



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

Estimate for the financial year 2017-18



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Background

The principal aim of the Welsh Language Commissioner, an independent organisation established in accordance with the Welsh Language Measure (Wales) 2011, is to promote and facilitate the use of the Welsh language. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organisations. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles will underpin the work:

- In Wales, the Welsh language should be treated no less favourably than the English language
- Persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.

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Welsh Language Commissioner

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1 Foreword

- 1.1 The Welsh Language Commissioner published its Strategic Plan 2015-17 in a period of significant changes to public life in Wales. The Commissioner is currently developing the Strategic Plan for 2017-19 taking into account the significant changes to the political landscape.
- 1.2 Since the 2015-17 plan was published the period of change has evolved, notably elections to the National Assembly for Wales, the formation of a new government and publication of a legislative programme. A referendum on membership of the European Union was held, and there was a change to the government in Westminster as a consequence of the result.
- 1.3 Following publication of the Welsh Government's programme Taking Wales Forward 2016-21, local government structures and their means of delivering services are expected to evolve over the term of the Assembly; this could influence the shape of the whole of the public sector in Wales and the relationship between different authorities and sectors.
- 1.4 The Welsh Government has commenced a review of the Welsh Language (Wales) Measure 2011; changes to the way we operate may follow any amendment to the Measure.
- 1.5 As the period when Welsh language standards are being imposed on organisations continues, there will be a significant change to the way services in the Welsh language will be delivered. The new regime of imposing duties leads to establishing of rights to receive services in the Welsh language. Over the forthcoming years more organisations will become subject to standards.

The ability to plan strategically over the medium term

- 1.6 Over the past four years the Commissioner has been notified of the budget for the following financial year within six months or less from the beginning of the financial year. The lack of budget certainty from year to year and uncertainty with respect to the budget for the following financial year, being so close to the start of the financial year, makes it difficult to plan in a timely and causes difficult in planning and decision making for the medium term.
- 1.7 The chair of the Commissioner's Audit & Risk Committee has corresponded with the First Minister on the issue of the budget, and on 02/02/2016 (appendix) the chair made strong representations that further and disproportionate cuts would severe impact the ability of the Commissioner to implement its strategy and its functions in accordance with the Measure.
- 1.8 At the end of the fourth Assembly term the Commissioner's work was referred to in of several committees' inheritance reports, following investigations and scrutiny during the fourth assembly. The main points to note are:
 - The Public Accounts Committee noted "The issue of principle is whether organisations established to represent individuals' rights ought to be funded by the body it will often hold to account. The Welsh Language Commissioner's regulatory responsibilities are the most formal way in which this issue arises..."
 - Local Government and Equality Committee highlighted "...concerns about the impact that the cuts to the Welsh Language Commissioner's budget would have

on her ability to deliver her statutory responsibilities under the Welsh Language Measure."

- This committee also noted that the fifth Assembly may "...want to monitor the on-going funding arrangements for the Welsh Language Commissioner's office, particularly as the next two years will see the roll out of the next rounds of Welsh language standards by the Commissioner."

1.9 In the estimate for 2016-17 presented on 30/10/2016 stated the following conclusions were noted, these conclusions are equally relevant this year.

- The funding pattern of Welsh Language Commissioner has not reflected the legislative requirements of the Welsh Language Measure. Existing resources are insufficient to extend the reach of the Measure to different sectors soon or to successfully enforce any action to secure better treatment and further opportunity to use the Welsh language or to provide guidance in order to avoid failures.
- Operating the standards regime also sucks resources from other important aspects of the strategic and statutory duties of the Welsh Language Commissioner in a disproportionate manner. It will to be possible neither to undertake the duties at the expected level nor to function effectively without the resources to achieve it.

1.10 At the quarterly meeting between the Commissioner and the First Minister on 09/12/2015 the First Minister explained that the Welsh Language Commissioner had received a cut of the 10% for 2016-17 and this was consistent with the other Commissioners. The Welsh Language Commissioner was clear in her opinion on the basis of the following arguments there is no comparison between the activities and functions of the Welsh Language Commissioner and those of the other Commissioners.

1.11 The Commissioner presented a paper to the First Minister on 10/12/2015 making a case for ensuring sufficient resources to operate effectively. The arguments made in the paper, the main points which are summarized below continue to be relevant:

- While the other Commissioners also received a cut of 10% for 2016-17, in contrast to the Welsh Language Commissioner they had not received similar drastic cuts in previous years;
- Other regulators did not receive a cut of 10%; Estyn received a cut of circa 3% in the draft budget. Also at a time when Estyn carried out investment activities, that organisation's budget was increased;
- The Commissioner is still in a crucially important phase as different organisations become subject to the standards regime. A budget cut would cause delays in the process of imposing standards and the result of delays would be that the Welsh Language Measure would not be fully implemented for an extended period. Corners cannot be cut when administering statutory processes such as those of the standards regime e.g. consultation arrangements. The risk of maladministration is high if there are not enough resources available to implement the system properly;
- Failure by the Welsh Language Commissioner to exercise her enforcement powers on the grounds of lack of resources would leads to a high risk of poor compliance with the requirements of the Welsh Language Measure;
- Care should be taken to avoid cutting the budget of the Commissioner to such an extent that it is not possible to implement the statutory processes

appropriately and thus place the Welsh Language Commissioner is in a position of weakness where ultimately she is at risk of acting *ultra vires*.

1.12 In his letter dated 23/12/2015, in response to the paper presented on 10/12/2015, the First Minister noted that he had decided to allocate an additional budget of £ 150,000 in order to plan ahead and lay foundations for the challenging rolling program.

The Commissioner's powers and duties

1.13 Through her strategic plans the Welsh Language Commissioner sought to achieve best outcome from the resources available to her, for example:

- seeking to ensure that the language is considered from the outset in policy decisions or developments on the ground that incorporating language in this way avoids failures at a point later in time and any associated costs to the public purse.
- seeking to ensure compliance by supporting organisations to comply properly with Welsh language schemes and standards. This is done by collecting and analysing good practice, solving systemic problems, developing guidance documents and engaging with users in order to focus on the things that matter most to them and publish an annual report which gives a picture to organisations of performance and the experiences of service users.

1.14 The Commissioner's wish is to continue to use the methods of working as above, methods that enable her to act strategically.

1.15 Over and above imposing and enforcing standards, the Measure also contains sections that require the Welsh Language Commissioner to undertake other significant pieces of work such as the need to prepare a 5 Year Report, the ability to conduct an inquiry, investigation of instances of interference with the freedom to use Welsh and so on.

1.16 What is evident is that the functions of the Welsh Language Commissioner are wide-ranging. The scope of work also covers England and Wales; it must be remembered that Whitehall departments provide mandatory, fundamental and important services to users in Wales and it is the Commissioner who maintains an oversight of these.

1.17 To be an effective regulator, balance and the ability to select a range of incentivising methods and enforcement mechanisms where necessary is important.

1.18 The Commissioner's view and that of the Management Team is that the impact of cuts over and above the austere cuts made over the last 5 years would reduce the ability of the Commissioner to exercise all the powers in the Measure. The consequence is that the persona of the organisation as a regulator would be negatively impacted. It would drive activity in a way contrary to the direction that the Commissioner and her officers would choose to navigate. It certainly would set a limit on the ability of the Commissioner to choose her path and regulation would be less strategic. Despite this there are matters in the Measure that the Welsh Language Commissioner must undertake.

Conclusion

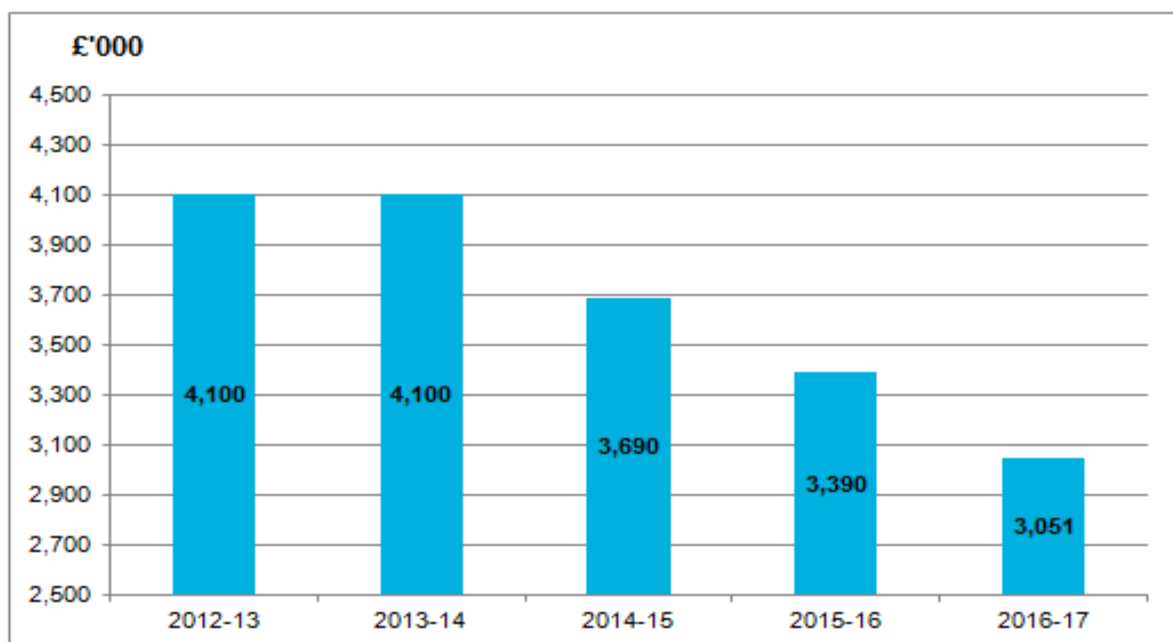
1.19 In accordance with the above comments and arguments this estimate reflects the resources that will be required by the Commissioner to implement the strategy and the duties that are central to the work of the organisation.

2 Strategic Plan

- 2.1 The Welsh Language Commissioner's Strategic Plan 2015–17 was published on 1 April 2015. This Strategic Plan builds on the foundations of the 2013–15 Strategic Plan, and explains precisely how it is intended to work towards achieving the general aim of the Welsh Language Commissioner over the two years until 31 March 2017.
- 2.2 The objectives of the Strategic Plan 2015-17 correspond to the functions the Commissioner needs to carry out according to the Measure, and strategic priorities have been determined for each objective. The objectives of the Strategic Plan are listed as follows:
- Objective 1: Influencing the consideration given to the Welsh language in policy developments
 - Objective 2: Ensuring justice for Welsh language users
 - Objective 3: Imposing statutory duties and regulating them
 - Objective 4: Encouraging, promoting and facilitating the use of the Welsh language on a voluntary basis
 - Objective 5: Operating and communicating appropriately and effectively
- 2.3 A Strategic Plan for the years 2017-19 will be developed over the forthcoming months and published before the start of the 2017-18 financial year. An annual operational plan that will include specific projects, time scales and targets in order to measure achievement will be developed before the start of the financial year in order to be implemented. These plans will reflect requirements in terms of resources and finance for each project.

3 Context of the estimate

- 3.1 This will be the sixth year since the Welsh Language Commissioner came into existence on 1 April 2012. A budget of £4,100,000 was allocated for the first two years. A budgetary cut of £410,000 (10%) was received in 2014-15, a cut of £300,000 (8%) in 2015-16 and a further cut of £339,000 (10%) to the 2016-17 budget. It was explained that this cut was part of wider cutbacks and that it was consistent with cuts to other Commissioners' budgets and that it was necessary for the organisation to receive a cut.
- 3.2 Compared to the first year of the Commissioner's existence, the organisation has suffered cuts to its budget of 26% in cash terms which equates to a cut of 32% in real terms by the financial year 2016-17 compared to an original budget of £4,100,000. Such cuts, together with uncertainty regarding the budgetary situation in coming years, make it difficult to plan for the medium term and to implement new functions effectively.



- 3.3 The preceding paragraphs show the financial profile of the Welsh Language Commissioner since its inception on 01/04/2012 until 31/03/2017. It is important to make some observations in relation to the pattern of this expenditure alongside providing commentary on the forecast of financial resources based on the likely pattern of work of the Commissioner to the end of the 2016-17 financial year and subsequently to 31/03/2019.
- 3.4 It is hoped that the arguments presented in the foreword in section 1 and the commentary on the estimate in the following sections will inform the process of arriving at a reasonable view on an appropriate budget for the Welsh Language Commissioner to enable her to perform her duties, functions and exercise of powers in accordance with the Welsh Language (Wales) Measure 2011.

4 Financial estimate and commentary

4.1 Below is presented details of the expenditure of the Welsh Language Commissioner for the financial years 2017-18 until 2018-19. This estimate shows an increase in expenditure over the period compared to 2015-16. In order to finance activities that are critically important to the strategy, priorities and effective operation of the organisation a request is made for a flat budget and an additional £150,000, to be expended over two years, in line with that received in 2015-16. Even with a stable level of financing a reasonable overspend is anticipated, which will need to be funded from reserves (see section 5).

	Expenditure 2015-16 £000	Budget 2016-17 £000	Forecast 2016-17 £000	Estimate 2017-18 £000	2018-19 £000
Expenditure					
Salaries	2,196	2,220	2,214	2,327	2,374
<i>Office costs</i>	303	223	225	231	231
<i>Information technology</i>	145	112	126	122	122
<i>Services and administration costs</i>	92	87	81	87	88
<i>Recruitment, learning and development</i>	61	19	21	20	20
<i>Professional costs</i>	150	127	125	124	124
<i>Travel and subsistence</i>	93	84	75	74	74
Core costs	844	652	653	658	659
Capital and depreciation costs	67	50	56	50	55
Programme and project costs	293	173	206	204	200
TOTAL EXPENDITURE	3,400	3,094	3,128	3,239	3,288
Funding from Welsh Ministers	(3,390)	(3,051)	(3,051)	(3,051)	(3,051)
One-time funding	(150)	-	-	(75)	(75)
OVERSPEND / (UNDERSPEND)	(140)	43	77	113	162

4.2 The impact of the most influential factors on the Commissioner's expenditure are considered below:

Salaries

- 4.3 As noted in the estimate for 2016-17 a new structure was announced at the beginning of 2014-15 with all appointments in place by January 2015. This structure contains 47 posts and is a structure that is appropriate for responding to the Commissioner's functions in accordance with the Welsh Language (Wales) Measure 2011.
- 4.4 The foreword notes the priorities and challenges for the next few years. In order to implement these effectively and in a timely manner it will be necessary to ensure that the appropriate resources are in place by employing officers in accordance with the organisational structure.
- 4.5 Whilst there is uncertainty from one year to the next in relation to the organisation's budget in the medium term, it is difficult to make sustainable decisions over this period. Given that employment costs represent 72% of the budget this uncertainty forces decision to be made that give the Commissioner flexibility in respect of the organisational structure. The result is that:
- a number of posts are fixed term appointments;
 - inability to offer permanent roles makes it difficult to recruit;
 - the organisation regularly makes short term decisions rather than ones for the medium term.
- 4.6 Other factors have had and continue to have a material impact on the employment costs of the organisation, these are noted below.
- 4.7 The Commissioner's officers are paid in accordance with Welsh Government terms and conditions. The Welsh Government agreed a pay settlement with the Unions in 2015 for a period of two years, until the end of March 2017. The settlement increased the maximum scale point of the pay bands by 2.5%, removed the lower scale point and distributed the scale points between them more equally.
- 4.8 This estimate assumes that there will be a pay settlement of 2.5% with effect from 01/04/2017 for a period until 31/03/2019. The impact of the pay award will be an increase of £54,000 to salary costs compared to the 2016-17 financial year.
- 4.9 It is noted that 19 officers receive an average increase of 6.0% for 2017-18 as they move from one scale point to the next. The impact of this is £33,000 in addition to the pay award.
- 4.10 The estimate has maintained national insurance and pension contribution rates for the employer at the same level.
- 4.11 It is noted that the Commissioner, as an employer, does not have influence over HM Treasury in respect of national insurance rates, the Cabinet Office in respect of pension contributions or the Welsh Government in respect of the pay award. Decisions relating to the above could have an impact on the employment costs of the organisation.

Inflation

4.12 No increase for inflation has been included. In their Economic and fiscal outlook report published in March 2016 the Office of Budgetary Responsibility foresees that the CPI measure of inflation will be 1.6% in 2017 and 2.0% in 2018 and 2.1% in 2019 (cumulatively 5.8% over 3 years). Although inflation will have an effect on the Commissioner's costs, it will be necessary to make savings in order to manage costs within the budget.

Offices

4.13 The Commissioner and officers from the Welsh Government estates departments have liaised in order to resolve a situation where an estate of offices was inherited that accommodated a much larger former organisation, compared to the present numbers. On 28/09/2016 a lease was signed by the Future Generations Commissioner for Wales on the third floor of the Cardiff office. The estimate includes savings of £70,000 for the cost of rent, landlord services and non domestic rates in relation to the sub-letting of the space.

4.14 The remainder of these costs are contractual commitments. Increases have been seen to these costs notably landlord services and non-domestic rates. In order to mitigate the impact of the increase to these costs savings have been achieved on other contracts, such as office facilities management, by going out to tender.

Information Technology

4.15 A high proportion, being £100,000 (82%) of the £122,000 spend on Information Technology, are contractual commitments for maintenance of systems and software and support services for the core systems. By assessing which systems are essential and aiming to make savings where possible, the estimate for 2017-18 proposed savings of £8,000 compared to 2015-16 actual costs.

4.16 Variable costs for running services are stable at £10,000.

4.17 The remaining expenditure of £27,000 in 2015-16 was for developments to the various IT systems. The 2016-17 budget sought to save £20,000 from the budget for the year. The experience of the first 6 months of 2016-17 has given us evidence that continuous development to the Information Management system SGwNI, in order to respond to increasing demands, as the Commissioner executes her functions in accordance with the Measure is required. Without these developments, the systems will not continue to respond to the demands of the organisation, as a result the development budget is increased to £12,500.

Services and administration

4.18 These costs include expenditure on administering the organisation such as hosting cloud services for the website and intranet, communication, photocopying and printing, payroll and pension services and postage and distribution costs. The Commissioner follows best practice such as those promoted by Value Wales. The principle of ensuring value for money, on the basis of all life-cycle costs and the quality of goods and services procured, is followed at all times.

Recruitment, training and development

- 4.19 This category includes expenditure on recruitment professional and institutional membership, seminars and conferences, qualification courses and training. A significant cut of £30,000 was noted in spend between 2014-15 and 2015-16; a further £40,000 of savings was proposed for the 2016-17 budget. As noted below there are no opportunities for further savings.
- 4.20 A small budget has been retained for recruitment, and this is for responding to staff turnover and instances of maternity. Methods such as advertising posts on-line rather than in the printed press are used in order to obtain value for money.
- 4.21 Expenditure on qualification courses and membership of professional bodies for individuals or the organisation is limited to circumstances where the qualification and/or membership is essential or crucially important and core to the duties of the role of the individuals concerned
- 4.22 The remainder of the budget is for developmental training, seminars and conferences. There was an investment programme in 2014-15 and 2015-16 to align officers' skills and competences with their responsibilities. The expenditure for 2016-17 forecasts a saving of £43,000 (79%) compared to 2015-16 and £65,000 (85%) compared to 2014-15. It is unavoidable that cheaper and innovative methods of achieving officers' training and development needs are employed, but there is no scope to make further cuts to this budget without having an adverse impact on the effectiveness of officers.

Legal and professional

- 4.23 These costs include costs such as expenditure on legal advice, external and internal auditors and translation. In terms of expenditure on legal advice and translation the nature of the requirements can vary substantially and it is not possible to completely foresee the circumstances that may arise where advice is sought, particularly where new powers are exercised. While organisations may challenge compliance notices a saving of £22,000 compared to 2015-16 on legal costs have been offered, whilst retaining reserves to cover any legal cases that may arise. By working with the internal auditors their work programme has been adapted in order to secure savings of £2,000. Also a saving of £2,000 has been proposed for translation costs as a consequence of a new framework agreement containing revised rates which has been in place since 01/01/2016.

Officers' Expenses

- 4.24 Officers and their line managers are asked to consider whether travel is necessary and to consider alternative methods of communicating and engaging in order to reduce expenditure and have consideration for the environment. At the same time undertaking monitoring visits or visits to provide feedback on performance, to attending events offering guidance, advice or information etc means that an element of travel is inevitable. Officers are the organisation's main resource, and therefore expenditure on travel will remain an essential element of the costs of carrying out the Commissioner's core functions. Despite this savings of £19,000 (20%) compared to the 2015-16 spend have being included in the estimate.

Capital and depreciation

- 4.25 The estimated expenditure on capital and depreciation is £50,000 for the financial year 2017-18. This increases to £55,000 annually for the following years due to depreciation on assets in prior years.
- 4.26 This is for continued investment, where necessary, on information technology by upgrading IT equipment and adapting the offices in order to provide a suitable environment and appropriate resources for the Commissioner's officers. The majority of this cost results from depreciation of assets, which is determined by investment on capital in previous years.

Income

- 4.27 The Commissioner is not expected to receive substantial income from any source other than Welsh Ministers.
- 4.28 A small amount of bank interest is received on the money provided by Welsh Ministers, by investing it in deposit accounts.

Programmes and Projects

- 4.29 With budgetary pressures it will be necessary to weigh-up priorities as the range and number of programmes that can be funded becomes limited.
- 4.30 The estimated expenditure for 2016-2017 is £204,000.

5 Impact on reserves

- 5.1 The 2015-16 annual accounts state that there is £703,000 in reserves at the end of the financial year ended 31/03/2016. Although this is an increase of £140,000 compared to 31/03/2015, it is noted that the Commissioner received £150,000 on 03/02/2016 to alleviate the effects of the budget cuts at whilst implementing a challenging rolling programme of imposing and operating the standards regime.
- 5.2 The accounts include sums that are receivable, payable, prepayments and accruals. In order to understand the true value of the reserves it is necessary to consider the effect of these transactions:

	£000	Debt collection and payments to creditors £000	Depreciation and prepaid expenditure £000	Balance remaining £000
Fixed Assets	120		(120)	-
Amounts receivable	2	(2)		-
Prepayments	140		(140)	-
Cash	954	(511)		443
Amounts payable	(144)	144		-
Accruals and provisions	(369)	369		-
Reserves	(703)	-	260	(443)

- 5.3 At the beginning of the 2016-17 financial year the real value of reserves was £443,000.
- 5.4 The table below estimates the effect on reserves of the budget for the years 2016-17 to 2018-19

	2016-17 £000	2017-18 £000	2018-19 £000
At the beginning of the period	443	366	253
Underspend / (Overspend)	(77)	(113)	(162)
At the end of the period	366	253	91

- 5.5 It is considered that it is necessary to retain a minimum of 5% of the annual budget in reserve for any unforeseen expenditure, approximately £150,000. Also, the Commissioner may provide support to individuals in legal proceedings. We are now in a period where compliance notices have been imposed on organisations; these organisations have and are challenging the Commissioner's decisions. At this point no challenges have been determined by the Commissioner and none have been brought before and decided upon by the Welsh Language Tribunal. It would be prudent to have £100,000 in reserve for such cases.

5.6 In order to execute the duties in accordance with the Measure, there is an unavoidable increase to salary costs. Deep cuts of 23% were made to core costs and programme expenditure was cut by 30% for 2016-17 but there is no ability to make further cuts. The estimate as a consequence shows that it is inevitable that reserves will be used to fund the overspend. Whilst it would be desirable to retain reserves of approximately £250,000, overspend during the years 2016-19 means a forecast of £91,000 for reserves by the end of 2018-19.

6 Governance and internal control

- 6.1 The Welsh Language Commissioner is a corporation sole; and as Accounting Officer the Commissioner has personal responsibility for the overall administration, management and staffing of the organisation. The Management Team, chaired by the Commissioner, manages all the organisation's functions and activities; is responsible for agreeing, leading, and carrying out the Commissioner's strategic vision and implementing policies and providing services to the public and other stakeholders.
- 6.2 Since the beginning of the 2015-16 financial year a new Advisory Panel chaired by Bethan Jones Parry has been in place, with Carl Cooper, Nick Speed, Dr Heledd Iago and Meinir Jones as members. The Commissioner may consult with the Advisory Panel regarding any matter.
- 6.3 The Audit and Risk Committee is responsible for providing advice and independent assurance to the Accounting Officer on the adequacy and effectiveness of internal control and risk management. The members of the Audit and Risk Committee are Rheon Tomos (Chair), Wyn Penri Jones, Nigel Annett and Dr Ian Rees, and is attended by members of the Management Team, the Senior Finance and Resources Officer (Risk Manager), the Internal Auditors and the Wales Audit Office.
- 6.4 The Audit and Risk Committee received the internal auditors', KTSowenstomas, 2015-2016 Annual Report, which gave significant assurance regarding the adequacy and effectiveness of governance, risk management and internal control systems.
- 6.5 An external audit of the Commissioner's accounts was completed and a certificate from the Auditor General for Wales gave an unqualified opinion on the Welsh Language Commissioner's Annual Accounts for 2015-2016. The Wales Audit Office's report did not raise any significant issues resulting from the audit.

Implementing Internal Policies and Procedures

- 6.6 Systems and procedures are reviewed regularly and revised where appropriate, in response to internal changes, recommendations by the internal auditor or a process of continuous improvement.
- 6.7 The Commissioner implements policies in order to ensure that public money is used economically, efficiently and effectively. Monthly reports are received from the budget holders who review expenditure and forecasts for the remainder of the year, to monitor expenditure against targets and understand any variance in expenditure. The monthly finance report is presented to the Management Team, where progress against targets and financial forecast is discussed and budget changes approved.

Working with other organisations

- 6.8 Meetings have been held with stakeholders, partners and peers across wide areas, including networks of organisations financed by the Welsh Government, in order to share experiences, ideas, knowledge and good practice. These meetings also provide a forum for collaboration, and to avoid or reduce duplication of work.
- 6.9 Specifically, during the previous year meetings have been held with the Children's Commissioner for Wales, the Older People's Commissioner and the Public Services Ombudsman for Wales individually and as a group. The main topics of discussion at the meetings were ensuring strategic cooperation in our activities.