 October 2022, paragraphs 12 & 13

¹¹ Finance Committee, RoP, 12 October 2022, paragraphs 13 & 14

¹² Finance Committee, RoP, 12 October 2022, paragraph 14

¹³ Public Services Ombudsman for Wales: Annual Report and Accounts 2021-22, page 9

¹⁴ Finance Committee, RoP, 12 October 2022, paragraph 19

*support that, and I think at some point that starts to show in the performance."*¹⁵

14. The Ombudsman told the Committee that there is a "COVID legacy" and her office does not "start with zero at the start of each year" and she has carried over 600 cases this year.¹⁶ She said:

*"It's not a backlog, because the cases are being dealt with, but there is certainly a build up in the work that we're carrying forward."*¹⁷

15. The Ombudsman highlighted that she is "not able to deal with" approximately 80 per cent of the complaints received, because they are out of jurisdiction or have not progressed through the relevant complaints process.¹⁸

16. However, the Ombudsman told the Committee that her office "does a lot of good work" to achieve early resolution (around 69 per cent were resolved early¹⁹) and they only undertake "investigations where it's absolutely necessary".²⁰ She said early resolution was a:

*"...better outcome for the complainant, they don't have to wait a long time, and it's also something welcomed by our public bodies, by local authorities and health boards. If they can achieve an early resolution working with us, they're always very keen to do so."*²¹

17. In relation to cases that require investigation, the Ombudsman said these tend to be health complaints that are more complex and make up about 80 per cent of the cases that are investigated.²² Her official also raised concerns in relation to the number of future complaints that will arise from the National Nosocomial Covid-19 Programme²³ to investigate where a person acquired Covid in hospital or in a healthcare setting during the process of receiving health care that was not present at the time of admission. She said these complaints are "likely to require investigation".²⁴ This is covered further in the section on the Estimate 2023-24.

¹⁵ Finance Committee, RoP, 12 October 2022, paragraph 19

¹⁶ Finance Committee, RoP, 12 October 2022, paragraph 20

¹⁷ Finance Committee, RoP, 12 October 2022, paragraph 20

¹⁸ Finance Committee, RoP, 12 October 2022, paragraph 28

¹⁹ Finance Committee, RoP, 12 October 2022, paragraph 22

²⁰ Finance Committee, RoP, 12 October 2022, paragraph 21

²¹ Finance Committee, RoP, 12 October 2022, paragraph 22

²² Finance Committee, RoP, 12 October 2022, paragraph 21

²³ [NHS Wales national framework – Management of patient safety incidents following nosocomial transmission of COVID-19](#)

²⁴ Finance Committee, RoP, 12 October 2022, paragraph 30

18. The Committee asked whether the Ombudsman thought the increased caseload could be a short term trend. The Ombudsman replied:

*"...during the pandemic, our sense is that people didn't bring complaints forward because they could see the pressure public services were under... and when things started to ease, people brought those complaints forward. That's been exacerbated, as you say, now by frustrations perhaps around having to wait for services, and the difficulty that some will be finding in accessing services. I think that's the case."*²⁵

19. The Ombudsman was concerned about the impact the increased workload was having on her staff, particularly the investigation team. She said investigation officers were considering 20 to 23 cases per person, whereas "pre-COVID that was more like 15, 16 cases per person". She said her office's caseload was higher "than some of our other ombudsman colleagues in other parts of the UK".²⁶

20. To address the increase in workload, the Ombudsman has already taken action by:

*"...some restructuring in the team, cutting down on management posts and putting more resource to the front line of investigations".*²⁷

Key Performance Indicators

21. The Annual Report outlines 29 Key Performance Indicators (KPIs). However, not all of these have targets. Of those, the Annual Report suggests nine were not achieved and 10 appear to have no target set.²⁸

22. The Ombudsman acknowledged that the increased workload had lengthened the "timescales for the work that we're dealing with" which meant some KPIs have not been met.²⁹ She added:

"We've not always been able to respond to customers as quickly as we would want to in terms of telling them whether we're able to progress with their complaint or not. And more complaints took longer than 12 months to conclude, and that is one of our key indicators, that we would conclude any investigations within 12 months, and we have got more cases that have

²⁵ Finance Committee, RoP, 12 October 2022, paragraph 27

²⁶ Finance Committee, RoP, 12 October 2022, paragraph 23

²⁷ Finance Committee, RoP, 12 October 2022, paragraph 23

²⁸ Public Services Ombudsman for Wales: Annual Report and Accounts 2021-22, pages 12 & 13

²⁹ Finance Committee, RoP, 12 October 2022, paragraph 22

*extended beyond that period. But, because we've had a higher case load, it's also the case that last year we actually closed more cases and investigated and intervened in more cases than the office has ever done in a single year before. So, that just shows you that this is about the volume, really, and that's our biggest challenge."*³⁰

Staff

23. The Ombudsman confirmed that staff turn-over is approximately nine per cent. She explained that this accounted for some "planned retirements" as well as employees seeking career progression outside of the organisation. She continued:

*"One of the challenges of being a smaller team—75 staff—is we can offer career routes and promotion opportunities for some people, but not for everybody, so some people have, unfortunately, moved on to progress their career."*³¹

24. The staff survey shows 58 per cent of respondents felt workload pressure was reasonable, down from 76 per cent. Sickness absence has increased from 3 days to 7.2 days and over half of staff absences were stress related (15 per cent work related stress).³²

25. The Ombudsman said she is concerned about staff well-being and staff have indicated that over the two-year period since the last survey, they felt:

*"...workload pressures are higher, that they're less able to cope with those, plus the resources they have available to undertake their work has reduced."*³³

26. In terms of the support available to staff, the Ombudsman said:

"So, the work that's in place to try and address that, particularly around stress assessments within the workplace, using the Health and Safety Executive stress assessment process, particularly training managers of teams so that they're better equipped to be able to identify perhaps when people are under pressure and under stress, and then put in place adjustments and support to help them cope with that."

³⁰ Finance Committee, RoP, 12 October 2022, paragraph 22

³¹ Finance Committee, RoP, 12 October 2022, paragraph 60

³² Public Services Ombudsman for Wales: Annual Report and Accounts 2021-22, pages 83 & 114

³³ Finance Committee, RoP, 12 October 2022, paragraph 68

27. In addition, the Ombudsman said that a well-being group had been established, as well as staff being able to access counselling and occupational health. She also referred to a “well-being passport for staff”, which documents adjustments made to an individual’s working arrangements, and “they can take that with them” when they move roles within the organisation.³⁴

Fire and rehire

28. In April 2022, the Public and Commercial Services Union (PCS) wrote to the Committee, outlining the use of ‘fire and rehire’ at the Ombudsman’s office in relation to the downgrading of four posts.³⁵ The Committee asked why this approach was taken and what the outcome of negotiations with relevant staff was.

29. The Ombudsman explained that the four staff had been paid an additional 20 per cent to undertake additional duties. However, because of the establishment of the service improvement team, those additional duties were no longer required and therefore “fell away from their role, but they were still paid the additional money”. The Ombudsman said the situation needed to be dealt with “in order to be equitable to other members of staff”. She continued:

“So, in effect, what did happen was that there was—I think from November through to March—a lot of consultation with the staff and their unions, as you would expect. That’s the starting point: talking about the change and the reason for it. The position that we reached—I think it was in April, just after I started in the role—was that the staff did agree to the adjustment and we were able to achieve it through agreement.

In effect, we wouldn’t necessarily call it the red-circle approach, but in effect what has now happened is that those staff continue on their existing salary under a pay protection scheme, and that pay protection scheme is in place for four years.”³⁶

30. Reassuring the Committee, the Ombudsman stated:

“...we don’t support the dismiss and re-engage approach, and that is not the way we would go about undertaking changes within staffing in the office.”³⁷

³⁴ Finance Committee, RoP, 12 October 2022, paragraph 69

³⁵ Letter from Public and Commercial Services Union regarding the use of ‘Fire and rehire’

³⁶ Finance Committee, RoP, 12 October 2022, paragraphs 74 & 75

³⁷ Finance Committee, RoP, 12 October 2022, paragraph 72

Special payment

31. The Accounts show a special payment of £29,000 made to a member of staff who left the Ombudsman's employment during the year.³⁸ The Ombudsman's official explained:

*"It was related to a staff settlement agreement and related to a single member of staff and was connected with termination of employment and was concluded by agreement. The process that we followed was in line with the ACAS code of practice for settlement agreements and we were very much aware of and took account of and met the requirements of 'Managing Welsh Public Money', which includes quite a lot of detail about how those payments should be managed."*³⁹

32. The official added that the settlement was reported to the Audit and Risk Assurance Committee and external auditors who were:

*"satisfied that it was an appropriate and sensible and reasonable approach, and that we have reported it appropriately in the accounts."*⁴⁰

Governance arrangements

33. In its report on *Scrutiny of Accounts 2017-18*, the Public Accounts Committee of the Fifth Senedd recommended:

*"...that, to promote independence, the Ombudsman appoints an independent member to his Advisory Panel who does not sit on the Audit and Risk Assurance Committee."*⁴¹

34. The Committee asked the Ombudsman if she was satisfied with the governance structures that she had inherited. She responded:

"'Yes' is the answer. I think there's very strong governance in the office. The recommendation you referred to has been implemented and is now in place. So, we have a member of our advisory panel who is independent and does not sit on the ARAC. And in fact, we have two vacancies on the advisory

³⁸ Public Services Ombudsman for Wales: Annual Report and Accounts 2021-22, page 142

³⁹ Finance Committee, RoP, 12 October 2022, paragraph 64

⁴⁰ Finance Committee, RoP, 12 October 2022, paragraph 65

⁴¹ Fifth Senedd, Public Accounts Committee: *Scrutiny of Accounts 2017-18*

*panel and one on our ARAC, and we'll be doing recruitment to those this autumn. So, we will have more than one independent member in position."*⁴²

35. An internal audit review, relating to cyber security, was rated "reasonable", and the Ombudsman also identified a red risk in relation to cyber security. The Ombudsman said she was mitigating risks through a "cyber essentials self-assessment". Her official expanded:

*"We recognise that a lot of cyber attacks have, at their core, a failure of staff or staff being caught out by a phishing e-mail or an attachment or link, which actually is very easy to do and we've had quite a lot of e-mails, including ones that appear to be from somebody who they're not, so, a lot of the emphasis is on staff training and prevention in that way. And we share details of new risks with staff. We've done a lot of work on penetration testing. We make sure that we get external advice from IT security specialists and our IT support provider, and we have strengthened our back-up arrangements."*⁴³

36. In addition, the Ombudsman's office is also working with other public sector bodies in this area, with Audit Wales sharing its findings from their work on cyber security as well as the Welsh Language Commissioner's office:

*"...talking to us about their experiences, and that is a session for some of the key staff, but more specifically for our audit and risk-assurance committee and advisory panel. So, we will be drawing on that expertise and those experiences, as you suggested."*⁴⁴

Powers in the Public Services Ombudsman (Wales) Act 2019

37. All provisions in the PSOW Act 2019⁴⁵ have been in force since 23 July 2019. The new powers include the ability to:

- accept complaints orally;
- undertake own initiative investigations;
- investigate private medical treatment, including nursing care, in a public/private health pathway; and

⁴² Finance Committee, RoP, 12 October 2022, paragraph 78

⁴³ Finance Committee, RoP, 12 October 2022, paragraph 95

⁴⁴ Finance Committee, RoP, 12 October 2022, paragraph 96

⁴⁵ Public Services Ombudsman (Wales) Act 2019

- undertake a role in relation to complaints handling standards and procedures.

38. The previous Ombudsman undertook the first own-initiative investigation into the homelessness review process in Wales.⁴⁶ The Ombudsman said a “benefits realisation” exercise was being undertaken to understand the impact of the investigation.⁴⁷ In addition the Ombudsman told the Committee that five extended-initiatives had been carried out by her office last year. She continued:

“There was a really good example of a piece of work done in north Wales on prostate cancer care, where, from one complaint, one individual, we were able to offer some redress and support for eight people, who didn't actually know they were in that situation. So, it's a really powerful tool when used in the right way, and absolutely, we do want to use that. If we see themes emerging, we will use it to go further, and that would allow us perhaps to bring a number of complaints together into one investigation. So, it is a really helpful and powerful tool, and we'll keep on using it.”⁴⁸

39. The Ombudsman received 221 oral complaints⁴⁹ (an increase from 63 in 2020-21). The 2020-21 Annual Report also noted a targeted social campaign to promote the power to receive oral complaints.⁵⁰

40. The Ombudsman said “oral complaints are great” because it provides accessibility to her office. She said the fact the provision is being so well used shows “that we’re reaching people who probably we weren’t reaching before” who may have difficulties completing forms or accessing the website for various reasons.⁵¹

41. In relation to complaints handling, the Ombudsman confirmed that 39 bodies are part of the Complaints Standards Authority, including all local authorities and health boards in Wales. She said work is on-going with the housing association sector. She explained:

“This is about lifting the standard of complaint handling right across the public sector. Ultimately, in years to come, we would hope, if the complaints are dealt with by public bodies in a way that customers and service users are satisfied with, fewer will be sent through to us, eventually. So, the complaints

⁴⁶ Public Services Ombudsman for Wales: [Own-initiative investigation into the homelessness review process in Wales](#)

⁴⁷ Finance Committee, RoP, 12 October 2022, paragraph 53

⁴⁸ Finance Committee, RoP, 12 October 2022, paragraph 33

⁴⁹ Public Services Ombudsman for Wales: Annual Report 2021-22, page 17

⁵⁰ Public Services Ombudsman for Wales: Annual Report 2021-22, page 53

⁵¹ Finance Committee, RoP, 12 October 2022, paragraph 53

*standards work is really important, and we've done a lot of training with public bodies across Wales, and we'll continue to do that to collectively try and improve that aspect of public services."*⁵²

Committee view

42. The Committee welcomes the open and constructive way the Ombudsman has worked with the Committee since her appointment earlier this year. We hope this receptive relationship with the Committee will continue throughout her tenure.

43. We note that the current Ombudsman was responsible for the Annual Report and Accounts, although her term of office commenced on 1 April 2022, just after the end of the 2021-22 financial year. We are pleased the Ombudsman sought assurance that information in these documents were accurate and we are assured that proper internal controls are in place around financial and performance management.

44. We note the Ombudsman's concerns that there is a "COVID legacy", with caseload figures up 14 per cent. We are further concerned that the staff caseload in Wales is higher than some other Ombudsman in the UK. We acknowledge this increase reflects the pressures on public services and the public's dissatisfaction with those services. In addition, the Committee accepts that there is uncertainty over the number of nosocomial complaints, which relate to acquired Covid cases through a hospital or healthcare setting during the process of receiving health care that was not present at the time of admission, that might be received in the nearer future.

Recommendation 1. The Committee recommends that the Ombudsman provides further information on nosocomial complaints, including; when she expects to start receiving complaints; when complaints are anticipated to be submitted; and the resources being directed to this area within her office.

45. We understand this increased caseload is having an impact on staff and that the Ombudsman has taken action to try to alleviate pressure by restructuring and increasing resource to the front line of investigations. We also welcome the other initiatives in place to support staff's well-being. Given the increased workload it is not surprising that some KPIs haven't been achieved, including those relating to timescales for dealing with cases. Nonetheless, we are pleased to hear the productive use of early resolution, which is welcomed by the public bodies involved and we note the Ombudsman's view that it is a better outcome for the

⁵² Finance Committee, RoP, 12 October 2022, paragraph 55

complainant. This is a substantial achievement given the difficulties and challenges caused by the pandemic.

Recommendation 2. The Committee recommends that the Ombudsman provides further information on the restructuring that has been undertaken.

Recommendation 3. The Committee recommends that the Ombudsman provides information on any future plans she may have to alleviate workload pressures.

46. The Committee notes the Ombudsman's explanation in relation to the downgrading of four posts. As a point of principle, the Committee opposes the use of 'fire and rehire' and believes this case should not set a precedent for future disputes. We welcome the assurance from the Ombudsman that she does not support the dismiss and re-engage approach to undertaking changes to staffing within her office.

47. The Committee notes the special payment of £29,000 made to a member of staff; is content with the explanation provided by the Ombudsman and satisfied that the payment has been reported appropriately in the accounts. However, the Committee believes there should be transparency, where possible and appropriate, around such future issues.

48. We welcome the reassurances from the Ombudsman that the Public Accounts Committee of the Fifth Senedd's recommendation in regard of crossover of membership on the Ombudsman's Advisory Panel and Audit and Risk Assurance Committee (ARAC) has been implemented and that at least one member of the advisory panel is independent of the ARAC. We further note that, when the Ombudsman recruits the two vacant posts on the Advisory Panel this autumn and one on the ARAC, the number of independent members will increase.

Conclusion 1. The Committee welcomes the Ombudsman's commitment to ensure that the majority of members on the Advisory Panel are independent of the members on the Audit and Risk Assurance Committee.

49. The Committee is pleased that the Ombudsman is undertaking meaningful activity to mitigate the risks associated with cyber security and that she is working with, and learning from, other public bodies. The Committee notes Cyber Security was also an area considered in its scrutiny of Audit Wales this year⁵³, and is encouraged that both bodies have engaged with each other to discuss these matters.

⁵³ Finance Committee, RoP, 22 September 2022

50. In relation to the use of powers under the PSOW Act, the Committee is supportive of the own-initiative investigation powers as it allows widespread systemic maladministration or service failure to be addressed coherently, especially as vulnerable groups may be reluctant to make a complaint. We will be interested to hear the results of the benefits realisation work that is being undertaken to understand the impact of the first own-initiative investigation into the homelessness assessment process.

51. We are also pleased that the Ombudsman has been able to undertake five extended-initiatives as this can lead to redress for individuals who may not have been aware that maladministration or service failure had taken place. The Committee hopes that these types of initiatives will be a cost-effective method of allowing several complaints to be considered in one investigation.

Recommendation 4. The Committee recommends that the Ombudsman provides information on the outcome of the benefits realisation review into the first use of the own-initiative investigation powers under the Public Services Ombudsman (Wales) Act 2019.

52. We are pleased to note the increase in oral complaints received since last year. The power to accept oral complaints in the PSOW Act was to ensure the Ombudsman's office was accessible for all, and this suggests the Ombudsman is reaching individuals who otherwise may not have engaged with her office.

53. We are also pleased that all local authorities and health boards in Wales have signed up to the Complaints Standards Authority and that work with housing associations is currently underway. We hope to see evidence of efficiencies and improvements in complaints handling as a result of the take-up.

Recommendation 5. The Committee recommends that the Ombudsman updates the Committee on the work being undertaken with housing associations in relation to signing up to the Complaints Standards Authority.

54. In line with the requirement of the PSOW Act, the Committee will review the Act in 2024. As expressed in our report last year on the annual scrutiny of the Ombudsman, we will continue to monitor the impact of the Act through scrutiny of the Ombudsman's Annual Report. It is important that the Ombudsman continues to report the costs of implementing the new powers and data about them. We reiterate the following recommendations:

Recommendation 6. The Committee recommends that the Ombudsman continues to quantify the cost of the new powers in the Public Services Ombudsman (Wales) Act 2019 and data about them in the Annual Report to inform the statutory review of the Act in 2024.

Recommendation 7. The Committee recommends that the Ombudsman provides evidence on the cost avoidance benefits arising from the Public Services Ombudsman (Wales) Act 2019 in future Annual Reports and Accounts and Estimates. This should include additional evidence on efficiencies and improvements arising from the legislation, as part of future disclosures.

3. Estimate 2023-24

Overview

55. The Committee considered the Ombudsman's initial Estimate 2023-24 on 12 October 2022. The initial Estimate requested resources of £6.0 million, an increase of 11.8 per cent or £637,000 compared to the resource budget for 2022-23 (£5.4 million).⁵⁴

56. In terms of the cash requirement, the initial Estimate requested £5.9 million, an increase of 11.0 per cent or £584,000, compared to the cash requirement for 2022-23 (£5.3 million).⁵⁵

57. Changes in the initial Estimate were presented across two categories: pressures and investment. The Ombudsman said:

*"The first part is the pressures on our budget, particularly around pay and cost inflation. I know everyone in the public sector is experiencing those, but we've tried to be very clear about what that means for us. And then we've separated that, in a separate line, we've talked about investment around strategic priorities and case load management. So, I've tried to separate the two in terms of what we're facing."*⁵⁶

58. The Ombudsman said that the Strategic Plan had "heavily shaped the estimate this year".⁵⁷ She acknowledged the huge pressures facing the public sector, however, she said it was important that:

*"...we're there for people and they can always come to someone who can independently and impartially look at their situation and perhaps come up with a different conclusion than they've had before."*⁵⁸

59. The Ombudsman felt the Strategic Plan was "ambitious but realistic" and the initial Estimate was "cautious and realistic".⁵⁹

⁵⁴ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁵⁵ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁵⁶ Finance Committee, RoP, 12 October 2022, paragraph 119

⁵⁷ Finance Committee, RoP, 12 October 2022, paragraph 117

⁵⁸ Finance Committee, RoP, 12 October 2022, paragraph 122

⁵⁹ Finance Committee, RoP, 12 October 2022, paragraphs 122 & 123

Casework

Projections

60. The initial Estimate included projections for 2022-23 and 2023-24 of total number of cases, this is 8,342 and 9,328 respectively, an increase of around 12 per cent between those years. Within that, enquiries are estimated to increase from 5,158 in 2022-23 to 5,713 in 2023-24 (11 per cent), code of conduct complaints are estimated to stay the same (294) and public services complaints are due to increase from 2,890 to 3,321 (15 per cent).⁶⁰

61. The initial Estimate notes that 2021-22 was the highest number of annual complaints the Ombudsman had received, stating:

*"This reflects pressures on public services, particularly health services, and public dissatisfaction with those services."*⁶¹

62. The Committee asked the Ombudsman on what basis she had estimated that her caseload would increase by 12 per cent in 2023-24 and what assumptions underly it. The Ombudsman responded:

*"... in the first two quarters of this year, case loads increased by a further 4 per cent on top of last year. So, we do feel that, by the end of this year, we'll be—. Our projection is about 6 per cent up, and, where we're at at the moment, it would seem that that is likely and we might actually exceed that."*⁶²

63. In addition, the Ombudsman raised concerns about the increased caseload as a result of the nosocomial complaints⁶³ which she anticipates to be around 800 enquiries that will turn into 400 complaints over the next two years.⁶⁴

⁶⁰ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁶¹ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁶² Finance Committee, RoP, 12 October 2022, paragraph 125

⁶³ [NHS Wales national framework – Management of patient safety incidents following nosocomial transmission of COVID-19](#)

⁶⁴ Public Services Ombudsman for Wales: Initial Estimate 2023-24

Pressures

Pay award

64. The initial Estimate says that “nearly 80%” of the Ombudsman’s costs relate to staff. The initial Estimate included proposals to increase ‘staff salaries and related costs’ by £342,000. Of that, £180,000 relates to the pay award for 2022-23.⁶⁵

65. In terms of public sector pay, the Minister for Finance and Local Government wrote to the Committee in July stating:

“It should be noted that we are not expecting any increases in our settlement to finance increases in public sector pay – the pay bill will have to be managed within existing resources.”⁶⁶

66. The Ombudsman’s staff employment contracts link staff pay awards to those agreed for local government through the National Joint Council (NJC). The initial Estimate notes that the current position is an increase of five per cent.⁶⁷

67. In relation to managing within existing resources, the Ombudsman said the challenge she faces is that 91.5 per cent of her budget is fixed and “80 per cent of the budget relates to staff costs”.⁶⁸ However, she confirmed that if the NJC “did settle at the current offer”⁶⁹ of five per cent for 2022-23, she would be able to meet the costs in-year.⁷⁰ The Ombudsman continued:

“So, if it stays where it is, then we’d anticipate not needing to come back for a supplementary around pay this year, but then I’m looking to recruit to those vacant posts and to fill those posts, so that removes my wriggle room for next year, which is why we’ve put that amount into next year’s budget.”⁷¹

National Insurance contributions

68. The Ombudsman’s First Supplementary Budget 2022-23 sought an additional £38,000 for employer National Insurance contributions, which was agreed by the Committee.⁷²

⁶⁵ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁶⁶ Letter from the Minister for Finance and Local Government, 14 July 2022

⁶⁷ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁶⁸ Finance Committee, RoP, 12 October 2022, paragraph 129

⁶⁹ Finance Committee, RoP, 12 October 2022, paragraph 131

⁷⁰ Finance Committee, RoP, 12 October 2022, paragraph 131

⁷¹ Finance Committee, RoP, 12 October 2022, paragraph 131

⁷² Finance Committee Report: Scrutiny of the Welsh Government First Supplementary Budget 2022-23

69. Following the UK Government's decision to reverse the 1.25 per cent increase for National Insurance contributions from 6 November, the Committee asked the Ombudsman what her intentions was in terms of returning the underspend. She said:

*"Obviously, when we submitted this at the end of September, that decision and announcement hadn't been made. But that decision and that impact from the beginning of November will return, I think, £38,000, in terms of moneys that we wouldn't need because we don't have to pay that higher level of NI. So, we would anticipate adjusting our submission, our budget estimate, before you finalise the position to reflect that as well."*⁷³

Premises, IT equipment and office costs

70. The initial Estimate notes the Ombudsman is experiencing increases in energy costs, with an increase of £13,000 relating to electricity. However, this is being offset through plans to reduce office accommodation. The initial Estimate also notes that the Ombudsman's accommodation requirements are currently under review, with options of sub-letting or surrendering part of its accommodation.⁷⁴

71. The review of accommodation follows feedback through the staff survey that gave a clear steer that staff "like the agile and flexible working approach". The Ombudsman confirmed hybrid working would continue and therefore she did not need all the "floor space" in the current office.⁷⁵ Her official added:

*"We're in the process of marketing two floors—they're not complete floors, but two partial floors—of the office, so that we just retain the ground floor. At the moment, we've got surveyors involved and those are being marketed at the moment. We don't quite know what the timing will be because, at the moment, we're committed in a lease until 2025, so it needs to be done by negotiation, and we're trying to identify alternative tenants to release, so that we can hand it back to the landlord with tenants identified."*⁷⁶

72. The official said the landlord was "receptive" to them reducing office space on the basis that they will "find alternative tenants to make the process work".⁷⁷ Whilst anticipating savings in

⁷³ Finance Committee, RoP, 12 October 2022, paragraph 163

⁷⁴ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁷⁵ Finance Committee, RoP, 12 October 2022, paragraph 141

⁷⁶ Finance Committee, RoP, 12 October 2022, paragraph 145

⁷⁷ Finance Committee, RoP, 12 October 2022, paragraph 174

rent, business rates and office service charges, the official acknowledged there may be a potential one-off cost for dilapidation.⁷⁸ He explained:

*"We will work to control those costs, but there will be some costs to remodel that, to make sure the remaining accommodation meets our needs. But we will keep the committee informed of progress, and we are keen to make progress on that and release some savings."*⁷⁹

Professional fees

73. The initial Estimate outlines that clinical advisors have been paid the same hourly rate for the last five years. From July 2022, this will increase by 10 per cent. It says this is necessary to keep in line with rates paid by others, including other ombudsman organisations, this an increase of £15,000.⁸⁰

74. Combined with the increased costs of professional advice associated with increased caseload (£22,000), professional fees will increase by £37,000. This is being partially offset by a reduction in other professional fees of £27,000.

75. The Ombudsman's official explained the increase in the hourly rate for clinical advisors:

*"We work very closely with our colleague ombudsmen in England and Scotland, and we share a pool of advisers, and they had increased their rates, so we have matched that with the 10 per cent uplift. It's important, as I say, that we are not less attractive as an organisation to work for than other ombudsmen."*⁸¹

76. The official said, where possible, professional advice and legal work is kept in-house and these savings had been indicated in the initial Estimate.⁸²

Unknown Costs of Code of Conduct complaint

77. The initial Estimate highlights that there is a Code of Conduct complaint seeking leave to appeal. The outcome is uncertain and the amount of any potential liability is unknown.⁸³

78. The Ombudsman's official explained:

⁷⁸ Finance Committee, RoP, 12 October 2022, paragraph 146

⁷⁹ Finance Committee, RoP, 12 October 2022, paragraph 146

⁸⁰ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁸¹ Finance Committee, RoP, 12 October 2022, paragraph 150

⁸² Finance Committee, RoP, 12 October 2022, paragraph 152

⁸³ Public Services Ombudsman for Wales: Initial Estimate 2023-24

*"It was a report that the ombudsman issued, and, as you know, in serious allegations of breaches of the code of conduct for elected members, we refer the case, the serious ones, to the Adjudication Panel for Wales. The tribunal considered the case fully...and serious breaches of the code were found."*⁸⁴

79. The official told the Committee that the permission stage hearing is the very early stage so "costs are very limited at this stage". She added that if:

*"...for any reason permission is given on one or more grounds, we'll be able to assess the position more fully then."*⁸⁵

Investment in Strategic Priorities

Service improvement

80. The initial Estimate includes costs associated with increasing digitalisation and development of a new service-user focused website which is estimated to cost £100,000 and work to create an improved case management system estimated at £50,000 (capital). £150,000 is also identified for development of the case management system in 2024-25.⁸⁶

81. The Ombudsman confirmed the website and case management system's contracts were due for renewal and therefore she saw it as an "opportunity to look at those systems and improve and refresh them".⁸⁷

82. In relation to the website, the Ombudsman said it was the "front door to the organisation" and that feedback from service users and advocacy groups suggest "people find it very difficult to navigate, and it's a bit of a deterrent". She said the website had been in place for approximately five years which is "quite a long time in 'web world'" and that improvements could have "a real potential to help us with our case load management".⁸⁸

83. On the case management system, the Ombudsman said that consultation with staff showed that they felt it was "an older system, it's a bit slow" and it doesn't help with "reporting and searching". The Ombudsman said that staff "did feel that we need to look at that case management system" in terms of assisting staff to deal with increased workloads and improve efficiency.⁸⁹

⁸⁴ Finance Committee, RoP, 12 October 2022, paragraph 41

⁸⁵ Finance Committee, RoP, 12 October 2022, paragraph 41

⁸⁶ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁸⁷ Finance Committee, RoP, 12 October 2022, paragraph 154

⁸⁸ Finance Committee, RoP, 12 October 2022, paragraphs 154 & 155

⁸⁹ Finance Committee, RoP, 12 October 2022, paragraph 156

Investment in caseload management staff

84. The initial Estimate includes costs of £127,000 for additional staff associated with workload pressures from “continued increases in complaints”. It outlines that this relates to the recruitment of two full-time staff to assist with caseload.⁹⁰

85. The Committee asked about the funding requested for the two additional staff. The Ombudsman responded:

“Again, it’s back to the increasing workload that we have currently and that we’re projecting, as I’ve explained earlier. It’s about that case load that our investigation officers are carrying, which is much, much higher than it was pre COVID and much higher than we know other similar roles are carrying in other ombudsman offices in the UK. So, very specifically, this investment is for investment in the investigation team, which is the team that is under the greatest pressure. It’s because we want to sustain our performance, and that would help us to do that.”⁹¹

Revised Estimate 2023-24

86. Following the Committee’s consideration of the initial Estimate, the Committee concluded that it was unable to support the Ombudsman’s request for £5.9 million, an increase of 11 per cent compared to the cash requirement for 2022-23 of £5.3 million.

87. The Committee considers the funding requests from the other directly funded bodies⁹² and whilst we consider each budget request on its own merits, we must also be mindful of the overall call on the Welsh Consolidated Fund particularly during times of economic constraint. The Committee therefore wrote to the Ombudsman to request that she reflect on her funding priorities and consider where changes to the initial Estimate could be made.

88. On 20 October 2022, the Committee considered a revised Estimate from the Ombudsman.⁹³ The revised Estimate requested £5.6 million, an increase of 5.9 per cent compared to the cash requirement for 2022-23 of £5.3 million.⁹⁴

⁹⁰ Public Services Ombudsman for Wales: Initial Estimate 2023-24

⁹¹ Finance Committee, RoP, 12 October 2022, paragraph 160

⁹² Senedd Commission and the Wales Audit Office

⁹³ Finance Committee: [Minutes from the meeting on 20 October 2022](#)

⁹⁴ Public Services Ombudsman for Wales: [Revised Estimate 2023-24](#)

89. The revised Estimate did not include the following, which had been removed from the initial Estimate:

- £150,000 for service improvement for the website and case management system;
- a depreciation charge of £7,000;
- £127,000 for two additional members of staff.⁹⁵

90. For 2023-24, the revised Estimate also outlines “a reduction in National Insurance Contributions (-£38,000)”.⁹⁶

91. However, the revised Estimate included £47,000 for service improvement. The revised Estimate states it will “look to make smaller improvements to our website to improve its value to service users”.⁹⁷

Committee view

92. Whilst we are supportive of the Ombudsman’s ambitious plans and recognise the potential benefits that these plans could deliver for the wider public sector, we are also acutely aware of the current economic and fiscal climate and the funding pressures facing all organisations across the public sector in Wales. Whilst we were unable to support the initial Estimate we are grateful to the Ombudsman for revising her Estimate in line with the Committee’s wishes.

Conclusion 2. The Committee notes the detail in the revised “Public Services Ombudsman for Wales: Estimate 2023-24” and considers the Estimate acceptable. Subject to the comments and recommendations in this report, the Committee supports the overall request for resource.

93. The Committee notes the projected increase of cases of 12 per cent next year which reflects the pressures on public services and the anticipated number of cases that may arise from the National Nosocomial Covid-19 Programme. However, the Committee also notes that the number of nosocomial cases that will lead to an investigation has been estimated at this stage. The Committee also hopes that any increases will be temporary and will fall in the long term given that they involve Covid cases within a particular time period.

⁹⁵ Public Services Ombudsman for Wales: [Revised Estimate 2023-24](#)

⁹⁶ Public Services Ombudsman for Wales: [Revised Estimate 2023-24](#)

⁹⁷ Public Services Ombudsman for Wales: [Revised Estimate 2023-24](#)

94. The Committee welcomes the Ombudsman's commitment to meet the costs in-year for the staff pay settlement for 2022-23, if it remains at 5 per cent, and that she does not anticipate needing to submit a supplementary budget request.

95. However, in relation to the National Insurance contribution figure and to aid transparency, the Committee would have expected the unspent funding to be taken out of the baseline for 2022-23. If this had happened it would have impacted the overall change in the Estimate. In the revised Estimate the funding has been removed (as it will not be required from 6 November 2022) to lower the request for 2023-24. The Committee expects that the unused funding of approximately five months from 2022-23 should be returned to the Welsh Consolidated Fund.

Recommendation 8. The Committee recommends that the Ombudsman returns the unspent funding for National Insurance contributions from 2022-23 to the Welsh Consolidated Fund and adjusts the baseline for 2023-24 accordingly.

96. The Committee was interested to hear about the Ombudsman's review of accommodation requirements. We are pleased to hear that the landlord is receptive to the Ombudsman reducing office space on the basis that the Ombudsman is able to find an alternative tenant(s). We would be grateful to receive an update on progress as this develops.

Recommendation 9. The Committee recommends that the Ombudsman provides an update on the review of accommodation once completed.

97. The Committee notes the increase to the hourly rate for clinical advisors, to keep in line with rates paid by other ombudsmen organisations in the UK. The Committee is pleased that this increase is being partially offset by a reduction in other professional fees.

98. The Committee is grateful to the Ombudsman for bringing to the Committee's attention the code of conduct complaint that is seeking leave to appeal. We note that this is at an early stage and therefore the information on costs is very limited at this time. The Committee would appreciate being kept up-to date on this case, given that any potential liability is unknown.

Recommendation 10. The Committee recommends that the Ombudsman provides an update on the Code of Conduct case that is seeking leave to appeal, as more information becomes available.

Annex A: Public Services Ombudsman for Wales - Estimate 2023-24

Public Services Ombudsman for Wales

Estimate 2023/24

1. Introduction

This Estimate submission for 2023/24 has been prepared for consideration by the Senedd Finance Committee. It has been developed in the context of our draft Strategic Plan 2023-26. Since the Estimate is central to the delivery of the Strategic Plan, that Plan has also been provided to the Committee.

This submission follows our appearance at the Senedd Finance Committee on 12 October 2022 and has been revised following the Committee's decision that it was unable to support our Estimate as originally submitted. This submission substantially reduces the amount we are seeking, in line with the Committee's request. The amount sought originally took account of the growing caseload and the substantial pressures on staff, and we were seeking investment to support our staff and the service they are able to provide, as well as investment to support our Strategic Plan priorities.

We recognise and understand the financial pressures facing public services in Wales, but we have endeavoured to reflect in this revised submission, where appropriate, the consequences of reducing our Estimate.

2. Executive Summary

We have prepared our Estimate to reflect the Strategic Aims set out in our draft Strategic Plan. In summary, the Resource and Cash requirements are **£5,750k** and **£5,641k** respectively. This is an overall cash increase of £316k. The increase is made up as follows:

	£000
April 2022 pay award related pressures*	180
April 2023 pay award, cost and workload pressures	326
Less National Insurance reduction	(38)
Less efficiencies	(199)
Plus investment in strategic priorities	47
Total	316

* Cost of April 2022 pay award **offered** is 5% compared with 1.5% in budget

The office faces substantial cost pressures, primarily from cost of living pay awards in April 2022 and April 2023.

£180k is required to meet the ongoing additional pay costs of the April 2022 local government pay award, which our staff receive under their contracts of employment. We are not party to these pay award negotiations, and the pay award is therefore outside our control. A further £326k is sought to meet the estimated April 2023 pay award together with cost and workload pressures in 2023/24. We have identified a number of efficiencies

totalling £199k to partly offset these costs. The recently announced reduction in National Insurance Contributions (-£38k) further reduces the amount sought.

The original submission included investment of £150k to deliver service improvement including a new website and starting work on a new case management system. These investments were central to the draft Strategic Plan, helping us to manage increased caseloads, increase digitisation and improve access to our services. There are also workload pressures arising from continued increases in complaints. In our original submission we sought investment of £127k which reflected 2 additional members of staff needed as a result of ongoing increases in caseload.

In the light of the Committee's request that we reduce our Estimate and resubmit it, we will not be able to proceed in this way but will look to invest £47k in service improvements and caseload management. We will also revise our Strategic Plan accordingly.

This Estimate submission provides a brief update on the current year, sets out casework pressures and cost pressures, provides information on efficiencies and strategic priorities, and provides a breakdown of the Estimate.

The proposed budget ambit is shown in Appendix A.

3. 2022/23 Update

Michelle Morris took up the duties of Public Services Ombudsman for Wales on 1 April 2022. Our draft new Strategic Plan for 2023 to 2026 has been prepared and published for consultation. The Plan sets out key priorities and ambitions for the years ahead and underpinned our original 2023/24 budget submission. Following the Committee's decision of 12 October, the Strategic Plan will be revised to reflect the consequences of reduced levels of investment in staff and in improvement. It is intended that the Plan is finalised and approved in early 2023.

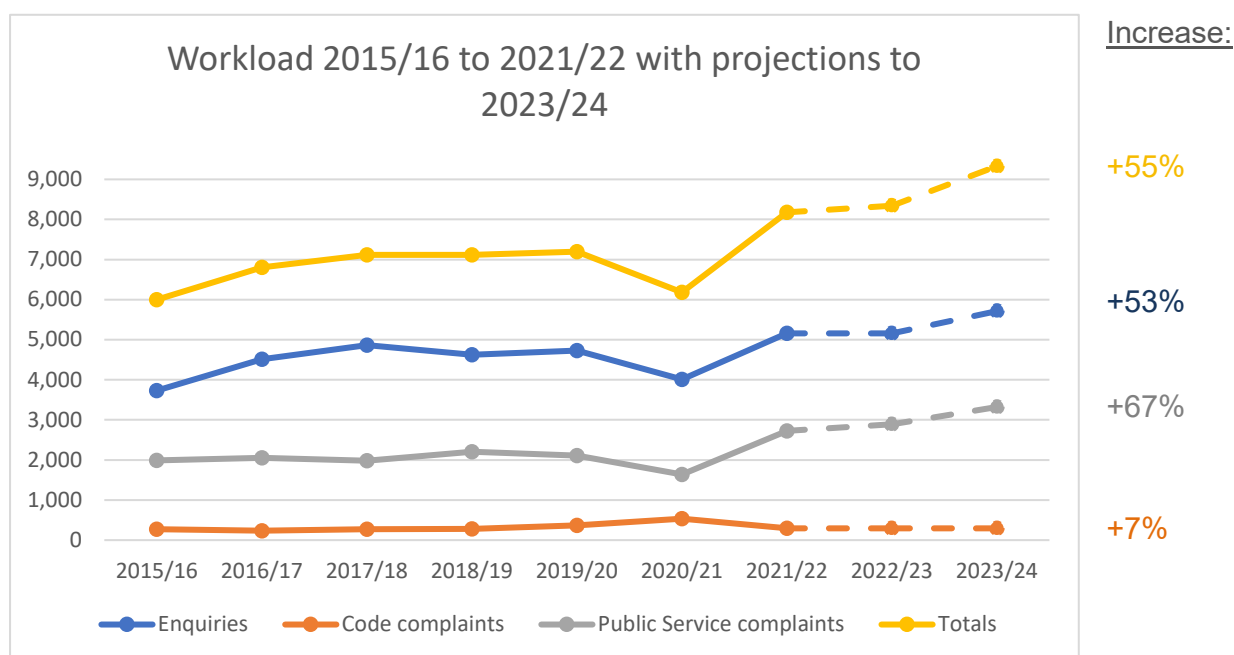
In the current year, there are two key financial issues facing us. The first issue is that there is a Code of Conduct case where leave to appeal has been sought. The outcome is uncertain, and the hearing has been delayed. The amount of any potential liability is unknown.

The second is the April 2022 local government pay award, which applies to our staff under their contracts. The Committee will recall that the Estimate submission for the current year allowed for a pay award of 1.5%, but indicated that if the award was higher, it was likely that a supplementary budget would be required. The current position is that an offer, that would add 5% to our pay costs, has been made. The trade unions involved have not yet determined whether to accept this offer so the final pay award and the actual cost may be higher.

Our budget includes no contingency, and we hold no reserves, but we are working to contain these costs within our 2022/23 budgets as far as possible. Nonetheless, we may have to seek additional funds through a supplementary budget submission for 2022/23.

4. Casework Pressures

The Explanatory Memorandum for the Public Services Ombudsman (Wales) Act 2019 anticipated annual increases in complaints of between 5% and 12%. Whilst the annual increases have been towards the lower end of this range, they nonetheless amount to an overall increase of 55% in **total casework** for the period as a whole (2015/16 to 2023/24). This includes projected increases in the current year and 2023/24. In that time, the office has benefited from new legislation and received welcome resources to undertake the additional duties. However, the number of casework staff has increased by only 13%.



Workload 2015/16 to 2021/22 with projections to 2023/24

Year	Enquiries received	Code complaints received	Public Service complaints received	Totals
2015/16	3,731	276	1,992	5,999
2016/17	4,512	236	2,056	6,804
2017/18	4,861	270	1,983	7,114
2018/19	4,627	282	2,207	7,116
2019/20	4,726	365	2,109	7,200
2020/21	4,006	535	1,638	6,179
2021/22	5,158	294	2,726	8,178
2022/23 (projected)	5,158	294	2,890	8,342
2023/24 (projected)	5,713	294	3,321	9,328

Last year (2021/22) we received the highest number of **public service complaints** we have ever had. Whilst there was some reduction in complaints in 2020/21 as a result of the pandemic, complaints have now increased by much more than they fell. This reflects pressures on public services, particularly health services, and public dissatisfaction with those services.

In the current year (April to September 2022) we have seen further increases in public service complaints. The cumulative effect of ongoing annual increases is substantial. We seek to provide timely, empathetic and appropriate outcomes to these complaints. However, these casework pressures reflect the very real concerns of residents of Wales and increasing caseloads risk delaying resolution and prolonging distress. Whilst this paper includes numbers and percentages, each complaint brings with it a real human impact for complainants.

There is also a significant impact on our staff. Public service complaints account for the majority of staff time, and even a small **percentage** increase results in a significant **number** of additional complaints. The projected 67% increase in public service complaints since 2015/16 is therefore particularly challenging.

The increases in casework since 2015/16 have been largely managed through efficiencies: 67% more public service complaints with only 13% more staff. The scale of these efficiencies is significant. However, continuing caseload pressures cannot simply be absorbed. Our staff survey found that only 58% of staff considered that workload pressure was reasonable (down from 76% in the last survey in 2020) and only 61% of staff felt there were sufficient resources to meet work demands (down significantly from 90% in the last survey). It is clear that workload pressures are already having a significant effect on staff, and the ongoing increases in caseload are of significant concern.

Looking forward, there are two factors that are likely to result in further increases in caseload:

- We have significant concerns about the impact on our workload of the National Nosocomial Covid-19 [Programme](#) to investigate the large number of hospital-acquired Covid cases. Where those affected are dissatisfied with consideration of their cases by health boards, they are likely to refer cases to us. We are anticipating 800 enquiries that will turn into 400 complaints over the next 2 years.
- Our new Strategic Plan will also seek to ensure that our services are available to everyone in Wales, particularly to those groups currently under-represented in our service users. We are hopeful that this will result in more enquiries and complaints from these groups from 2023/24 onwards.

5. Cost pressures

Almost all our budget (91.5%) is taken up by fixed or semi-fixed costs – premises costs and IT costs are largely fixed, and staff costs cannot be varied in the short term, other than through redundancies (which would involve additional one-off costs).

Staff costs

Nearly 80% of our costs are staff costs, so our biggest cost pressures arise from pay awards and employer pension and National Insurance contributions. These are not costs that we can directly control. Under our employment contracts we are contractually committed to paying staff in accordance with pay awards agreed for local government staff in England, Wales and Northern Ireland by the local government National Employers organisation. The initial 2022 employers' offer, which would apply from the April 2022, offered a flat pay award of £1,925. If CPI continues at a high rate, the April 2022 pay award finally agreed may be higher, but the current offer would mean an increase of between 9.4% and 1.8% for PSOW staff. The average pay award across the whole organisation for the current year would be 5%, significantly more than we allowed for (1.5%).

We do not link our estimates to CPI, but CPI influences pay negotiations. Recent reports suggest that CPI inflation is expected to reach 11-14% in the fourth quarter of 2022 and that it will remain above 7% in the following quarters.

Our Estimate submission for next year includes provision for implementation of the offered April **2022** local government pay award, adding 5% to the pay bill. We also need to allow for the April **2023** pay award. Assuming that pay awards continue to be below inflation, we have included provision for a 3% pay award from April 2023. However, if local government pay awards are higher than we have provided for, we will look to submit a supplementary budget to cover the additional cost.

Professional advice

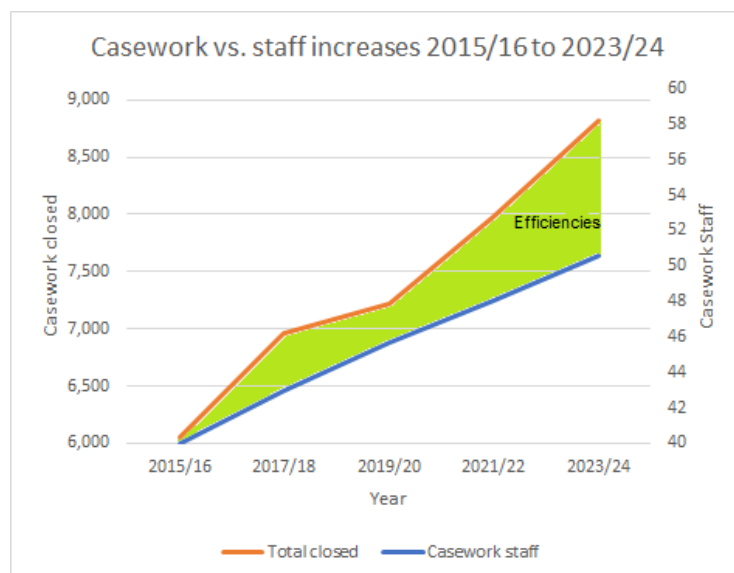
We pay our clinical advisers an hourly rate, which has not increased for over 5 years. From July 2022, the hourly rate we pay is increasing by 10%. This is necessary to keep our rates in line with those paid, often to the same advisers, by other ombudsman organisations in the UK. We are also increasing our expected professional advice costs by £22k as a result of the continued new complaints we are anticipating.

Price inflation

Supplier contracts, including IT, typically include annual CPI indexation to reflect inflation. Whilst we will continue to seek best value prices from suppliers, cost pressures make price increases likely. We are also experiencing substantial increases in energy costs.

6. Efficiencies

Our enquiries and complaints caseload has increased substantially since 2015/16 as set out above. There has not been a commensurate increase in staff numbers dealing with complaints and enquiries. This demonstrates our commitment to achieving greater efficiency and our track record of doing so. We have successfully worked to increase efficiency and manage this growing caseload.



This diagram shows **closed** caseload growth and casework staff growth between the years 2015/16 and 2023/24 (projected).

This shows the growing gap between casework staff and the casework we are dealing with, and the efficiency (cost avoidance) savings we have made as a result.

PSOW has looked to fund most pay and inflation pressures over the past 2 years as a result of process improvements and other internal efficiency savings such as:

- Staff efficiencies through reorganisation and staff turnover
- Making changes to working practices such as working from home
- Bringing services such as translation, design and HR in-house
- Negotiating savings on our business rates ourselves rather than using a third-party supplier
- IT efficiencies following investment in hardware
- Improving our website including introducing self-serve and signposting facilities
- Moving to a paper-light office
- Strict budgetary control of key areas such as training and professional fees.

We will continue to seek efficiencies, though pay increases and inflation pressures will need to be resourced. Efficiencies in 2023/24 will include: not increasing our staffing levels to reflect the increased workload, reductions in external legal advice, savings in office costs such as printing, postage and stationery and reductions in travel, training and recruitment expenditure.

During the current financial year, we will also be looking to reduce the amount of office accommodation we occupy to reduce our rent and running costs. Since the existing lease runs until 2025, this will require negotiation with the landlord. This could result in additional upfront costs (dilapidations, lease costs, changes to retained office layout and changes to IT to support hot desk working) but would deliver longer term savings. We will report further on this next year and seek to release savings to fund investment in strategic priorities.

7. Investment in Strategic Priorities

Our draft Strategic Plan sets out four strategic aims. Under the Plan we will be:

- Delivering justice with a positive impact for people and public services
- Increasing accessibility and inclusion
- Expanding our proactive improvement work
- Ensuring that we are a healthy, efficient and accountable organisation

The pressures facing the Ombudsman, and indeed wider public services, are not likely to be resolved quickly – there will be continued cost and caseload pressures, as well as increased expectations. However, these pressures make the four proposed strategic aims even more important.

We remain concerned that some groups across Wales are less likely to be aware of and use our services. These include some who may be particularly reliant on public services, and we are determined to increase our outreach and accessibility work to reach them.

Our outreach and communications work, together with the factors set out earlier when discussing caseload pressure, mean that more will be expected of our service and our organisation.

We cannot simply keep working in the same way but wanted to invest in measures that will extend the impact of our services and help us manage this growing workload. We recognise that, even in a people-based organisation, we are not going to match increases in workload with a proportionate increase in staff. That creates real challenges in terms of staff health and wellbeing and in ensuring that we continue to provide a good service to service users. To help support staff and maintain services at a time where staff and service users are increasingly dependent on technology, the original Estimate included investment in service improvement and technology.

The investment we sought reflected increasing digitisation and was to allow the development of a new website (£100,000) in 2023/24 and to commence work on an improved casework management system (£50,000), which would be completed in 2024/25 for use from 1 April 2025. The complex requirements of our systems to support efficient and customer-focused management of our increased workload, together with the growing emphasis on data analysis and reporting to support own initiative, accessibility and improvement work, meant that a considerable period would be required to develop specifications, seek tenders and implement workflow, data management and reporting. In our original Estimate submission, we sought funding for this investment over two years. In this revised and reduced submission, that investment is not included for 2023/24. A sum of £47k is, however, included to fund limited investment in service improvement and case management.

In our original estimate submission for 2023/24, we also requested investment of £127k in case management staff. If case-working staff numbers were to increase in proportion to the increase in complaints **only between 2021/22 and 2023/24** (projected), there would be at least 4 additional full-time posts (at different grades) totalling £231k. At the funding levels reflected in this revised Estimate, there is no provision for additional staff. This has implications for staff wellbeing, service levels and service quality. This is considered in more detail later in this submission.

Further investment in strategic priorities remains a priority but we reluctantly accept that this will be delayed. We will look to identify property-related savings that could support some of this investment in the future.

8. 2023/24 Estimate

In preparing this Estimate we have sought to address the Statement of Principles developed by the Senedd Finance Committee for the preparation of annual budget proposals. Appendix D shows these Principles and how they have been addressed in this Estimate submission.

Changes between the 2022/23 budget and the 2023/24 Estimate are summarised below:

	Cash £000	Resource £000
2022/23 budget	5,325	5,388
Pay pressures - April 2022 award	+180	+180
Pay and cost pressures 2023/24	+326	+326
National Insurance reduction	-38	-38
IFRS 16 changes	-	+46
Efficiencies	-199	-199
Investment in strategic priorities	+47	+47
Investment in caseload management	-	-
2023/24 budget	5,641	5,750

The Estimate for 2023/24 is shown in more detail in Appendix B and is prepared on an IFRS 16 basis. Unit costs are included in Appendix C.

Further detail, together with brief narrative for each area of expenditure group, is attached. The table shows the current year's budget, budget pressures, efficiencies and the proposed Estimate for 2023/24.

The estimate:

- Includes 5% likely pay award from April 2022 and 3% estimated pay award from April 2023.
- Includes no contingency. Since we have no contingency or reserves, any significant unexpected costs (such as pay awards above levels allowed for, or significant legal costs arising, for example, from case-related court cases or judicial review) would result in a Supplementary Budget.

- Reflects efficiencies of £199k and a reduction in employer National Insurance (£38k).
- Includes no additional staff, as the revised Estimate is insufficient to fund additional posts. This reduces our ability to address pressures on staff and provides no resources to manage current workload pressures and the increases in casework expected to arise from nosocomial Covid complaints.
- Includes reduced investment of £47k in service improvement to deliver Strategic Plan priorities.

9. Consequences of reductions compared with original Estimate

The revised Estimate does not include the investment we wanted – it provides us with funding to meet our immediate pay award and cost pressures. We will therefore be unable to take forward key elements of the draft Strategic Plan and will need to revise our Plan accordingly. The reduced Estimate has implications both for staff and members of the public.

Staff - We welcome the fact that the revised Estimate does not require **reductions** in staff numbers, but we remain concerned that continuing increases in case numbers, coupled with a likely additional increase arising from complaints about nosocomial Covid, will increase pressures on staff.

Increased complaints have already put more pressure on our staff, with each member of staff carrying a larger caseload than they have previously. Current caseloads for our investigators are now more than one third higher than in previous years. These are now above the optimum level and there is no scope to increase them further. We cannot continue to absorb this additional work without additional resources to recruit more staff members.

These high individual caseloads affect the quality and timeliness of the service we can provide, but also affects staff wellbeing. We are acutely aware of our responsibilities, as a responsible employer, to manage stress at work and to avoid putting staff in a position where they cannot succeed. We know that affects health, attendance and staff turnover and our 2022 staff survey results (see section 4) reflect these pressures and are already a cause for concern.

The investment in the website and case management system we sought in our original Estimate submission would have helped address this by reducing the number of complaints made to us that we are unable to consider and by equipping staff with better tools to do their jobs. As outlined to the Committee, increased digitisation and improved case management systems will be delayed.

Members of the public – The investment we were seeking in our website would have allowed us to focus on better guiding complainants as well as improving accessibility and our ability to provide a service to under-represented groups.

The revised level of funding, that does not reflect growth in caseload, will require us to reduce our current service levels to complainants. Without additional staff or investment in systems to help meet needs, investigations and decisions will also take longer. For example, in 2021/22 we closed 76% of investigated complaints about public bodies within 12 months and this percentage will now reduce. Similarly, in relation to code of conduct complaints, the percentage of cases closed within 12 months (which was 67% in 2021/22) will be lower in future.

If we continue to achieve a similar **number** of interventions (investigations or settling complaints by agreeing remedial actions with a public body to put things right for complainants), we will have to reduce the **proportion** of complainants who benefit from these outcomes. That is not what we wish to do but appears unavoidable. On the basis of our projection that overall casework numbers for 2023/24 will rise as set out in section 4, without additional staff our intervention rate on public body complaints is likely to reduce from our current rate of 18% to approximately 14%. This would mean that around 130 people who would have benefited from our interventions in 2023/24 will not.

We anticipate that nosocomial complaints are likely to drive the increase in case numbers from 2023/24 and we will not have the capacity to investigate all of these complaints without displacing others. Consequently, we will have to decline to resolve or investigate other serious cases. We will instead look at whether alternative remedies are available to individual complainants, including remedies through the courts.

We will, however, continue to assess complaints on their merit and carefully decide whether it is proportionate to fully investigate any complaint. We will take a proportionate approach and devote our resources to ensure that we remedy injustice in serious cases and where systemic failings may impact on groups of individuals.

10. Consequences of this revised Estimate not being approved

In a people-based organisation, where nearly 80% of our costs relate to staff, if the amounts sought to maintain the service are not approved, we would have to reduce staff numbers. We would look to do that, as far as possible, through normal staff turnover to minimise redundancy, though that makes the timing of savings uncertain. The alternative would be redundancies, though that would generate potentially significant one-off costs.

Reducing staff numbers would reduce capacity and have a negative impact on performance. This would be a concern to complainants as well as to public body staff and councillors whose actions are complained about. We are mindful of the impact that complaints can have on all those involved. Particularly in health complaints, our involvement tends to come at the end of what can be a long complaints journey. Further delays would be a cause of real concern and would increase the distress of complainants.

We already ensure that we investigate only serious complaints, but if the Estimate is not approved, we would have to increase further the threshold for intervention ('raise the bar'). This would mean that only very serious cases, perhaps cases where there may have been an avoidable death, would be investigated. As the Committee will be aware, everyone who makes a complaint considers it to be serious and if our revised Estimate is not approved, we would have more disappointed and dissatisfied complainants. This might also result in some complaints, such as those about local government and housing, receiving less priority.

Considering only the most serious complaints would also run counter to our efforts, and recent decisions of the Senedd, to make the Ombudsman's services more accessible, for example through acceptance of oral complaints. In many cases, it is only when we start to investigate a single complaint, that might not appear very serious, that we identify systemic issues that could have very serious consequences for others. The feedback we receive makes us acutely aware of the impact of our work on members of the public. We do not wish to deny complainants the opportunity to have genuine concerns investigated.

Appendix A – Budget Ambit - Public Services Ombudsman for Wales

This Estimate submission has been completed consistently with Standing Orders 18A.2 and 20.23 of the Welsh Parliament dated November 2021.

Ambit	Resources (£000)	Accruing Resources (£000)
Public Services Ombudsman for Wales	5,750	19

<u>Services and Purposes</u>	
Resources other than accruing resources for use by the Public Services Ombudsman for Wales on resource and capital costs associated with the administration of the Ombudsman's office; payments to the British and Irish Ombudsman Association; payments to the International Ombudsman Institute and associated non fiscal items.	<p><u>£000</u></p> <p>5,750</p>

<u>Category of accruing resource</u>	<u>Services and purposes for which income may be retained</u>
Income from commercial sales and other services provided to the public or others.	For use on related services and the administration of the Ombudsman service.
Overall amount of Income (£000)	19

Resource to cash reconciliation for 2023/24 (£000)

Net Resource Requirement	5,745 *
Net Capital Requirement	5 *
Adjustments:	
Capital Charges	(292)
Impairments	-
Movements in Provisions	-
Profit/Loss on sale of assets	-
Movements in stocks	-
Movements in debtors/creditors	20
Use of Provisions	-
Other	163
Net Cash Requirement for issue from the Welsh Consolidated Fund	5,641

* £5,745k + £5k = £5,750k Total Resource Expenditure in Appendix B

Appendix B – Estimate 2023/24

	2022/23		2023/24			
All figures in £000s	Budget 2022/23	Pressures 2022/23	Pressures 2023/24	Efficiencies	Investment in Strategic Priorities	Estimate
Staff salaries and related costs (note 1)	4,222	+180	+162 -38	(14)		4,512
Premises and facilities (note 2)	171		+13	(13)		171
Professional fees (note 3)	234		+37	(27)		244
IT costs (note 4)	250		+10	(10)		250
Office costs (note 5)	119			(11)		108
Travel, training and recruitment (note 6)	60			(20)		40
Communications (note 7)	65					65
Investment in service improvement – Revenue (note 8)	-				+47	47
Investment in caseload management staff (note 9)	-		+104	(104)	-	-
Total Revenue Expenditure	5,121	+180	+288	(199)	+47	5,437
Total Income (note 10)	(19)					(19)
Net Revenue Expenditure	5,102	+180	+288	(199)	+47	5,418
Investment in service improvement - Capital Expenditure – DEL (note 11)	5					5
Total Resources Required	5,107	+180	+288	(199)	+47	5,423
Depreciation and amortisation	70					70
Depreciation – leased assets	204		+18			222
Interest charge – leased assets	7					7
Capital AME – dilapidations	-		+28			28
Total Resource Expenditure	5,388	+180	+334	(199)	+47	5,750
Depreciation and amortisation (note 12)	(70)					(70)
Depreciation – leased assets (note 12)	(204)		(18)			(222)
Interest charge – leased assets (note 14)	(7)					(7)
Capital AME – dilapidations (note 15)	-		(28)			(28)
Change in working capital (note 16)	198					198
Other non-cash movements	20					20
Cash Requirement from WCF	5,325	+180	+288	(199)	+47	5,641

Notes

1. Salaries and Related Costs

Under our employment contracts, we are contractually committed to increase staff salaries in accordance with Local Government NJC pay negotiations. The table shows pay **pressures** (+£180k) from the April 2022 award that will carry forward to 2023/24.

For 2023/24 the table shows **pressures** of £162k (estimated 3% pay award from April 2023), offset by a reduction in National Insurance Contributions (-£38k). We will make efficiencies to cover the cost of staff salary increments within existing resources (-£14k). Overall change +£110k.

Note that pay awards for April 2022 and April 2023 are not yet settled so figures are estimates. Higher pay awards would be contained within existing resources where possible but would be likely to require the submission of a supplementary budget.

2. Premises

This major item of expenditure is the lease and running costs of our premises at Bocam Park that was subject to a rent review in August 2020. Our accommodation needs are currently under review including potential of sub-letting or surrender of part of the building. There is a cost pressure relating to electricity costs which have increased in line with the general increase in UK energy prices (£13k), but we will absorb this cost increase as part of our plans to reduce office accommodation.

3. Professional Fees

The budget for professional fees, which includes clinical advice on our casework, has been increased to reflect a 10% increase in adviser costs in line with other Ombudsman services (+£15k) and the continued increase in casework (+£22k). This has been offset by savings in other professional fees (-£27k).

4. IT - Computer Systems and IT Support

We will accommodate contractually committed IT contract price increases (£10k) through efficiencies within the IT budget.

5. Office Costs

This reflects a hybrid approach to office working from April 2022. There continue to be efficiencies in the use of resources such as paper, printing, postage and courier services as well as re-negotiation of contracts such as mobile phones. (-£11k)

6. Travel, Training and Recruitment

Savings will be made through the use of online facilities for training and meetings. Continued use of hybrid working and on-line training and meetings has reduced the need to travel. (-£20k).

7. Communications

We are maintaining current budgets for communications and will target outreach and communications work to support the priorities set put in the new Strategic Plan.

8. Investment in service improvement

In our original Estimate for 2023/24 we sought investment of £150k in service improvement for both 2023/24 and 2024/25 to enable delivery of the Strategic Plan. This investment would have allowed the development of a service-user focused website in 2023/24 (£100k), and investment in case management systems (£50k in 2023/24 and a further £150k in 2024/25). The Committee was unable to support resources to progress these ambitions. The revised estimate includes £47k for service improvement. We will look to make smaller improvements to our website to improve its value to service users.

9. Investment in caseload management staff

There is no investment in additional staff. Caseload pressures mean that we would need 4 additional staff (at different grades) to reflect the increase in complaints from 2021/22 to 2022/23 (£231k). We undertook to increase efficiencies to meet around half of that (equivalent to 2 posts) but sought 2 additional posts. The Committee was unable to support this. We will still seek efficiencies equivalent to 2 posts (cost avoidance **efficiencies** shown of £104k) but the balance will have to be achieved through reduced service levels.

10. Income

The Estimate includes ongoing income from a staff secondment to the Ombudsman Association and the provision of payroll services to the Future Generations Commissioner.

11. Capital

The standard minimal capital allowance of £5k is maintained.

IFRS 16

12. Depreciation

Depreciation has increased reflecting the changed accounting treatment of the building lease required by adoption of IFRS 16.

13. Interest charge

A new charge resulting in the notional interest arising from IFRS 16.

14. Capital AME

A new charge arising from the requirement in IFRS 16 to account for increases in dilapidation charges as capital.

15. Working Capital

Adjustment needed to offset the additional depreciation created by IFRS 16 and provide the cash requirement from the Welsh Consolidated Fund.

Appendix C – Unit costs

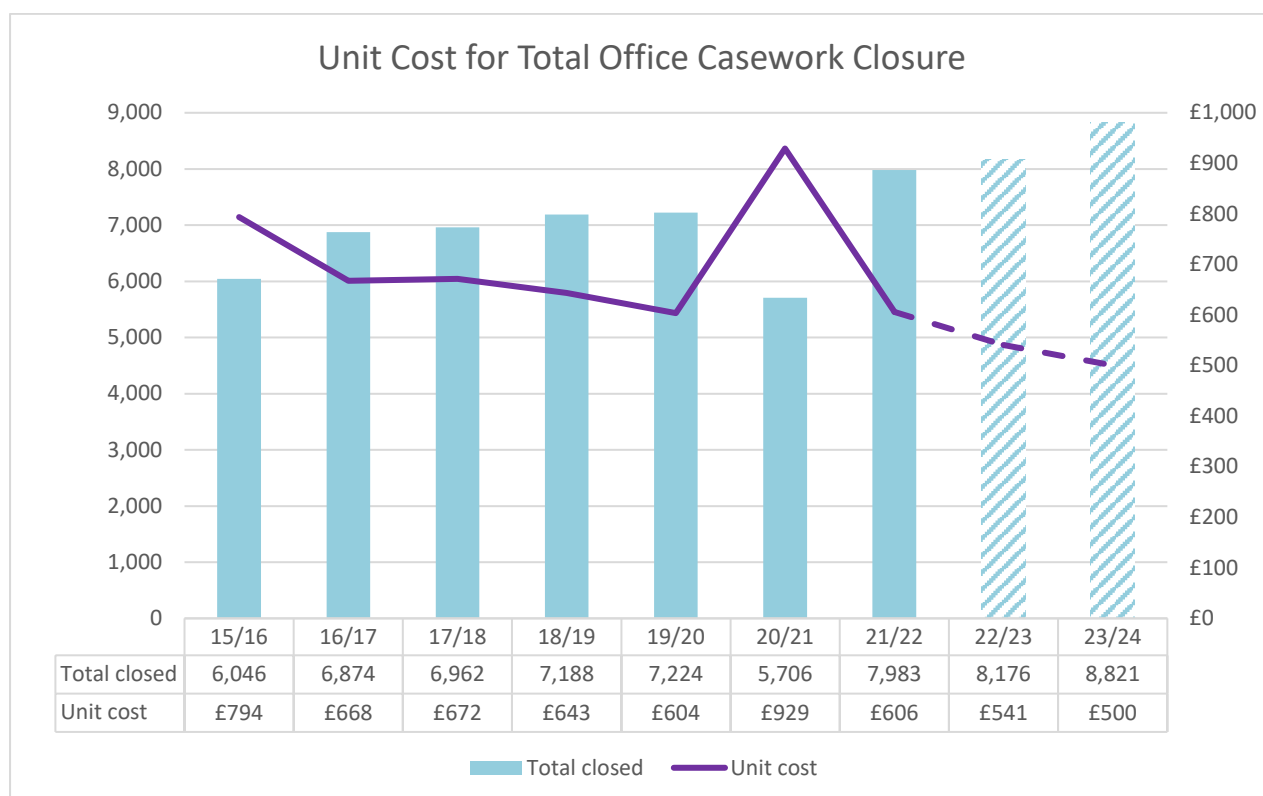
We now present unit costs calculated for our main activity – receiving, considering, investigating and responding to enquiries and complaints. This is our activity under Strategic Aim 1, and we use the audited figures for Operating Costs by Strategic Aim, presented within the accounts. Strategic Aim 1 accounts for around 77% of our expenditure, and the main costs here are direct staff costs, costs of our case management system, costs of professional advice and an allocation of overheads such as premises and office costs.

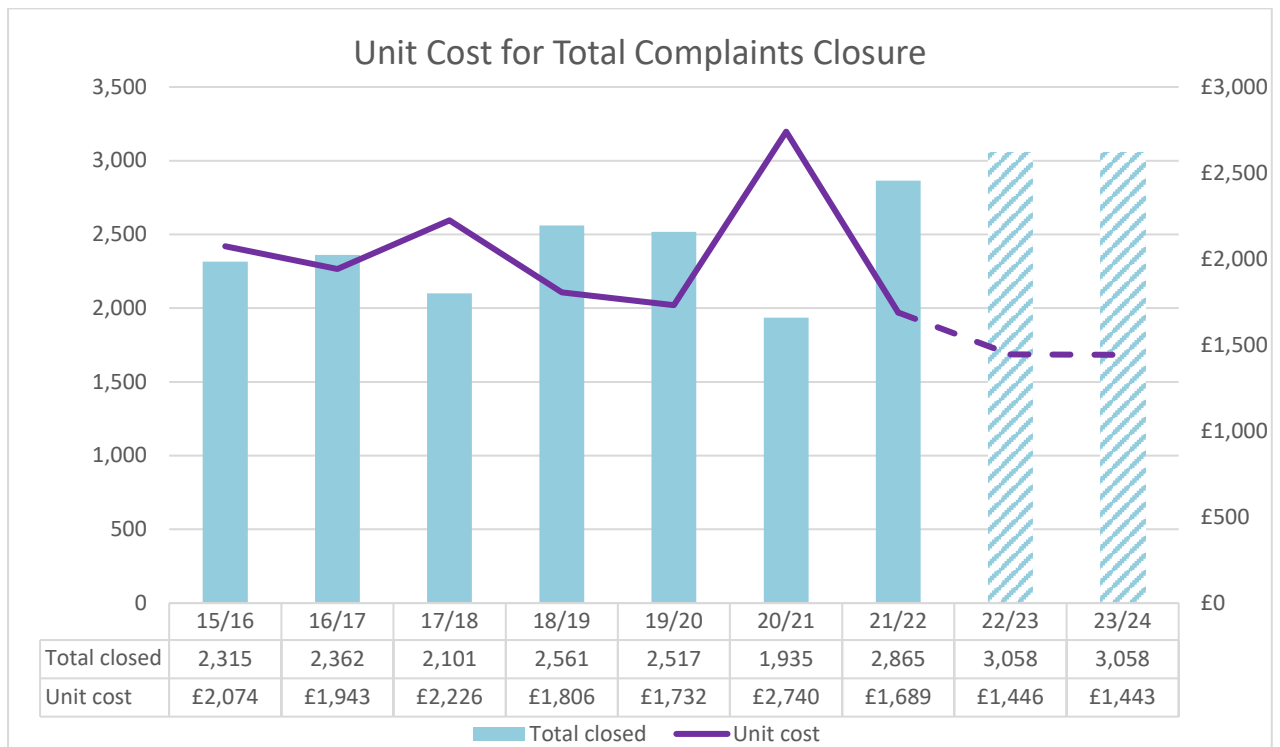
The graphs below show firstly unit cost for the full enquiry **and** complaints work **completed** (closed) in the year and secondly for complaints cases **completed** (closed) in the year. Projections for the current year and next year are included for completeness.

Real terms

All cost figures here have been adjusted to 2024 prices to allow meaningful comparison.

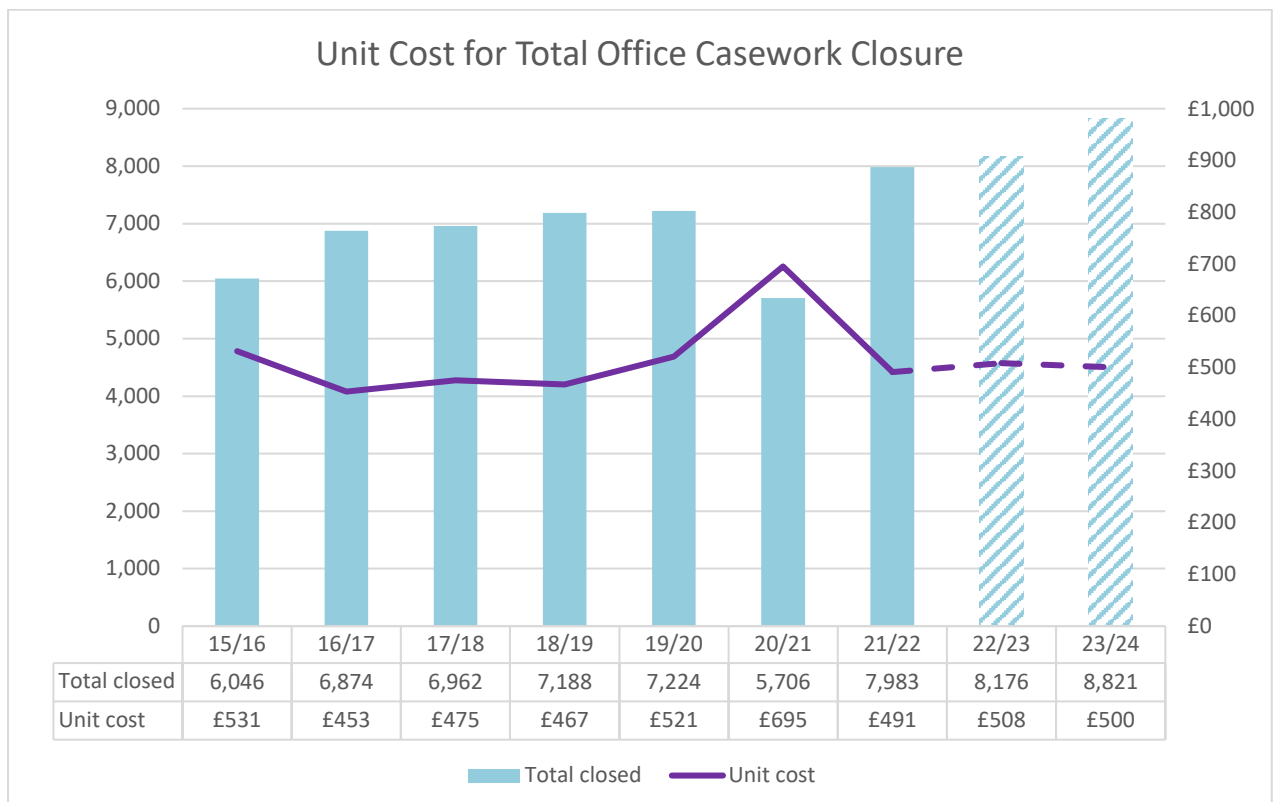
We have used the actual rates of CPI inflation for 2015/16 to 2021/22. For 2022/23 we have used CPI inflation as of August 2022, and for 2023/24 we have assumed that inflation will fall back to the same rate as in 2021/22.

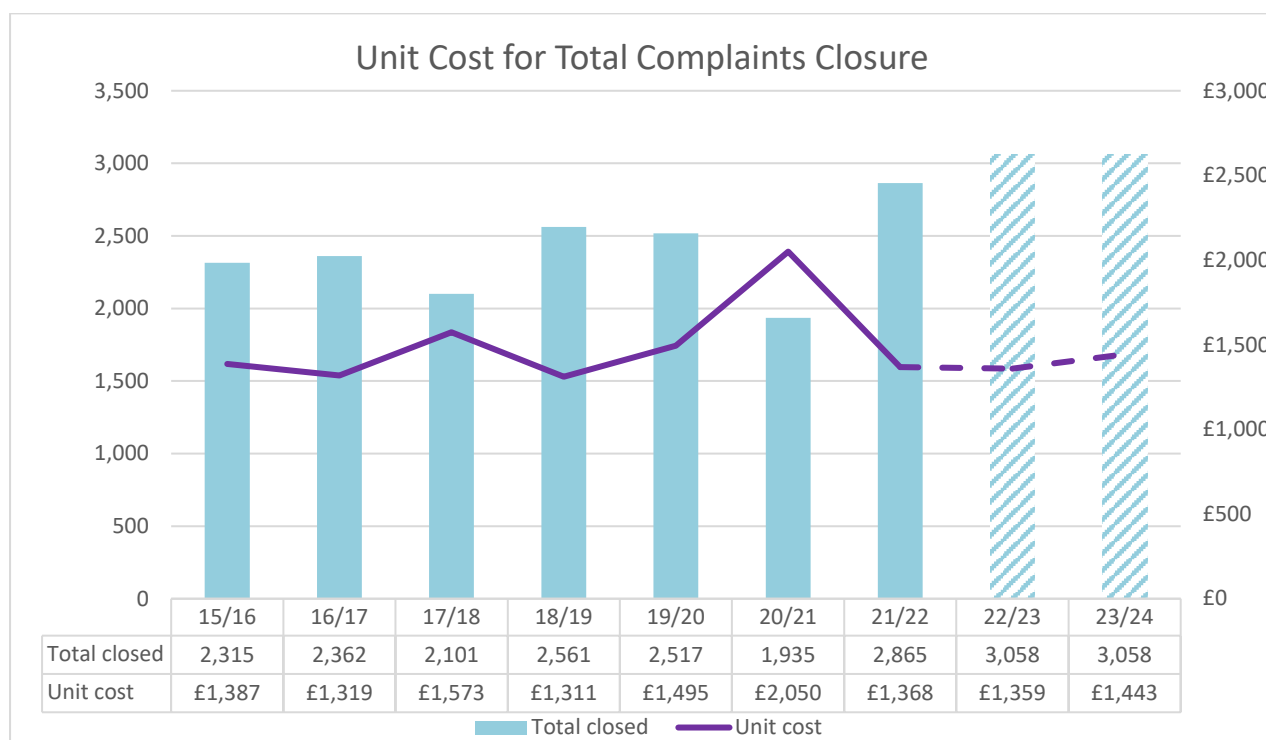




Cash terms

All cost figures here are the actual costs as reported in the Annual Accounts, not adjusted for inflation.





Appendix D – Principles that Directly Funded Bodies should consider when preparing their annual budget proposals

The Finance Committee of the Senedd has developed a Statement of Principles that Directly Funded Bodies should consider when preparing their budget proposals. This Appendix sets out the key principles and shows how they are addressed in the Estimate submission:

Principle	Comment
<ul style="list-style-type: none"> The Finance Committee believes budget estimates should be transparent, prudent and reflect the financial constraints in the public sector. 	<ul style="list-style-type: none"> The Estimate is set out in a transparent way and seeks to be prudent in recognising significant pressures facing the office (sections 4 and 5) and our ambitions (section 7). These ambitions include continued efficiencies (section 6) and better access to our services for all.
<ul style="list-style-type: none"> Budget requests should be set in the context of the long-term financial funding situation in Wales and funding pressures in the wider public sector. 	<ul style="list-style-type: none"> The Estimate reflects the financial constraints in the public sector, and includes investment in improvement (section 7), resources to meet unavoidable pressures (sections 4 and 5) and significant efficiencies (£199k – section 6).
<ul style="list-style-type: none"> Requests should show how annual and multi-annual objectives will be prioritised, monitored and achieved. 	<ul style="list-style-type: none"> Provided alongside the Estimate is the draft Strategic Plan 2023-2026, which sets out our proposed priorities. The original Estimate submission included specific investment over two years. This can largely not now proceed, and we will revise the Strategic Plan to ensure it is realistic with the level of resources provided. Whilst these investments cannot now proceed, we will report annually, in our Annual Report & Accounts, on progress in line with our revised Strategic Plan.
<ul style="list-style-type: none"> Bodies should not assume an increase in funding, regardless of the block grant change as any increase to their funding reduces resources available to other devolved public bodies. 	<ul style="list-style-type: none"> No assumptions have been made about block grant changes. The Estimate reflects workload pressures (section 4), cost pressures (section 5), and investment priorities (section 7).
<ul style="list-style-type: none"> Bodies should continually seek to improve processes and accrue efficiencies. 	<ul style="list-style-type: none"> The Estimate shows (section 6) efficiencies by completing more work since 2015/16 within the resources we have. The Estimate also shows specific efficiencies to be achieved in 2023/24.

- Where any increases in funding are requested, these should be backed by evidence both of the need, benefit and attempts that have been made to reduce such costs. Also, the consequences of not obtaining the requested increase in resource should be made clear and quantified.

- The Estimate and the Strategic Plan set out the drivers that influence budget needs, together with the investment sought. Section 9 shows the consequences of the original Estimate not being supported. Section 10 details the consequences of the reduced resources sought in this submission not being agreed.