National Assembly for Wales Finance Committee

Scrutiny of Public Service Ombudsman for Wales' Draft Estimates for 2015-16

November 2014

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National Assembly for Wales Finance Committee

Scrutiny of Public Service Ombudsman for Wales' Draft Estimates for 2015-16

November 2014

Finance Committee

The Committee was established on 22 June 2011. The Finance Committee's role is to carry out the functions set out in Standing Order 19. This includes consideration of the use of resources by the Assembly Commission or Welsh Ministers, and in particular reporting during the annual budget round. The Committee may also consider any other matter relating to expenditure from the Welsh Consolidated Fund.

Their remit also includes specific statutory powers under the Public Audit Act 2013 relating to new responsibilities for governance oversight of the Wales Audit Office.

Current Committee membership



Jocelyn Davies (Chair) Plaid Cymru South Wales East



Peter BlackWelsh Liberal Democrats
South Wales West



Christine Chapman Welsh Labour Cynon Valley



Mike Hedges Welsh Labour Swansea East



Alun Ffred Jones Plaid Cymru Arfon



Ann Jones Welsh Labour Vale of Clwyd



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Recommendations

Recommendation 1. The Committee recommends that the Ombudsmen increase his liaison with the local government sector to ensure that complaints between politicians at local authority and community council level are resolved locally, wherever possible. The Ombudsman should publish a policy to make it clear what action he may take against those politicians who breach their code of conduct by making vexatious complaints. (Page 11)

Recommendation 2. The Committee recommends that the Ombudsman works with Welsh Government to prepare a clear plan and timetable for amending the Public Services Ombudsman (Wales) Act 2005. (Page 13)

1. Introduction

The Finance Committee

- 1. The Finance Committee ("the Committee") is a cross party committee of the National Assembly for Wales ("the Assembly"), made up of Members from all four political parties represented at the Assembly.
- 2. The Committee is responsible for reporting on proposals laid before the Assembly by Welsh Ministers relating to the use of resources. The Committee can also consider and report on any other matter related to, or affecting, expenditure out of the Welsh Consolidated Fund.

The Public Services Ombudsman for Wales estimates

- 3. The Public Services Ombudsman for Wales ("PSOW") produces estimates for each financial year in accordance with the *Public Services Ombudsman (Wales) Act 2005*, as amended by the *Government of Wales Act 2006*. The estimates are 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.
- 4. Standing Order 20.23 sets out that:

"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."

- 5. The Ombudsman's estimates for 2015-16 were submitted to the Finance Committee on 23 October 2014.
- 6. The Committee is responsible for reporting on this estimate, Standing Order 20.24 sets out:

"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

¹ National Assembly for Wales, Standing Orders of the National Assembly for Wales

taken into account any representations made by the Ombudsman, considers appropriate."²

How did we scrutinise Public Service Ombudsman for Wales estimates?

- 7. The Committee considered the Public Service Ombudsman for Wales estimates on 6 November 2014 and followed the four objectives of financial scrutiny detailed below:
 - Affordability Is the big picture of total revenue and expenditure appropriately balanced?
 - Prioritisation Is the division of allocations between different sectors/programmes justifiable and coherent?
 - Value for money Are public bodies spending their allocations well - economically, efficiently and effectively?
 - Budget processes Are they effective and accessible? Is there integration between corporate and service planning, and performance and financial management?
- 8. The Committee is content with the estimate laid by the Public Services Ombudsman for Wales and have attached it to this report.

² National Assembly for Wales, Standing Orders of the National Assembly for Wales

2. The Ombudsman's overall estimates for 2015-2016

The Ombudsman's overall estimates for 2015-2016

- 9. The Ombudsman's written evidence detailed that he was estimating a 1% increase in cash terms for 2015-16. This amounts to an additional net cash requirement of £40,000 for 2015-16, and compares to a 0.7% decrease in Welsh Government Total Managed Expenditure.
- 10. The Ombudsman explained to the Committee how he produced the figures for his estimate against the Welsh block:

"I would like to assure the committee that we have continued my predecessor's practice of trying to contain costs within the trends of the Welsh block. You will see from the individual budget lines that this is not simply a repeat of last year's budget with a percentage increase. We have tried to look at things line by line. Clearly, there are challenges there. So far this year, we have seen an increase of 8% in terms of inquiries and 14% in terms of actual complaints, so we certainly face the challenge of being fit for the future, given that we think that those trends are likely to continue over the next year."

Sufficiency of the estimates to meet the Ombudsman's statutory obligations

- 11. The Committee recognises that the Ombudsman provides a demand led service, which can make the level of work difficult to predict. The Committee felt that the strategic approach taken by the Ombudsman to estimating and managing his budget was appropriate, and welcomed his statement that unless the demand is there, additional resources will not be spent but returned to the Welsh block.
- 12. The Committee felt that the proposed budget was realistic and prudent in the current climate, and welcomed the clear evidence provided by the Ombudsman in both his written evidence and at Committee.

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³ Record of Proceedings, 6 November 2014, paragraph 156

Future Planning

- 13. The Ombudsman's estimates note a continued increase in workload. In particular over the five year period 2009-10 to 2013-14, his office saw a 117% increase in the number of enquiries and complaints received. In comparing the first five months (April to August) of 2014-15 with the same period in 2013-14, the Ombudsman has reported a 7% increase in the number of enquiries (1,464 compared with 1,370) and an 11% increase in the number of complaints (1,025 compared with 923). The Ombudsman told us that those figures had risen to 8% and 14% respectively in the last two months. He echoed the serious concerns raised by his predecessor in 2013 that a continued increase in complaints will result in degradation of performance unless the complaint handling service is strengthened.
- 14. The Committee were pleased to note the prudent approach taken by the Ombudsman to date in appointing additional members of staff to the complaint handing service,⁶ until he has completed his review of the service, which is expected by the end of the year.

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⁴ Record of Proceedings, 6 November 2014, paragraph 206

⁵ FIN(4)-21-14 Paper 7

⁶ Record of Proceedings, 6 November 2014, paragraph 232

3. Prioritisation & Value for Money

Health Complaints

- 15. The Ombudsman told us that the number of complaints his office was receiving from the health sector was still increasing and that these cases were often complex and lengthy to resolve. He advised us that he was reliant on using clinical advisers to assist his staff with health cases and that he expects to see an increase in their use in view of the increase in the number of complaints in this sector.
- 16. The Ombudsman advised us that from 1 November 2014 he had received new powers to investigate complaints regarding private and palliative health care which he felt was a positive move.⁷
- 17. The Committee were interested in preventive spending in the health sector and questioned whether the Ombudsman was continuing the work in this area which his predecessor had implemented. The Ombudsman told us that he wanted to take time to talk to stakeholders and individual health boards about how we might do that differently, as the proportion of health related complaints has been increasing faster than other public services.⁸

Vexatious Complaints

- 18. The Ombudsman told the Committee that he was still receiving a high number of vexatious complaints and, in particular, politically motivated ones. He added that his Office had received 20% of its overall complaints from one community council.9 The Committee recognises that investigating such complaints takes considerable resources and reduces the Ombudsman's ability to investigate other complaints. He told the Committee that a number of these complaints have breached the Code of Conduct for Members of Local Authorities in Wales and that he reminded delegates at the One Voice Wales annual conference this year that making vexatious complaints are a breach of the Code.¹⁰
- 19. The Committee expressed concern about vexatious complaints and supports the Ombudsman's attempts to reduce the number of

⁷ Record of Proceedings, 6 November 2014, paragraph 180

⁸ Record of Proceedings, 6 November 2014, paragraph 214

⁹ Record of Proceedings, 6 November 2014, paragraph 200

¹⁰ Record of Proceedings, 6 November 2014, paragraph 162

these complaints. The Committee will be maintaining a watching brief on the number of vexatious complaints received by the Ombudsman.

The Committee recommends that the Ombudsmen increase his liaison with the local government sector to ensure that complaints between politicians at local authority and community council level are resolved locally, wherever possible. The Ombudsman should publish a policy to make it clear what action he may take against those politicians who breach their code of conduct by making vexatious complaints.

4. Budgetary and financial processes

Pension Costs

- 20. In his written evidence, the Ombudsman stated that his staff are members of the Principal Civil Service Pension Scheme ("PCSPS"). However, some employees employed before the Ombudsman's office was established are still members of Cardiff County Council Local Government Pension Scheme. This scheme is in deficit and payments to make up this deficit appear in the Ombudsman's budget.
- 21. The Committee were pleased to note that the deficit has been reduced considerably from £1.6m to £700,000 and that the latest projection shows that the deficit will be repaid by 2017-18.¹¹

Accommodation costs

- 22. The Ombudsman explained that the rise in the cost of their accommodation as shown in the estimate is due to an increase in service charges, utilities, insurance and the end of the rent free period. He added that extra storage space has been secured within the premises for archive case files at no extra cost and that they were still in negotiation with the landlord over the lease renewal which is due to take effect early in 2015.¹²
- 23. When asked about the prospect of securing new accommodation, the Ombudsman told us that the rise in cost is relatively small when compared to the potential upheaval moving premises would entail.

Updating Legislation

24. The PSOW estimate for 2015-16 notes that the *Public Services Ombudsman (Wales) Act 2005* has been well regarded by other ombudsmen schemes.¹³ However, developments in other countries may risk leaving Wales behind.¹⁴ Through discussion, the Ombudsman told the Committee that there was an appetite to update this Act, to include responsibilities for investigating complaints about private healthcare, to deal with verbal as well as written complaints and for the Ombudsman to be able to use his own initiative to proactively

¹¹ Record of Proceedings, 6 November 2014, paragraph 262

¹² Record of Proceedings, 6 November 2014, paragraphs 269 - 270

¹³ FIN(4)-21-14 Paper 7

¹⁴ FIN(4)-21-14 Paper 7

investigate issues where no complaint has been received. The Ombudsman said that he did not anticipate any significant costs at this time to update the legislation.¹⁵

The Committee recommends that the Ombudsman works with Welsh Government to prepare a clear plan and timetable for amending the Public Services Ombudsman (Wales) Act 2005.

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¹⁵ Record of Proceedings, 6 November 2014, paragraph 247

Witnesses

The following witnesses provided oral evidence to the Committee on the date noted below. A transcript of the oral evidence session can be viewed in full at:

www.senedd.assembly.wales/mglssueHistoryHome.aspx?IId=1243

6 November 2014

Nick Bennett Public Service Ombudsman for Wales

Susan Hudson Policy and Communications Manager for

the Public Service Ombudsman for Wales

David Meaden Financial Adviser for the Public Service

Ombudsman for Wales

List of written evidence

The following provided written evidence to the Committee.

Organisation Reference

Nick Bennett, Public Service Ombudsman for FIN(4)-21-14 Paper 7

Wales



National Assembly for Wales – Finance Committee – 6 November 2014

Public Services Ombudsman for Wales Estimate for the Financial Year 2015/16

1. Background to this estimate submission

- 1.1 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 to carry out my statutory functions apart from my salary, National Insurance and pension costs, which are a 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.
- 1.2 This is the fourth submission of the PSOW's estimates to the Fourth Assembly. The Finance Committee is responsible for considering this estimates submission. The Communities, Equality and Local Government Committee is responsible for considering the work of the office. The information provided in this paper relates particularly to those matters within the remit of the Finance Committee.

2. The role of the Public Services Ombudsman for Wales

- 2.1 As Public Services Ombudsman for Wales (PSOW), I consider complaints made by members of the public that they have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction. That jurisdiction covers:
 - local government (both county and community councils),
 - the National Health Service (including GPs and dentists),
 - registered social landlords (housing associations), and
 - the Welsh Government, together with its sponsored bodies.
- 2.2 I also consider complaints which allege that members of local authorities have broken their code of conduct. In addition, I provide the Complaints Wales signposting service a telephone and web service which enables members of the public in Wales, who wish to complain about a public service provider, but do not know how to do so, to make their complaint to that organisation. This service also helps individuals with complaints about UK public service providers where the services are not devolved.

3. Corporate Governance

- 3.1 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.
- 3.2 Nevertheless, an Advisory Panel was introduced during 2012/13 in order to enhance the openness and transparency of my office. The Audit and Risk Committee continues as a sub-committee of the Advisory Panel. These arrangements have been of considerable benefit, particularly from the point of view of obtaining an external perspective on the work of the office from a membership with wide ranging experience. The arrangements also provide me as Ombudsman and Accounting Officer with additional reassurance and advice in operating an effective and efficient service for users of public services in Wales.

4. Financial performance

- 4.1 The arrangements for financial management and internal control have been independently reviewed by Deloitte as the PSOW's internal auditors. Deloitte were appointed with effect from 1 April 2011. The work of Deloitte was planned on the basis of their overall needs assessment. Their reports have highlighted the satisfactory internal control framework within the organisation and made recommendations for improvement where necessary.
- 4.2 The Deloitte Internal Audit Annual Report in respect of the year 2013/14 stated:

"PSOW has a sound system of internal control, which should provide **substantial assurance** regarding the achievement of PSOW's objectives". During 2013/14, being the third year of a three year audit plan, there were only two low priority recommendations."

- 4.3 The Auditor General gave the accounts for the year 2013/14 an unqualified audit opinion in keeping with all previous years.
- 4.4 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 on the aims and objectives of my Strategic Plan as set out in the Annual Accounts.

5. Efficiency and effectiveness

- 5.1 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.
- 5.2 That upward trend continues. The Graph at Appendix B tracks the caseload of the office since it came into existence in 2006/07.

- 5.3 It is particularly noteworthy that over the five year period 2009/10 to 2013/14 my office saw a **117%** increase in the number of enquiries and complaints received.
- 5.4 In preparing this paper, I have compared the first five months (April to August) of the current business year 2014/15 with the same period in 2013/14. I have seen that:
 - enquiries are **up 7%** (1,464 compared with 1,370)
 - complaints are up 11% (1,025 compared with 923).
- 5.5 The work undertaken to develop the PSOW's website in recent years, with its interactive complaints web forms, continues to prove its worth. A quarter of the complaints made to the office are received this way and the fact that this avoids the frontline team from having to manually create, and input data into, case records helps my office to absorb the extra workload referred to at paragraphs 5.3 and 5.4 above.
- Staff resources The staffing structure as at 31 March 2014 is at Appendix D. It was necessary for my predecessor, Peter Tyndall, to reduce the number of posts in the establishment during 2011/12. The office retained performance despite the rise in the numbers of enquiries and complaints received. I will, however, echo the serious concerns expressed last year about the ability to sustain the position against the increases in caseload being faced by the office. In fact, during July 2014 the office received the highest number of enquiries and the highest number of complaints about public bodies in any one month since the office came into existence in April 2006. I am concerned that the continued increase in complaints will result in degradation of performance unless I strengthen my complaint handling resource. I have commenced a review of the service I provide and my initial findings indicate a requirement for additional complaint handling staff. I will meet these costs from the estimates submitted in Appendix A.

5.7 Professional advisers -

I use clinical advisers with expertise in various areas of the health professions (a) to assist me with the consideration of health cases. Previously, the office relied solely on advisers engaged through an arrangement with the Office of the Parliamentary and Health Service Ombudsman (OPHSO), which is subject to a recharge to my office. The Committee was advised last year of the PSOW's decision to directly engage a number of clinical advisers who come in to the office as required. We continue to be very pleased with the positive impact on the PSOW's service as a result. This has enabled a more prompt review of cases at the early stages of the consideration of a complaint, and more focussed and effective interaction with other specialist advisers at OPHSO during investigations. This has reduced costs for my office due to fewer case files needing to be sent to OPHSO in Manchester or London. However, whilst seeking to minimise the call on the arrangement with OPHSO as far as possible, we still have a significant reliance on this service. Further, in view of the continued increase in health complaints to my office, it is likely that I will need to also increase the number of requests for advice, meaning an even greater cost to my office.

(b) I also engage directly a number of other professional advisers in the fields of social care and planning. These also prove their worth by, in particular, enabling early decisions to be made at pre-investigation stage of the complaints process. I am conscious that it is highly likely that I will need to increase the use of the advisers providing me with professional advice on social care matters in view of the additional complaints of this type that will need to be considered by my office as a result of the revised statutory social care complaints procedure and extension of my jurisdiction in this area.

6. The current three year Strategic Plan

6.1 **Strategic Plan 2012/13 to 2014/15** - We are now nearing the end of the life of the current Plan, which has included initiatives for streamlining the complaints process and dealing with the increase in the number of social care complaints anticipated as a result of the extension to the PSOW's jurisdiction. The Plan has also taken forward the innovations previously introduced, such as the Complaints Wales signposting service and technological advances concerning the websites - including over the past year development of versions suitable for smart phones/tablets making the user experience a better one, particularly in relation to the complaints web forms.

6.2 Strategic Plan 2015/16 -

- (a) In view of the very limited time that I have been in post as Public Services Ombudsman for Wales, I believe it would be sensible to extend the current Plan for one more year. It is my intention to keep the existing Vision, Values and main Strategic Aims, but establish new key priorities for the year ahead.
- (b) I envisage 2015/16 being both a year of consolidation, building on the innovations of previous years, and also one where I can formalise my thinking concerning 'modernising' the legislation that governs the office of the Public Services Ombudsman Wales. I am well aware that the PSOW Act 2005 in the past has been extremely well regarded by other ombudsmen schemes and indeed the Law Commission. However, I am also aware that those same ombudsmen schemes have since 'moved on'. It is important that Wales should not be left behind and its people should not be at disadvantage compared to those in other nations. Equally, the provision of what are considered 'public services' has changed and evolved significantly since the PSOW Act was first conceived, (particularly in relation to the ever increasing blurring of the lines between public and private sector delivery of public services) and indeed against what is considered to be good practice in ombudsmanry elsewhere in the United Kingdom and internationally.

7. Local Government Pensions

- 7.1 Under the Public Services Ombudsman (Wales) Act 2005, my staff are members of the Principal Civil Service Pension Scheme (PCSPS). In last year's submission I reported that when the office of the Public Services Ombudsman for Wales was established in 2006, a number of members of staff formerly employed by the Commission for Local Administration in Wales were entitled to remain in the Local Government Pension Scheme. Since then, the scheme, which is administered by Cardiff County Council, continues to remain in deficit. This has arisen because of the increases in life expectancy that affect the liabilities of the pension scheme while its assets have been reduced by decreases in the value of its investments and by lower rates of return. The current state of the economy has worsened that deficit although it is hoped that as the economy improves that there will be a similar movement in the state of the pension fund.
- 7.2 The liability for the deficit was identified following a three year actuarial review and was included within the second supplementary estimate for 2011/12 as Annually Managed Expenditure (AME), however; the annual payments are treated as Departmental Expenditure Limit (DEL). These payments will continue to be made until 2017/18.
- 7.3 The Scheme funding position has deteriorated since 31 March 2010 primarily due to fluctuations in financial conditions (which has affected actual investment returns since 31 March 2010 as well as expected returns in the future). This has been partially offset by pay increases being lower than expected and shortfall contributions paid since 31 March 2010. The latest actuarial valuation as at 31 March 2014 recognises a deficit of £720k that should be eliminated over the next 3 financial years by the additional payments made to Scheme in 7.2 above.

8. Pay awards

8.1 Office salaries are based on England and Wales Local Government pay scales with uplifts applied depending on Local Government pay settlements. A 1% uplift to pay amounting to £27k was paid in 2013/14, but the 2014/15 pay settlement has not yet been agreed.

9. Cost pressures

- 9.1 Despite the cost and other pressures on my service, for this budget estimate submission for 2015/16 I have kept to the undertaking given by my predecessor of keeping the PSOW's budget in line with the movement in the Welsh block.
- 9.2 The office continues to absorb cost increases. H M Treasury is stating that the GDP Deflators as the measure of inflation for the forthcoming years are estimated currently to be 2.2% per annum for 2014/15 and 1.6% for 2015/16.

- 9.3 The office has absorbed higher costs relating to the pension increases for the former Ombudsmen whose pensions are met from within my budget allocation. In line with the Pensions Increase Order for 2014 these pension payments have increased by 2.7% and added £3k to the costs of running this office. Based on further increases in fuel and heating costs it is likely that the pension increase will be about 3% in 2015/16 resulting in a further increase in costs of £3k.
- 9.4 The office continues to meet increases in service charges, rates and utilities at the premises in Pencoed. There is, however, a requirement for additional archive space, which has arisen due to the increase in case files which need to be retained. Therefore, as part of the 10 year lease renewal negotiations with our existing landlord, we are seeking to acquire additional storage space within the same building at nil additional rental costs although there will be an increase in service charges and other premised related costs.
- 9.5 Despite the cost of printing, postage and carriage continuing to rise we intend to absorb these costs by implementing various efficiency and cost reduction schemes such as encouraging the use of double sided printing, more use of second class mail and constant evaluation of courier costs.
- 9.6 We continue to embrace technological advances to take the office towards becoming a paperless office.
- 9.7 In relation to procurement, when new contracts are negotiated and exiting contracts reviewed the aim is to secure cost reductions and/or enhancements in the method of working. Examples include a new integrated mobile phone and tablet solution, replacement of low specification PCs for front line staff, increased internet bandwidth at no extra cost and improved management performance measuring tools via new telephone software. We continue to enhance our complaints handling system to improve usability, reflect developments in our internal processes and keep up with legislation.
- 9.8 Finally, I would draw the Committee's attention to the fact that my budget estimate does not include any contingency provision for meeting unexpected items of expenditure, such as legal challenges to my casework decisions.

October 2014			

Appendix A – Estimates 2015/16

Public Services Ombudsman for Wales

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Appendix B – New Workload Trends Since 2006/07

Appendix C – Complaints by sector – NHS Bodies

Appendix D – Organisation Chart

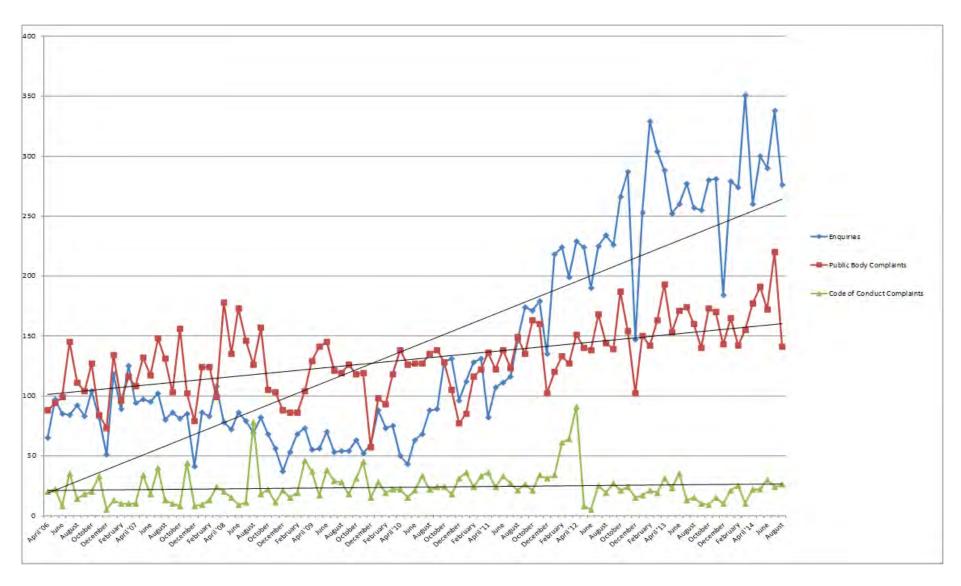
Appendix A

Estimates 2015/16

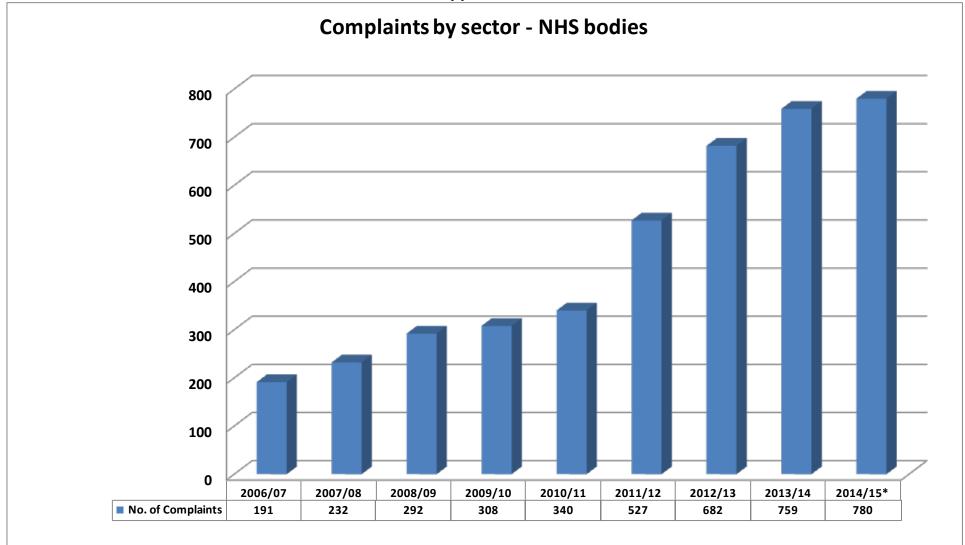
		Actual 2013/14	Budget 2014/15	Estimate 2015/16
		£'000	£'000	£'000
Α	Capital DEL	47	13	13
В	Fiscal Revenue DEL			
	Salaries and related costs	2,503	2,786	2,788
	LGPS related costs	242	254	266
		2,745	3,040	3,054
	Premises	343	349	399
	Computer systems and support	207	85	149
	Office costs	111	148	127
	Advisory fees	400	310	310
	Communications	76	82	82
	Training and recruitment	37	65	44
	Travel and subsistence	35	34	36
	Audit fee	20	22	20
	Sub total	3,974	4,135	4,221
	Income	0	-6	0
	Total Fiscal Revenue DEL	3,974	4,129	4,221
С	Non cash DEL			
	Depreciation	135	105	75
	Revenue DEL (B+C)	4,109	4,234	4,296
	Total DEL (A+B+C)	4,156	4,247	4,309
D	Annually Managed Expenditure (AME)			
	Movement on LGPS	-242	-254	-266
	Provisions movement	88	30	20
	Total AME	-154	-224	-246
Е	Total Managed Expenditure			
	A+B+C+D	4,002	4,023	4,063
	Resources Required	4,002	4,023	4,063
	Depreciation	-135	-105	-7 5
	Increase in Provisions	-88	-30	-20
	Utilisation of Provisions	242	254	266
	Other movements in Working Capital	19	20	200
	Net Cash Requirement	4,040	4,162	4,254

Appendix B

New Workload Trends Since 2006/07



Appendix C



Projected to 31 March 2015 based on number of complaints received during five months April to August 2014

Appendix D

Organisation Chart (position at 31 March 2014)

