

## Finance Committee

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Meeting Venue:

**Committee Room 2 – Senedd**

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Meeting date:

**Wednesday, 25 February 2015**

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Meeting time:

**09.00**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

**Bethan Davies**

Committee Clerk

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## Agenda

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- 1 Introductions, apologies and substitutions (09:00)**
- 2 Papers to note (09:00–09:05) (Pages 1 – 84)**
- 3 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business: (09:05)**  
Item 4,5,6,7,8, 10, 12 and Item 1 and 2 on Thursday 5 March
- 4 Best Practice Budget Process: Consideration of Draft Report (09:05–09:25)**
- 5 Appointment of non-executive Members the Wales Audit Office Board (09:25–09:30)**
- 6 Initial Consideration of Renting Homes (Wales) Bill (09:30–09:40)**  
(Pages 85 – 90)

**7 Wales Audit Office Supplementary Estimate 2014–15 (09:40–09:50)**  
(Pages 91 – 102)

**8 Assembly Commission Supplementary Budget 2014–15 (09:50–10:00)**  
(Pages 103 – 119)

**9 Welsh Government Second Supplementary Budget for 2014–15**  
**(10:00–11:00)** (Pages 120 – 166)

Jane Hutt AM, Minister for Finance and Government Business

Gawain Evans, Deputy Director Financial Controls, Welsh Government

Matt Denham–Jones, Head of Budgetary Control and Reporting, Welsh Government

**10 Welsh Government Second Supplementary Budget 2014–15:**  
**Consideration of Evidence (11:00–11:15)**

**11 Consideration of powers: Public Services Ombudsman for Wales:**  
**Evidence Session 4 (11:15–12:15)** (Pages 167 – 186)

Lyn Cadwallader, Chief Executive, One Voice Wales

Steve Thomas, Welsh Local Government Association

Daniel Hurford, Welsh Local Government Association

**12 Consideration of powers: Public Services Ombudsman for Wales –**  
**Discussion of evidence (12:15–12:30)**

## Finance Committee

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Meeting Venue: **Committee Room 3 – Senedd**

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Meeting date: **Wednesday, 4 February 2015**

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Meeting time: **09.00 – 12.14**

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This meeting can be viewed on [Senedd TV](http://senedd.tv/en/2650) at:  
<http://senedd.tv/en/2650>

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Wales



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### Concise Minutes:

#### Assembly Members:

**Jocelyn Davies AM (Chair)**  
**Peter Black AM**  
**Christine Chapman AM**  
**Mike Hedges AM**  
**Alun Ffred Jones AM**  
**Ann Jones AM**  
**Julie Morgan AM**  
**Nick Ramsay AM**

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#### Witnesses:

**Jim Martin, Scottish Public Services Ombudsman**  
**Simon Rogers, Welsh Independent Healthcare Association**  
**Sally Taber, Welsh Independent Healthcare Association**

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#### Committee Staff:

**Bethan Davies (Clerk)**  
**Leanne Hatcher (Second Clerk)**  
**Tanwen Summers (Deputy Clerk)**

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## 1 Introductions, apologies and substitutions

- 1.1 The Chair welcomed Members to the Meeting.
- 1.2 There were no apologies.

## **2 Papers to note**

2.1 The papers were noted.

## **3 Welsh Tax Forecasts: Evidence Session 1**

3.1 The Committee took evidence from Robert Chote, Chairman and Jon Riley, Senior Analyst for the Office for Budget Responsibility via Video Conference.

3.2 The Committee agreed to write to the Office for Budget Responsibility for clarification on how they calculate Landfill tax.

## **4 Consideration of Powers: Public Services Ombudsman for Wales: Evidence Session 2**

4.1 The Committee took evidence from the Scottish Public Service Ombudsman on its inquiry.

4.2 The Ombudsman agreed to provide the following:

- Records of press coverage and statistics around the governance of the complaints handling process.

## **5 Consideration of powers: Public Services Ombudsman for Wales: Evidence Session 3**

5.1 The Committee took evidence from Simon Rogers – Chair, Welsh Independent Healthcare Association and Sally Taber – Director of Independent Healthcare Advisory Services, Welsh Independent Healthcare Association.

5.2 The Healthcare association agreed to provide the following:

- Briefing on complaint trends that will feature in the forthcoming ISCAS annual report.
- A copy of last year's annual report for Members' information.
- Share a paper ISCAS has produced in conjunction with the Department of Health.

## **6 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:**

6.1 The motion was agreed.

## **7 Consideration of powers: Public Services Ombudsman for Wales: Discussion of evidence**

7.1 The Committee considered the evidence received.

## **8 Consideration of Scoping Papers**

8.1 The Committee considered the scoping papers and agreed a way forward.

## **9 Consideration of Paper on Assembly Week 2015**

9.1 The Committee considered a paper on Assembly Week 2015.

**Follow up paper subsequent to evidence provided  
by the Public Services Ombudsman for Wales to  
the National Assembly for Wales's Finance Committee  
at its meeting on 21 January 2015**

## **1. Introduction**

1.1 At its meeting on 21 January 2015, the Finance Committee took evidence from me in relation to proposals for amendments to the Public Services Ombudsman (Wales) Act 2005. At that meeting the Committee asked that I provide further information as follows:

- examples of where own-initiative powers have been used well in other countries;
- details of the relationship between the Scottish Complaints Standards Authority and the rest of the Scottish Ombudsman's office.

1.2 The further information requested on these matters is provided below.

## **2. Own Initiative Powers in Other Countries**

2.1 Following the Committee's request, I contacted colleague ombudsmen in other countries asking them for their experiences in relation to the use of own initiative powers. A number of ombudsmen during their responses commented that they have always had own initiative powers; this included the Swedish Ombudsman, the first ever ombudsman institution, saying that they have had this power since 1809.

2.2 Also from the responses I received, comments were made as to how they may identify an area which warrants an own initiative investigation by the ombudsman. These include:

- during the investigation of a complaint made to the ombudsman, other anomalies are identified whereby the ombudsman finds reason to extend an investigation;
- from a number of investigations indicating that there could be a more widespread national problem;
- in areas where citizens are vulnerable and there is a little tradition of them lodging complaints;
- anonymous letters are received providing information;
- matters are brought to the ombudsman's attention from other authorities;
- concerns come to the ombudsman's attention via the media.

Equally, responses I have received have made the point that the ombudsman does not initiate such an investigation without good reason.

- 2.3 Whilst own initiative powers are common internationally, the jurisdictions of ombudsmen schemes differ and it is not always possible to make direct comparisons with my jurisdiction as Public Services Ombudsman for Wales. However, some examples of own initiative investigations and their outcomes can be found below:

**Malta** – The Ombudsman conducted an own investigation into the waiting times at the Accident and Emergency Department at the General Main Hospital. The outcome was an improvement in the patient registration and screening procedures, resulting in a reduction in waiting times.

**Latvia** - Attention was given to a matter arising from a number of concerns about access to universal free education for children. Following his own initiative investigation, the ombudsman found that the right to education without charge was not being fully complied with and that what was happening in reality did not ensure equal rights and access to education, as provided for by the laws and regulations in Latvia. Following the Ombudsman's investigation into this area, the Education Law was changed in 2013 to clarify the position concerning the acquisition of teaching materials and aids. Subsequently, the Ombudsman asked schools to inform parents of pupils before the beginning of the school year for 2013/14 that the school would provide them with all learning materials (including workbooks) necessary for their child's education programme and that parents did not need to buy them.

**Greece** – The Ombudsman conducted an investigation concerning four Roma settlements and problems of social friction. The particular aim of the Ombudsman was to resolve issues concerning cases of social exclusion, addressing them in relation to the implementation of Greece's national plan for the integration of the Roma community.

**Ontario, Canada** – The Ombudsman decided to undertake an investigation concerning parents having to 'abandon' their disabled children. This arose from six initial complaints. At the time the Ombudsman announced the investigation he invited the public to come forward with any information that might assist him. The response from parents and professionals who had experienced this situation first hand was overwhelming. Approximately 90 families, all of whom had at least one special needs child, were among those who contacted the office. Many had either given up their child to a children's aid society or were contemplating doing so. The Ombudsman concluded that the Ministry of Children and Youth Services had failed to ensure that parents of children with severe disabilities were not forced to relinquish custody to Children's Aid Societies in order to receive necessary residential placements and that this was unjust. He made a number of recommendations to address this. As a result of the investigation, custody was returned to 68 families who had surrendered disabled children to Children's Aid Societies because they could not afford to care for them.

**Ontario, Canada** - Child care arrangements came to the Ombudsman's attention when, over a seven-month period in 2013/14, four young children died in unlicensed child care settings in the greater Toronto area. The Ombudsman launched an investigation. Following the Ombudsman's public announcement of his intention to conduct the investigation, 22 people contacted his office to comment about unlicensed daycares. Two were parents who expressed concerns about unlicensed operations where they had placed their children.

The investigation resulted in an unprecedented 113 recommendations. Some were addressed to the Government of Ontario, whose co-operation was necessary if modernisation of the legislative framework for monitoring unlicensed child care was to move forward. Many were focused on improvements in the Ministry of Education's administration of the system for responding to complaints about illegal caregivers. The Ministry accepted all of the Ombudsman's recommendations and provided a detailed response to them. It has already worked to implement them and has committed to providing the Ombudsman with half-yearly updates on its progress. It is hoped that implementation of the Ombudsman's recommendations will lead to a more rigorous, proactive, and risk-based system for monitoring unlicensed child care in Ontario that will better protect the interests of children and their families.

**Finland** – It had come to the Ombudsman's attention from a complaint made to him that a round-the-clock on-call dental service was not available in the Helsinki Metropolitan Area. He pointed out that under the law, a patient in need of urgent treatment, including oral health care, had to receive treatment at once. The Ombudsman was concerned that there may be similar problems in the rest of country and, in this instance, asked the National Supervisory Authority for Welfare and Health to examine how the right of patients to urgent oral health care was being safeguarded in various parts of Finland. As a result of the Ombudsman widening out the attention to this area of concern (beyond the individual complaint that he had received) a Government Decree resulted, which stipulates the details of what must be done in relation to organising on-call dental care.

**Finland** - The Ombudsman decided to look into a matter concerning circumstances where basic education had not been provided for all school-age children, because they were not domiciled in a municipality in Finland. In addition to so-called 'paperless children', the children of people who, for example, were in Finland to work or study or were asylum-seekers may have no municipality of domicile. This lack of basic education provision was in violation of the Constitution and the Convention on the Rights of the Child. The obligation to provide basic education that the Basic Education Act imposed on municipalities was broad. The Act did not require that a child be permanently resident in a municipality or that the municipality should, under the Municipality of Residence Act, determine the child's municipality of domicile. The Ombudsman emphasised that everyone had a right under the Constitution to cost-free basic education and pointed out in addition obligations enshrined in the UN Universal Declaration of Human Rights and the UN Convention on the Rights of the Child.



The relevant Government Ministry expressed the view that the problems had been caused by an erroneous interpretation of the Act and decided to issue guidelines to municipalities and regional administrative authorities to ensure that they interpreted the legislation correctly. In addition, the Ministry reported that it would arrange a round of training in various parts of the country in the early part of 2014.

### **3. The Scottish Ombudsman and the Complaints Standards Authority**

- 3.1 In relation to details of the relationship between the Scottish Complaints Standards Authority and the rest of the Scottish Ombudsman's office, the Public Services Reform (Scotland) Act 2010 ('the PSR Act') gave the Scottish Public Services Ombudsman (SPSO) new responsibilities and powers in relation to complaints handling. Specifically, it amended the Scottish Public Services Ombudsman Act 2002 to give the SPSO a new role to oversee the development of standardised model complaints handling procedures for listed authorities (including local authorities, the NHS, Registered Social Landlords, colleges and universities, Scottish Government, Scottish Parliament and associated bodies). The PSR Act also requires the SPSO to monitor and promote best practice in complaints handling.
- 3.2 The SPSO established the Complaints Standards Authority (CSA) in October 2010 to work closely with public bodies to standardise and simplify complaints handling procedures and to help drive improvement. The overall aim of the CSA is to improve complaints handling to ensure that complaints are handled more simply, more effectively and more consistently, and are resolved at the first point of contact, wherever possible.
- 3.3 The CSA is part of the Scottish Ombudsman's office and the staff are employed directly by the Ombudsman. Effectively, the CSA is a team within the Scottish Ombudsman's office and the SPSO and is responsible to Parliament for its activities, budgets etc. The CSA forms one element of the SPSO's overall budget.


**Nick Bennett**  
**Public Services Ombudsman for Wales**  
**6 February 2015**

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Our ref: NB/SMH

Ask for: Susan Hudson

Your ref:

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Date: 18 February 2015

 susan.hudson@ombudsman-wales.org.uk

Ms Jocelyn Davies AM  
Chair of the Finance Committee  
National Assembly for Wales  
Cardiff Bay  
CARDIFF  
CF99 1NA

Dear Jocelyn

### **Inquiry into the Consideration of Powers: Public Services Ombudsman for Wales**

Thank you for your letter dated 6 February 2015, which set out areas where you and the Committee would like further information.

In particular, you asked that I provide by 18 February further details and comments concerning:

- the proposals for extending the Ombudsman's jurisdiction to include private health services when a patient has received a combination of public healthcare and private health care (not commissioned by the NHS);
- evidence provided to the Committee on 4 February by the Independent Sector Complaints Adjudication Service (ISCAS), which operates a three-stage complaints code of practice across the UK independent healthcare sector.

Accordingly, I attach a paper addressing the above issues.

Yours sincerely



Nick Bennett  
Ombudsman

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**Inquiry into the Consideration of Powers: Public Services Ombudsman  
for Wales**

**Paper subsequent to evidence provided  
by the Public Services Ombudsman for Wales to  
the National Assembly for Wales's Finance Committee  
at its meeting on 21 January 2015**

**Private Healthcare**

**1. Types of Private Health Care Complaints**

- 1.1 Further to my appearance before the Finance Committee on 21 January 2015 and subsequent evidence the Committee has heard from other parties, I am happy to provide clarification on the extension to jurisdiction that I am seeking in relation to private health care.
- 1.2 I confirm that I am seeking powers for the Public Services Ombudsman for Wales to be able to look into care and treatment provided by a private health care provider where that care/treatment has stemmed from the NHS, or has been a part of a person's health care pathway which has also involved the NHS. I would anticipate that invariably the types of complaints that the PSOW would wish to look into would arise from hospital health care provision that has been provided as the result of an originating GP referral.
- 1.3 In this regard, I am seeking that the Public Services Ombudsman for Wales should be able to have the discretion to consider complaints from members of the public who have received treatment at an 'Independent Hospital' as defined by the Care Standards Act 2000, which is as follows:

"Independent Hospital" (except in the expression health service hospital) means—

- (a) an establishment —
- (i) the main purpose of which is to provide medical or psychiatric treatment for illness or mental disorder or palliative care; or
  - (ii) in which (whether or not other services are also provided) any of the listed services<sup>1</sup> are provided;

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<sup>1</sup> As defined in s 2(7) of the Care Standards Act 2000 - medical treatment under anaesthesia or sedation; dental treatment under general anaesthesia; obstetric services and, in connection with childbirth, medical services; termination of pregnancies; cosmetic surgery and treatment using prescribed techniques or prescribed technology as defined in regulations.

- (b) any other establishment in which treatment or nursing (or both) are provided for persons liable to be detained under the Mental Health Act 1983.

For the avoidance of doubt, I am seeking that this should include the private practice of health professionals (including private units) conducted on the premises of NHS organisations, who invariably under contractual arrangements with the NHS have access to NHS staff and facilities.

- 1.4 I should perhaps also note that independent palliative care has, of course, already been brought into the Ombudsman's jurisdiction by virtue of the Social Care and Well-being (Wales) Act 2014.
- 1.5 I confirm that I am **not** seeking powers to look into complaints about other types of businesses also classified as private health care providers, such as beauty parlours, tattoo parlours etc.

## **2. Differences between the Public Services Ombudsman for Wales (PSOW) and Independent Healthcare Sector Complaints Adjudication Service (ISCAS)**

- 2.1 The possibility of sharing information between ISCAS and the PSOW was also raised during an evidence session of the Finance Committee. Whilst ISCAS could share information with the PSOW, the circumstances where the PSOW can share information obtained by the Ombudsman is restricted to the circumstances set out in section 34X of the Public Services Ombudsman (Wales) Act 2005 and because the Act specifies that all investigations shall be conducted in private. These restrictions are essential to ensure that the Ombudsman is able to obtain all information required to carry out his statutory function effectively. This includes the provision that information must not be disclosed except in the case of information to the effect that a person is likely to constitute a threat to the health and safety of one or more persons, to any person to whom the Ombudsman thinks it should be disclosed in the public interest. To this extent the possibility for information sharing is limited. I consider that the disclosure of information obtained by the Ombudsman, but for the purposes other than those listed in s26 of the PSOW Act will result in authorities and staff being less inclined to provide and discuss all relevant information in future.
- 2.2 The nature of the PSOW and ISCAS as entities is also very different. The Law Commission has recognised that public service ombudsmen form one of the four pillars of administrative justice.

- 2.3 Conversely, in 2011, following an application for Judicial Review of an ISCAS decision by a complainant, the Administrative Court's decision was that ISCAS provides a private service (and not a public service) for the benefit of complainants and its member organisations. [A complaint] is a private arrangement between ISCAS, the complainant and the member organisation. The Administrative Court concluded that as such ISCAS was not carrying out a "public function" and therefore the complainant could not seek a public law remedy in the Administrative Court. (Source: ISCAS Annual Report 2011/12)
- 2.4 There are also some additional differences that should be highlighted. Ombudsmen schemes have to meet certain criteria for membership of the British and Irish Ombudsman Association. Among a number of fundamental criteria is 'Independence' whereby the requirement is that: 'The Ombudsman must be visibly and demonstrably independent from those whom the Ombudsman has the power to investigate.'
- 2.5 ISCAS is a voluntary membership scheme. Independence is key to public confidence in the ombudsman system and it would be important not to undermine confidence in the PSOW's service by working closely with voluntary membership bodies.
- 2.6 Furthermore, there are a number of restrictions in relation to the ISCAS scheme. Amongst information set out in its guide for patients are the following:
- (a) Some cases will, because of the seriousness of the issues raised and their potential for legal compensation not be suitable for being managed under the ISCAS Code.
  - (b) It cannot deal with issues of causality and liability in relation to allegations of clinical negligence.
  - (c) If the complainant accepts any payment offered by the procedure, s/he must accept it in full and final settlement of the complaint.
- 2.7 A vignette from ISCAS's Annual Report 2012/13 may be helpful to illustrate differences between the service provided by ISCAS and the Ombudsman's powers in relation to points (a) and (b) above.

"... a complainant who underwent major surgery. Pre-operatively, the patient had been assessed as having three factors that increased her risk of Venous Thromboembolism (VTE) and identified her as needing anti-embolic (TED) stockings from admission until she was fully mobile. However, when she arrived at hospital, stockings in this patient's size were not available. Alternative mechanical prophylaxis was used to assist the prevention of VTE, but this was for only 24 hours and she was discharged from hospital without any support stockings. On two occasions after discharge home, the patient complained to hospital nursing staff about pain in her upper legs; these concerns were not escalated to her consultant. When she saw the consultant, he diagnosed bilateral deep vein thrombosis (DVT) and she later developed a pulmonary embolism (PE).

**It was beyond the scope of the complaints procedures to establish whether the absence of support stockings caused, or contributed, to the development of this patient's DVTs and, subsequently, the PE. The adjudicator instead focused on how the hospital responded to the issues raised by the complainant ....."** [PSOW's emphasis]

In the circumstances above, the PSOW would have obtained relevant clinical advice on this matter, and – if failings in the clinical treatment had been found – would have made recommendations in relation to appropriate redress. In fact there are examples of circumstances where the Ombudsman has investigated cases of DVT in NHS settings where, sadly, deaths were involved. Some relevant summaries can be found in 'The Ombudsman's Casebook', such as case 201101484 (Issue 11, January 2013 - extract also set out below); case 201305716 (Issue 19, January 2015) and case 201302513 (Issue 16, May 2014).

**Extract from PSOW public interest investigation report (case 201101484):**

"... The Ombudsman's investigation found that the test was viewed by a nurse before Mrs Y's discharge on 14 May. Mrs Y's blood result was positive. A positive result can indicate thrombosis. The test result does not appear to have been appropriately considered, if at all, by the doctor who made the decision to discharge Mrs Y or by the Consultant with overall responsibility for her care before her discharge.

The Ombudsman concluded that the failure to consider and act upon the positive blood test result before making the decision to send Mrs Y home fell below an acceptable standard of care. This failing gave rise to a missed opportunity to make the correct diagnosis and to treat Mrs Y appropriately. The treatment that should have been given might have prevented her death. The investigation also identified a number of additional failings on the part of the Health Board."

- 2.8 With regard to (c) above, ISCAS states that the maximum it will award as a good will payment is £5,000. Whilst the PSOW often does not go higher for consolatory payments, given that the Ombudsman's function is to remedy injustice caused to a person from service failure, he does have the ability to go higher than this if the circumstances warrant it.
- 2.9 Furthermore, there are no restrictions upon what a complainant may do following the outcome of an Ombudsman's investigations and conclusions. In fact, Ombudsman investigation reports often inform complainants of events and failings which may have occurred which have not come to light or been acknowledged in the body's initial complaint response. The Ombudsman does not attach any condition on any redress payment he recommends a person receives so they may pursue legal action against a body if they have grounds to do so when an investigation has been completed.

**3. Levy**

- 3.1 With regard to the issue of a potential levy, in view of the very limited powers being sought to be able to look at complaints about private health care, I would reiterate the point that I am of the view that the resource necessary to develop and operate a levy system would be disproportionate to the number of private health care complaints that I would anticipate considering. This could always be revisited again in the future based on experience of actual casework volumes in this area.

**Nick Bennett**  
**Public Services Ombudsman for Wales**  
**18 February 2015**

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# ANNUAL REPORT 2013

Adjudicating Complaints for the Independent Healthcare Sector



# Contents

Foreword	3
Introduction	4
ISCAS Complaints Code of Practice	5
ISCAS Secretariat and Complaint Activity	6
ISCAS Governance Board	8
Independent Adjudication	9
Learning from Complaints During 2012-2013	10
Goodwill Payments, Anonymised Vignette	11
Adjudication, Facts and Figures	12
The Year Ahead	14
Appendix	15
ISCAS Members	16



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# Foreword

by Sally Taber, Director of ISCAS

**This is the 13th year of the Independent Sector Complaints Adjudication Service, ISCAS, which we formed in response to a report by the Health Select Committee. Essentially derived from best practice of the members of the trade association serving independent acute hospitals, it added the element of external adjudication by an independent body, which enabled both complainants and providers to find closure of otherwise intractable complaints under a code of practice which is equitable and fair. Free to consumers, the adjudication process fosters a culture of learning, and assures the consumer that the complaint has a positive result.**

The ISCAS Annual Report goes to subscribing members of ISCAS, government, professional and system regulators, the Parliamentary and Health Service Ombudsman and the general public via its website. It has been my endeavour to put best practice in handling complaints into the forefront of our subscribing member's minds, and to this end we have in 2013 revised and reformed the Code of Practice and expect our members to further develop their complaints management procedures to reflect these improvements.

During this year, a review of cosmetic interventions by Sir Bruce Keogh recommended that all private healthcare complaints in England should be handled by the Parliamentary and Health Service Ombudsman. The report adduced no evidence that ISCAS (to which over 90% of independent acute hospitals in England belong) was failing consumers. We believe that a public funded agency would be ill-suited to the independent healthcare sector, and have therefore put forward to government the successful ISCAS model as the foundation of a complaints management code to be mandated for the whole independent healthcare sector. This would be regulated by the Care Quality Commission in England, Healthcare Inspectorate Wales in Wales, Healthcare Improvement Scotland in Scotland and the Regulatory and Quality Improvement Authority (RQIA) in Northern Ireland.

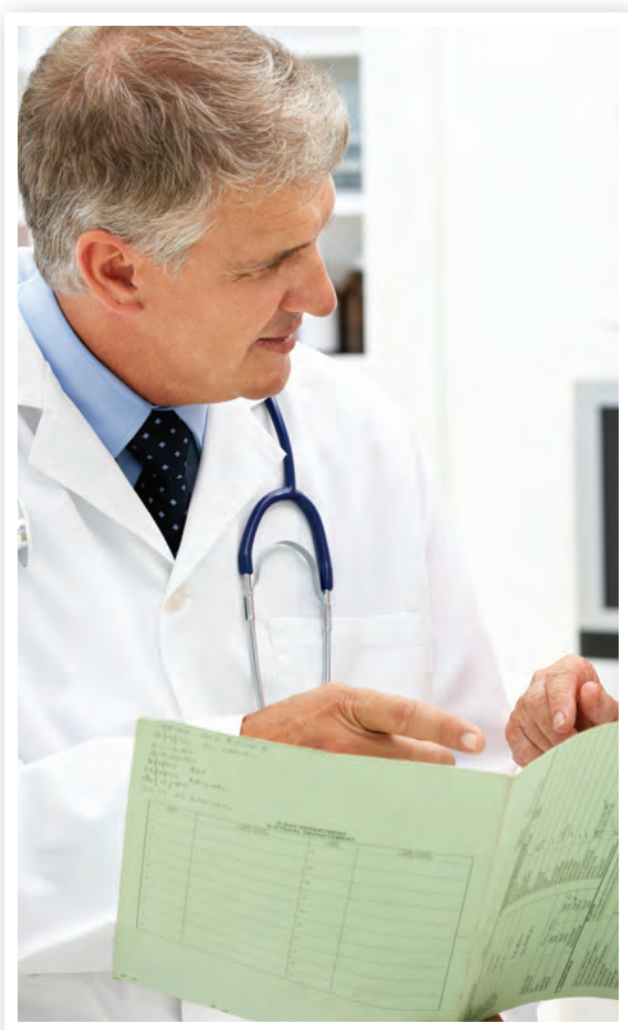
We do recognise that ISCAS serves only the healthcare providers already committed to high standards of consumer service. There are many healthcare providers who will have no recognised independent review process and this undoubtedly gives rise to difficulties. During recent years we have extended the reach of ISCAS in conjunction with the Independent Doctors Federation, whose fast growing membership encompasses doctors who are in independent practice. Patients of such doctors who need to complain now have a recognised route to resolution. In other cases we have invited new clinics to adopt the ISCAS Code – specifically the Private Ambulance Service and BCAM (British College of Aesthetic Medicine), thus extending its protection further to patients.

With our codes' recognition as suitable for the organisations they inspect, we believe that the CQC could do more to require other clinics to adopt the ISCAS Code, for the ultimate benefit of patients. Be it noted, ISCAS is not toothless, removing from membership more than one provider who has failed to abide by the Code; and reporting to the professional and system regulators instances of concern.

**ISCAS is built upon the principle of openness, appropriately in this era of the increasingly well-informed patient.**

# Introduction

The Independent Sector Complaints Adjudication Service (ISCAS) operates the well-established, and recently revised, independent healthcare sector's Complaints Code of Practice (Code) and provides independent adjudication for complaints made against ISCAS members. The 2013 Code continues to focus on local resolution, first directly with the service provider (stage 1) and then at a corporate level (stage 2). The Code sets out the standards that ISCAS members agree to meet when handling complaints about their services. Each year ISCAS sees the vast majority of complaints amongst its members are being resolved at either stage 1 or stage 2.



Adjudication with ISCAS is the stage 3 independent review process for complaints that an ISCAS member has not been able to resolve at stages 1 and 2. It is the only complaints Code offering this level of independence operating in the independent healthcare sector.

The healthcare sector is facing increased regulation from system regulators such as the Care Quality Commission and scrutiny of quality following both the Francis Report, the Review of the Regulation of Cosmetic Interventions, conducted by Professor Sir Bruce Keogh, and also the Winterbourne View report. Fundamental to the drive for quality is ensuring that the best procedures are in place for managing disputes.

ISCAS is already recognised by major regulators, including the Care Quality Commission (CQC), Health Inspectorate Wales (HIW), Healthcare Improvement Scotland (HIS) and the Regulation and Quality Improvement Authority (RQIA). CQC and HIW even signpost complainants to the service where appropriate.

Over the year ISCAS saw a small increase in membership from 68 organisations to 71. Of note many organisations have a large number of hospital services in their corporate membership of ISCAS, for example the largest has 68 hospitals.

## ISCAS Complaints Code of Practice

**The Complaints Code is the cornerstone of ISCAS and the review of the Code has been the focus of development work over the year. The new Code has a different approach and look, providing clear standards of what to expect for everyone that uses it. The effective 3 stage approach has been retained as it affords greater opportunity for local resolution.**

The review of the Code included a consultation with the ISCAS Governance Board, ISCAS members and then a wider external consultation. This latter phase ensured ISCAS engaged with regulatory bodies, medical defence organisations and importantly with patient groups. The patient groups largely welcomed the changes to the Code but wanted ISCAS to be much clearer about the interface between complaints and clinical negligence, which led to further changes. It is important to reduce barriers for complainants as they work their way through a complaints process and the new Code strives to achieve this.

The Code has retained the prescribed timescales unlike the NHS framework, as these have proven helpful in managing complaints for both ISCAS members and complainants. A major change is how the Code takes account of potential clinical negligence issues within individual heads of complaint. Under the previous Code, complaints that involved potential clinical negligence, and in particular if a legal claim had been made, would have halted the whole complaints process. This is no longer the case with the new Code and ISCAS recommends that the complaints procedure, including stage 3, continues even if a complaint relates to matters that may give rise to a potential claim.

ISCAS also responded to feedback to increase the time a complainant has to escalate their complaint at each stage. Complainants now have up to six months to escalate complaints at each of the three stages. The Code was published in June 2013 and members had until September 2013 to comply with the changes.



# ISCAS Secretariat and Complaint Activity

by Andrew Wilby

## Table 1: How people hear about ISCAS

329 people contacted ISCAS about their complaint over the reporting year in addition to complainants referring their case for adjudication. Table 1 shows how people were signposted to ISCAS however, 43% of all contacts could not recall, or were unsure where they learnt about ISCAS. From the remainder, the vast majority (21%) were using the internet and found the ISCAS website, which demonstrates the importance of continued development of this information resource. Fewer people were relying on the patient leaflet than has been the case previously.

Table 1: How people hear about ISCAS, Referral Source.

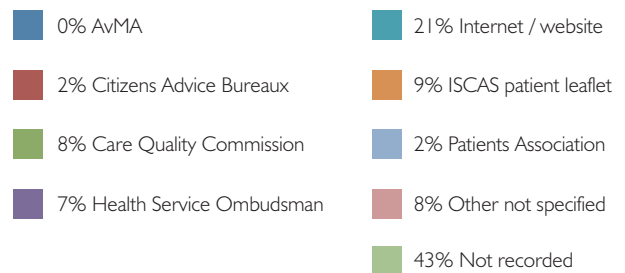
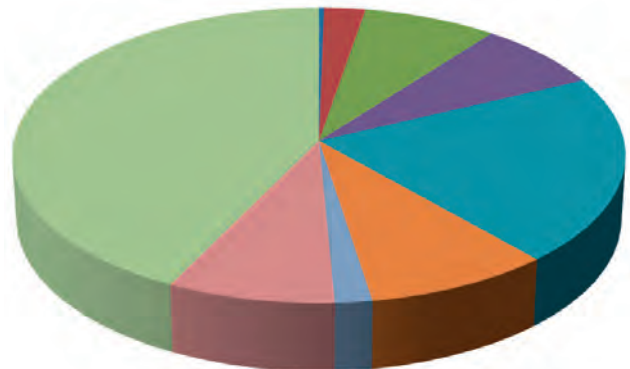
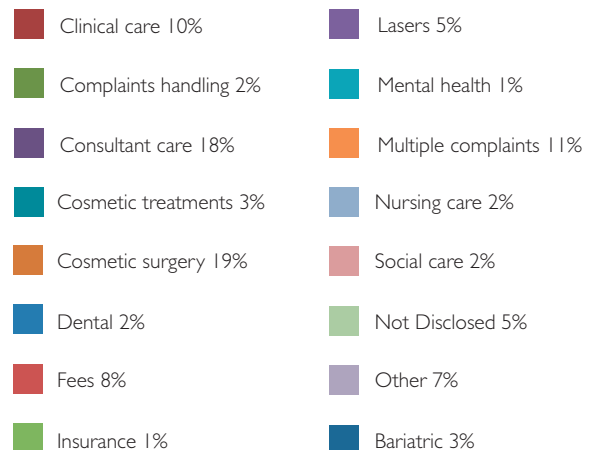
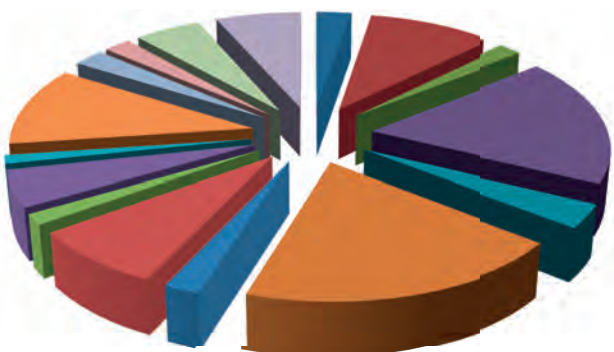
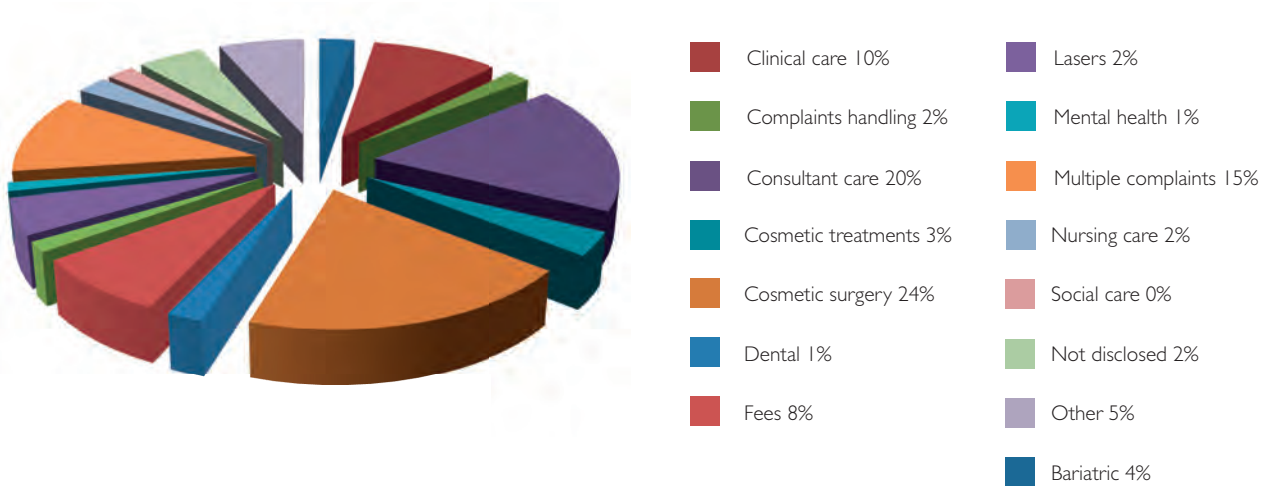


Table 2 clearly shows that most of the people contacting ISCAS had a complaint in relation to cosmetic surgery, followed by complaints about consultant care.

## Table 2: Complaint by type for all contacts at stages 1 and 2

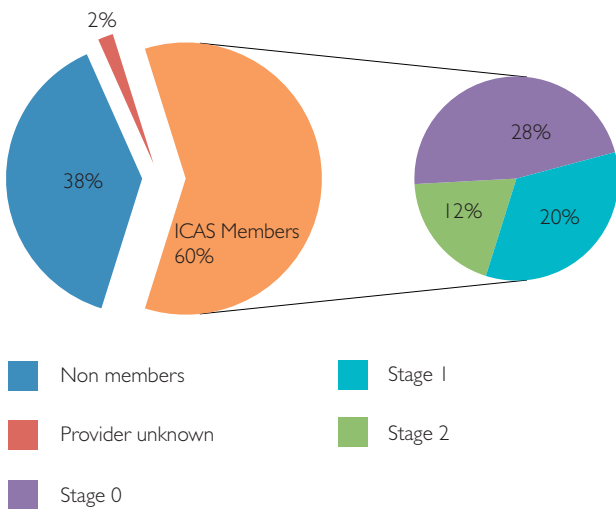


**Table 3: Complaint by type for ISCAS members**



**Table 4: Breakdown of complaints by each stage for ISCAS members**

Table 4 also shows the stage that the complaint had reached when people contacted ISCAS.



Some people contact ISCAS before embarking upon the complaints process (28%), which reflects that in some cases the ISCAS member has not publicised their complaints information effectively. Some people seek assurance about how the complaint process is working.

ISCAS had a significant increase in complaints about non-members: 38%, compared with 25% last year. This includes people seeking to complain about NHS Private Patients Units, which do not currently subscribe to ISCAS. The remit of the Health Service Ombudsman does not extend to complaints about these units, leaving users of these services with limited redress and no avenue for independent review of their complaint. This is a matter the ISCAS Governance Board continues to raise with Ministers.

The majority of people contacting ISCAS about a member are at stage 1 of the process. Some are seeking advice about next steps and confirmation that the ISCAS member is following the right procedure. In some cases, there is a wish to escalate a complaint before stage 2 has begun. A significant amount of ISCAS time is committed to helping people work through the complaints process ahead of adjudication and to advising about alternative ways to pursue complaints about non-members. This is equally important to ISCAS, as unfortunately these complainants have used a service that has no commitment to a full complaints process with an independent review stage.

# ISCAS Governance Board

Over the year, the Board has ratified the membership and focused on increasing its patient representation, including engagement with Action against Medical Accidents (AvMA) and the Private Patients Forum. The Board agreed a number of ISCAS developments to take forward:

- **Revision of the Code**
- **Seeking feedback from complainants about the service**
- **Improving the monitoring of member's compliance to the Code**
- **Reporting on ISCAS activity and adjudication outcomes**

ISCAS discontinued membership of one organisation due to continued non-compliance with the Code and providing a poor complaint service to its patients. This was an exceptional decision for the Board to make.

The Board's role in agreeing decisions about non-compliance is an important aspect of ensuring independence in the governance of the Code and demonstrating publicly that membership of ISCAS means complainants are treated and responded to properly.

## Baroness Fiona Hodgson, CBE, ISCAS Governance Board Chair

**It has been my pleasure to chair the ISCAS Governance Board since its inception at its first meeting in March 2012.**

This past year has seen the ISCAS Governance Board become well established. Getting the right balance on the Board has been an important concern. Coming from a patient background myself, I am always mindful about the importance of ISCAS engaging with patient representatives. During the past year we have invited in AvMA and the Private Patients Forum (PPF) in to talk to us about their work. We already have representation from the Patients Association and have been fortunate to have a patient representative from the Private Patients Forum.

Much work, and extensive consultation, has been put into the review of the Complaints Code of Practice. This has proved to be a challenging task which has meant that it has taken slightly longer to produce than originally anticipated. However, the new Code has been launched and I hope will be well received. I would like to thank Andrew Wilby and the ISCAS staff for all their hard work during the past year. Having such an excellent team has really helped the Governance Board enormously and we look forward to the challenges of the year ahead!



*Baroness Fiona Hodgson, CBE*

# Independent Adjudication

**Since reporting last year on the appointment of Sally Williams, ISCAS has been successful in confirming a second adjudicator, Fiona Freedland.**

Fiona Freedland is a solicitor who specialises in the field of medical law. She played an active role in the Shipman Inquiry and in policy work regarding the regulation of healthcare professionals.

For many years, Fiona worked in the field of law and healthcare policy as Legal Director for AvMA, a national charity for patient justice. In addition to her work for

ISCAS, Fiona is an Adjudicator for the Solicitor's Regulation Authority and sits as a Chair of the Nursing and Midwifery Council Fitness to Practice Panels. She is a lay assessor for the National Clinical Advisory Service (NCAS). Fiona has a masters degree in Medical Law and Ethics and she undertakes several public speaking roles on the subject of Medical Law and Ethics which is a particular interest of hers. She is an accredited mediator with CEDR.





## Learning from Complaints During 2012-2013

### Sally Williams, Adjudicator

**An important and valued outcome of the complaints handling process is taking action to improve services and prevent the same problems happening again. Whenever an independent adjudicator reaches a decision on a complaint, they send a decision letter to the complainant and copy this to the ISCAS member the complaint was about.**

The letter to the ISCAS member usually contains advice on how the organisation could improve its complaints handling. Often ISCAS members are asked to report back to ISCAS about actions they are taking as a consequence of this advice. In this way, independent adjudication seeks to be part of a circle of learning from complaints.

Where themes arise in the advice given to ISCAS members about specific complaints, these are shared with all ISCAS members through the Adjudicator's Monthly Message (this can be found at [www.iscas.org.uk](http://www.iscas.org.uk) in the news section). Over the last year the monthly message has touched upon a broad range of issues. These include the thorny issue of complaints and clinical negligence. It is not uncommon for complaints to reach the adjudicator that stray into the field of clinical negligence, however ISCAS members often express uncertainty over whether the complaints procedures can continue where a complaint appears to have arisen as a result of possible clinical negligence and compensation is sought. The new ISCAS Code, published in June 2013, seeks to be clearer on this point and reflects practice in NHS complaints handling. It states: 'Even if independent advice is being sought about possible clinical negligence the ISCAS Code recommends that the complaints procedure and ultimately stage 3 adjudication is continued.'

#### **Other themes from the year include the following:**

*1. Handling complaints received by email*, including establishing a clear process for managing email interactions with complainants. This includes introducing timeframes that remove the pressure to give an immediate and, sometimes less considered, response and implementing a single database to log emails from the complainant and any organisational responses.

*2. Demonstrating caution about what is contained in emails about complaints*, which comprise an increasing proportion of complaints files and are potentially disclosable under the Data Protection Act. The informality of email can lure users into disregarding rules about confidentiality and the transfer of sensitive information. In reality, the risk of confidentiality breaches of personal information is much greater.

*3. Ensuring that protocols governing the storage of patient records are adhered to by consultants with practising privileges and that information sharing happens to support complaints handling*. Missing records make it much harder to establish the facts of a case and can create suspicion of a cover-up. Gaps often occur around consultant's clinical notes or photographs and imaging taken by consultants.

*4. The use of experts to advise on the clinical aspects of complaints*, including the importance of independence and the absence of any conflict of interest, having a clear documentation trail, and transparency over the identity of the expert and the opinion they provide.

*5. Managing complaints that involve third parties, such as clinical negligence lawyers or a professional regulatory body*, including whether there are elements of the complaint that the organisation should answer regardless of whether other parties are involved, what purpose will be served by halting a complaints process while third party investigations take place, and how the interests of the complainant and those complained about are best served.

*6. The potential to resolve complaints more swiftly by offering to meet with complainants early on*. This can be helpful in resolving complaints in a collaborative way.

*7. Greater use of templates* to ensure that responses to complaints routinely contain the right information.

## Goodwill Payments, Anonymised Vignette

**When a complaint reaches stage 3, the independent adjudicator is able to consider a wide range of remedies, of which one is to award a goodwill payment. Under the new code a goodwill payment can be awarded 'in recognition of shortfalls in the complaint handling, inconvenience, distress, or any combination of these, up to a limit of £5,000'. Often the award of a goodwill payment reflects all of these things, but issues have arisen over what the phrase 'shortfalls in the complaint handling' means in practice.**

One case that illustrates this point concerns a complainant who underwent major surgery. Pre-operatively, the patient had been assessed as having three factors that increased her risk of Venous Thromboembolism (VTE) and identified her as needing anti-embolic (TED) stockings from admission until she was fully mobile. However, when she arrived at hospital, stockings in this patient's size were not available. Alternative mechanical prophylaxis was used to assist the prevention of VTE, but this was for only 24 hours and she was discharged from hospital without any support stockings. On two occasions after discharge home, the patient complained to hospital nursing staff about pain in her upper legs; these concerns were not escalated to her consultant. When she saw the consultant, he diagnosed bilateral deep vein thrombosis (DVT) and she later developed a pulmonary embolism (PE).

It was beyond the scope of the complaints procedures to establish whether the absence of support stockings caused, or contributed, to the development of this patient's DVTs and, subsequently, the PE. The adjudicator instead focused on how the hospital responded to the issues raised by the complainant, and found that the hospital did not respond adequately regarding its failure to provide the stockings that the patient had been identified as needing, that there was no evidence that consideration was given to postponing the procedure, and that it was not clear why stockings were not provided for use post discharge. The adjudicator also found that this patient was not well served during interactions with nursing staff post-discharge.

Positively, the handling of this complaint had been within the timeframes set out in the code and the adjudicator did not uphold heads of complaint that related to specific aspects of complaint handling. However, complaints handling covers the whole process, from responding to complaints within timeframes, the investigation and inquiry, as well as

the remedies offered to the complainant. The adjudicator considered that as part of remedying the core complaint as set out above, the hospital should have made a gesture of goodwill.

The hospital considered the goodwill award made by the adjudicator – which fell into the category of 'very serious' – to be 'excessive'. It was concerned that the adjudicator had implied causality between the care delivered by the hospital and the complications the patient had experienced, and thought this was reflected in the goodwill payment awarded. The hospital was concerned that in paying the award, it risked implying acceptance of causality should the patient proceed to litigation.

The adjudicator responded that the size of the award reflected the seriousness of the issues and the distress caused to the complainant and her spouse. Paying it need not imply any acceptance of causality and appropriate caveats could be attached, such as expressly stating that it was made on an ex gratia basis, without prejudice and without any admission of liability. It was therefore incorrect to suggest that it would prejudice any clinical negligence claim in the event that the complainant decided to pursue this avenue.

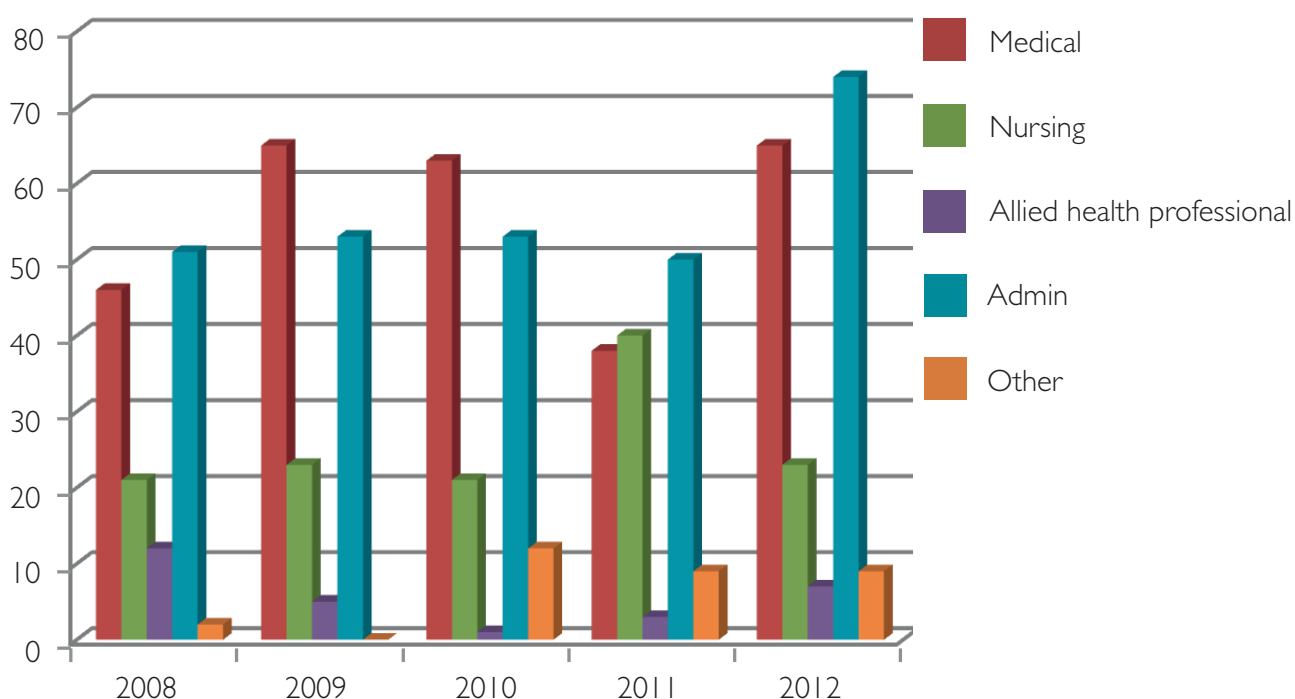
This case highlighted the difficult path that ISCAS members and adjudicators often tread when handling complaints about issues that could potentially give rise to a clinical negligence claim. It also exposed a lack of transparency about the basis for determining the size of an award. This is something that the team of adjudicators are planning to address with ISCAS by developing guidance on the type of circumstances in which an award may be appropriate and the factors to consider in deciding the level of award. Such guidance can only be indicative, as each case must be considered on its own merits, but it should help to increase transparency of the formulation of awards.

## Adjudication, Facts and Figures

The number of heads of complaint has risen since last year and may, in part, explain the increasing complexity of many of the cases that come to adjudication (Table 5). Last year, for the first time, adjudication saw more complaints about nursing and a decrease in medical complaints. This year there was a return to a higher number of medical complaints, as seen in table 5. It is important to note that these are complaints that are not resolved at stages 1 and 2; they do not necessarily reflect the scope of complaints received at those earlier stages by ISCAS members.

Complaints relating to administration, which includes complaints handling, have always been significant, however they have increased this year following a slight decrease last year. This has implications for how members comply with the code, which has led to the adjudicators recommending that ISCAS has oversight of actions taken by members organisations to improve complaints.

**Table 5: Total heads of complaint year on year**



**Table 6: Heads of complaint upheld by Independent Adjudication**

48% heads of complaint were upheld under Independent Adjudication:	
Medical	33% of all medical complaints were upheld
Nursing	43% of all nursing complaints were upheld
Allied health professional	42% of all AHP complaints were upheld
Administrative	66% of all administrative

**Expert Clinical Advice**

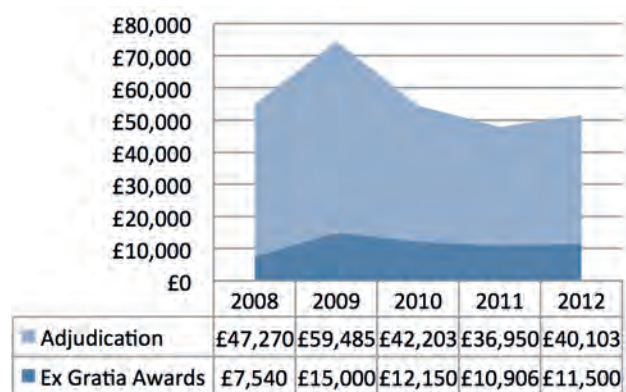
The use of expert advice is essential when a case involves a clinical matter that an Adjudicator needs to make a decision about, and demonstrates to the complainant the evidence and rationale the Adjudicator has relied upon. This year saw a rise in the number of cases requiring expert clinical advice from just 1 of the 28 cases last year to 8 of the 38 cases in 2012/13. The total costs associated with the expert advice came to £6,646.

**Costs of adjudication**

Since 2009 the cost of adjudication has reduced. However, during 2012 the overall cost rose slightly, which is shown in Table 7. There are a number of reasons for this. There has been an increase in the total number of cases coming to adjudication (Table 7). As noted previously, the cases coming to stage 3 adjudication are increasingly complex in nature, which has resulted in an increase in the resource required to complete an adjudication. ISCAS had for five years made no increase in the fees paid to the adjudicators and 2012 saw a reasonable increase in these fees. Such costs are met by the ISCAS members and adjudication remains free to complainants, as is the case with the Health Service Ombudsman.

**Table 7: Year on year adjudication costs**

The Code has a focus on learning and improving from complaints although it does allow the Independent Adjudicator to make a goodwill payment in recognition of inconvenience and distress. Table 9 shows there has been a slight decrease in the number of cases where a payment was made (down from 57% to 50%). The average cost of a payment was higher in 2012 compared with 2011, but was less than in previous years. The maximum payment that can be awarded is £5000, although the majority of cases that attract the payment are between £150 to £500. The maximum awarded for a single adjudication case was £3000.



**Table 8: Goodwill payments**

	2008	2009	2010	2011	2012
Goodwill payments made					
Cases in which payments made	14	21	17	16	19
% of cases attracting a payment	72%	78%	77%	57%	50%
Total cost payment £	7,450	15,000	12,150	10,906	11,500
Average cost payment £	573	714	714	390	605

# The Year Ahead

Over the next year we will be reviewing the governance of ISCAS to continually improve the service. The governance arrangements of the Board will be further developed, including a commitment to increase the patient and public representation. ISCAS is seeking to raise its profile in the healthcare sector, firstly with a formal launch event of the ISCAS Code to sector stakeholders. ISCAS members are also likely to experience increased monitoring of their compliance with the Code as an integral part of membership application and renewal.

## Management Accounts for 2012 - 2013

	To
<b>ISCAS</b>	<b>30/04/13</b>
Subscriptions (£)	<u>52,714</u>
	<u>52,714</u>
Direct expenses	<u>38,455</u>
Gross profit /(loss)	<u>14,259</u>
	<u>          </u>
Overheads	<u>20,735</u>
Net profit / (loss)	<u>(6,476)</u>

*ISCAS is a not for profit scheme that reviews member subscriptions on an annual basis, with the intention that member subscriptions will cover the ISCAS operating costs.*



## Appendix I

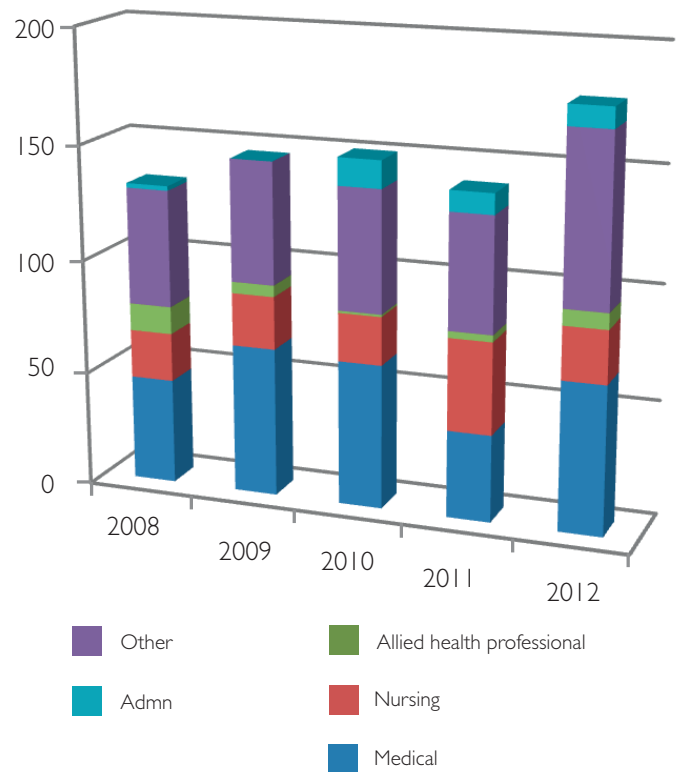
**Table 9: Total number of complaints and by complainant type**

	2008	2009	2010	2011	2012
Total number of complaints adjudicated	18	27	22	28	38
Total heads of complaints	132	146	150	140	178
% Female complainants	72%	63%	82%	64%	66%
% Male complainants	28%	37%	18%	36%	34%
Adjudication panels held	0	0	1	0	0

**Table 10: Heads of complaint year on year**

	2008	2009	2010	2011	2012
<b>Total heads of complaint</b>	<b>132</b>	<b>146</b>	<b>150</b>	<b>140</b>	<b>178</b>
Medical	46	65	63	38	65
Nursing	21	23	21	40	23
Allied health professional	12	5	1	3	7
Admin	51	53	53	50	74
Other	2	0	12	9	9
<b>Total heads of complaint not upheld</b>	<b>106</b>	<b>77</b>	<b>89</b>	<b>73</b>	<b>95</b>
Medical	38	34	36	24	43
Nursing	15	11	12	15	13
Allied health professional	12	3	1	1	4
Admin	39	29	32	30	27
Other	2	0	8	3	8
<b>Total heads of complaint upheld</b>	<b>26</b>	<b>69</b>	<b>61</b>	<b>68</b>	<b>83</b>
Medical	8	31	27	14	22
Nursing	6	12	9	25	10
Allied health professional	0	2	0	2	3
Nursing	12	24	21	20	47
Other	0	0	4	7	1

**Table 11: Nature of heads of complaint coming to Independent Adjudication**



# ISCAS Members

**Aspen Healthcare Group**

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**Ayr Partnerships in Care**

---

**Benenden Hospital Trust**

---

**BMI Healthcare**

---

**Bupa Cromwell Hospital**

---

**Cambian Group**

---

**Castle Craig Alcohol & Drug Rehab Clinic**

---

**Castlebeck Care (Teesdale) Ltd**

---

**Circle Partnership UK**

---

**Clock House Healthcare Limited**

---

**Destination Skin**

---

**Linia**

---

**Fairfield Independent Hospital**

---

**Glenside Hospital**

---

**HCA International**

---

**Huntercombe Hospital - Edinburgh**

---

**Independent Doctors Federation**

---

**King Edward VII Hospital Sister Agnes**

---

**Lighthouse Phoenix House, Welshpool**

---

**Llanarth Court Partnerships in Care**

---

**Ludlow Street Healthcare**

---

**Make Yourself Amazing**

---

**Marie Stopes International**

---

**Mental Healthcare UK Ltd**

---

**NE Oasis**

---

**New Life Clinic**

---

**New Victoria Hospital**

---

**Newport Cardiac Centre**

---

**North West Independent Hospital**

---

**Nucleus Healthcare (now closed)**

---

**Nuffield Health**

---

**Ophthalmic Surgery Centre (North London) Ltd**

---

**Ramsay Health Care UK**

---

**Rushcliffe Care Group**

---

**Sancta Maria Hospital**

---

**Scottish Epilepsy Centre (Quarriers)**

---

**SERCO Health**

---

**Sk:n Ltd**

---

**Spencer Private Hospitals**

---

**Spire Healthcare Ltd**

---

**St. Joseph's Private Hospital**

---

**Surehaven Glasgow**

---

**The Alexander Clinic**

---

**The French Cosmetic Medical Company**

---

**The Horder Centre**

---

**The Hospital Group**

---

**The Hospital of St John and St Elizabeth**

---

**The London Clinic**

---

**The Medical Chambers Kensington Limited**

---

**The Priory Group of Companies**

---

**The Raphael Medical Centre**

---

**The Royal Hospital for Neurodisability**

---

**Transform Medical Group**

---

**UK Specialist Hospitals**

---

**Ulster Independent Hospital**

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**UME Diagnostics**

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**Vale Healthcare Ltd**

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**Your Excellent Health Service**

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# Briefing on ISCAS

## Finance Committee Hearing - 4 February 2015

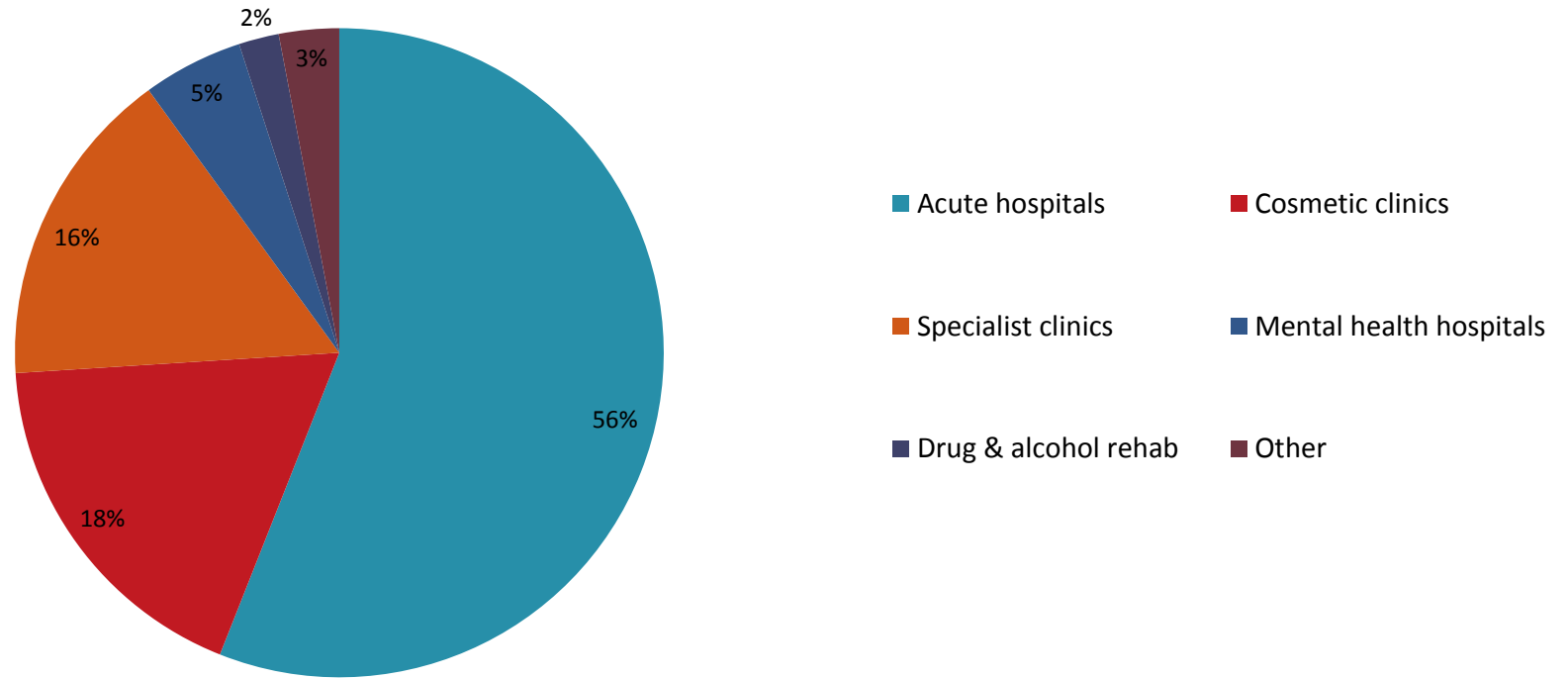




# Membership of ISCAS

- ISCAS deals with complaints related to privately-funded treatment
- 98% of all UK regulated independent healthcare providers
- 57 members across the UK – 234 individual hospitals/clinics at last count
- 5 providers joined ISCAS in 2014

# ISCAS Members – types of provider



# Key ISCAS documents

- Cornerstone is the Code of Practice (2013)
- Patient Guide for Making Complaints (2014)
- Adjudicators Goodwill Payments Guide (2014)
- All available on the ISCAS website: [www.iscas.org.uk](http://www.iscas.org.uk)

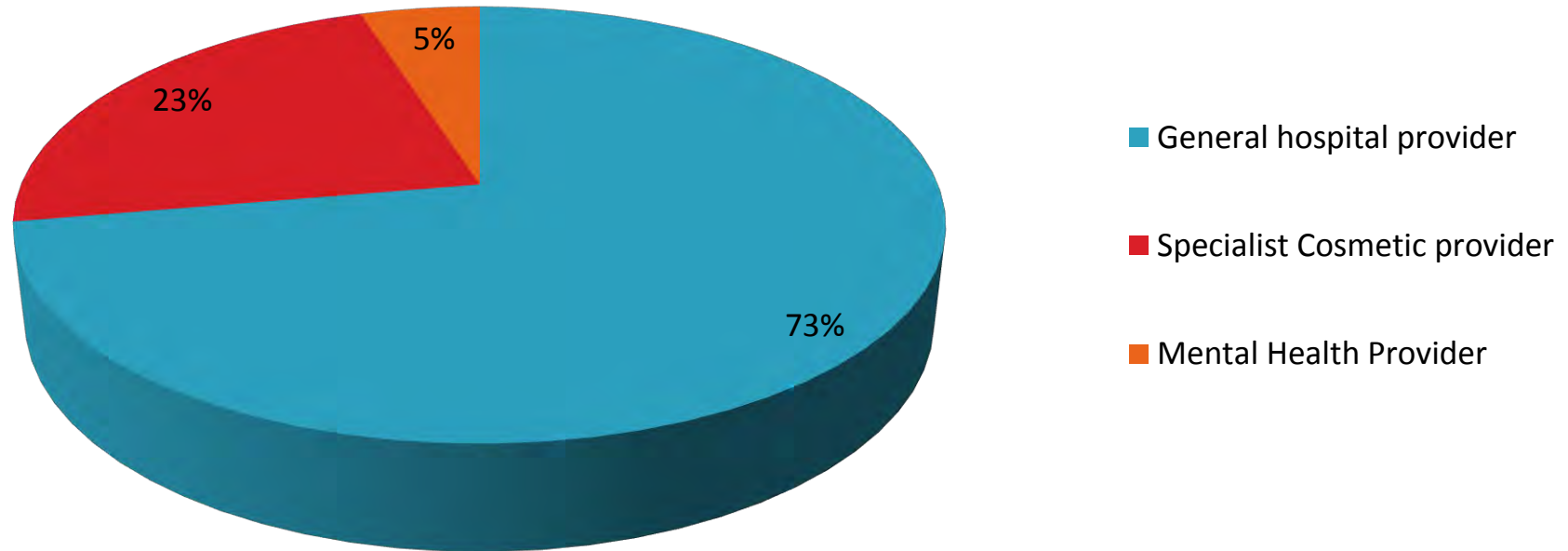
# Stage 1&2 contacts to ISCAS in 2014

- 320 people contacted ISCAS re a complaint
- 63% of contacts concerned ISCAS members
- 70% of referrals came from four sources:



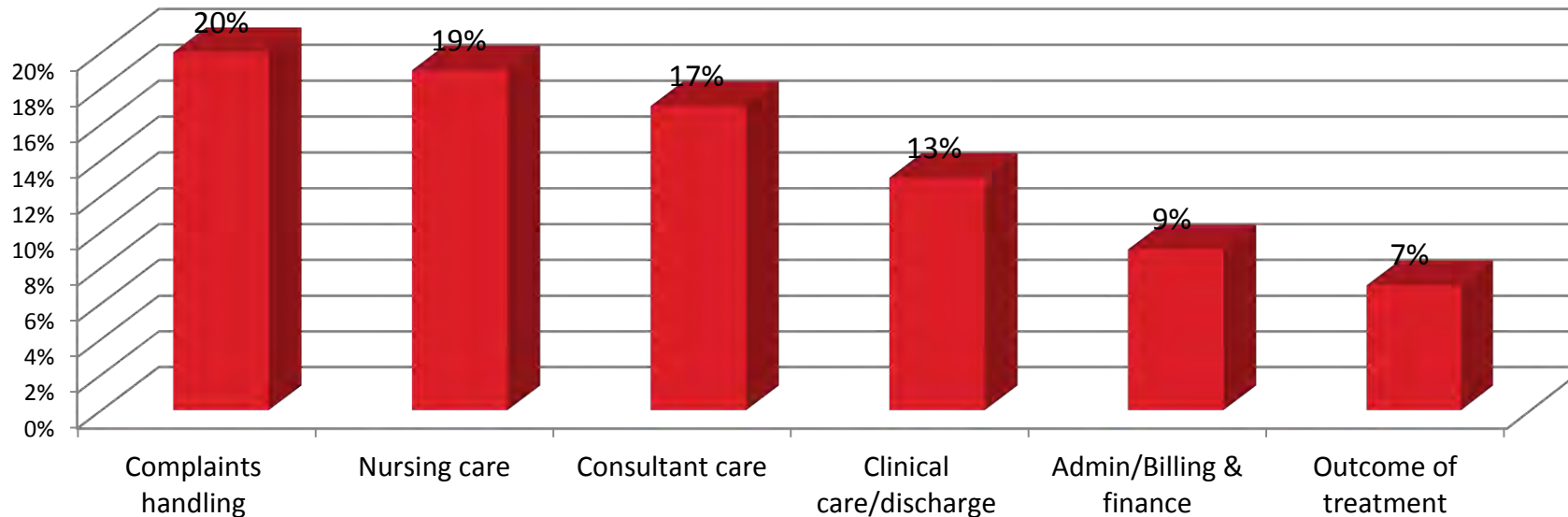
# Stage 3 Adjudication

40 Stage 3 Adjudications in 2014



# Heads of Complaint at Stage 3

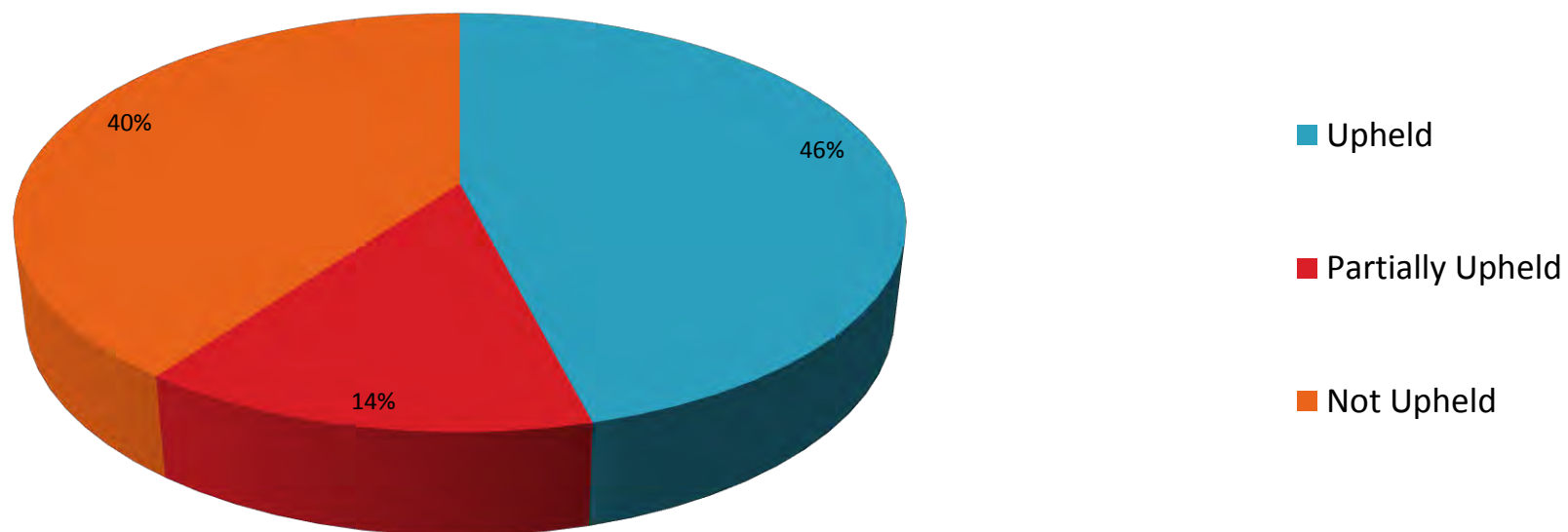
- A total of 151 Heads of Complaint were adjudicated on in 2014.
- Breakdown of 85% of Heads of Complaint :



# Findings on Heads of Complaint

Adjudicator Findings on the 151

Heads of Complaints



# Stage 3 Adjudication Costs 2014

- Individual members bear the cost of adjudications.
- Average cost of an adjudication was £2430.
- Goodwill payments made in 88% of cases.
- Average size of a goodwill payment was £400.
- Range of goodwill payments awarded was from £100 to £1500.



# ISCAS Services - The Way Forward

- Increasing the two-way dialogue with ISCAS members
- Guidance for members on what to include in your complaints policy
- Continuing information sharing with the CQC and extending this to all healthcare regulators
- Regular compliance checks on members
- Consultation with members on the Code of Practice

# Review of the Code of Practice

Issues from the ISCAS Management Team:

- Delays in completing Stage 2 Reviews
- Clarity on exceptional circumstances that would extend the time limit for investigating a complaint.
- Engagement with CEOs at the Stage 3 level.

# Review of the Code of Practice

Considerations arising from the Patients Association's criticisms of the PHSO

- Appeals to Stage 3 Adjudication.
- Demonstrating change has occurred as a result of adjudication
- Face to face to meetings between complainants and Adjudicators
- Draft decision letters sent to complainants for comment

# How ISCAS Stage 3 Adjudication Works

# 1. Who we are, what we do, how we do it

# Who we are

- Currently three independent adjudicators
- Variety of backgrounds, including health policy, health professional standards, complaint handling, consumer policy, regulation and the law
- ISCAS looks for adjudicators with the skills and competencies required for the role, including:
  - demonstrable integrity
  - experience and ability of reaching considered and unbiased decisions affecting other people
- Impartiality

# What we do

- Complaints Code of Practice (2013) – 3 stage process
- Review and make decisions on complaints by people who are not satisfied with the results of the internal complaints-handling processes of the hospital or clinic that provided their care
- In other words, the complaint must have exhausted the provider's two-stage process:
  - Stage 1 – local resolution
  - Stage 2 – internal complaint review
- Independent adjudication is Stage 3 – the **final stage of the process**

# How we do it

- Desk-based review of all the documentation associated with a complaint
- Draw on expert advice for clinical aspects of complaints
- Issue decisions in the form of a ‘letter’ to the complainant and the ISCAS member



### 1. Complaint escalated to ISCAS

- ISCAS confirms stage 2 has been completed, seeks consent for release of documents, requests file from provider

### 2. Complaint file sent to Adjudicator

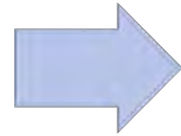
- Acknowledge receipt of file
- Undertake preliminary review – identify gaps, decide whether expert advice might be needed

### 3. Review documentation

- Prepare chronology
- Note observations as go through it
- Pay attention to timeframes
- Flag any breaches of Code

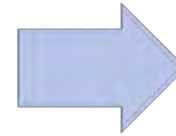
#### 4. 'Key heads' letter

- Set out understanding of main concerns – ask complainant to highlight anything misinterpreted or overlooked
- Address outcome sought
- CQC



#### 5. Questions for expert

- ISCAS instructs expert and agrees fees
- Adjudicator sets out questions under the relevant head of complaint
- Share chronology



#### 6. Prepare adjudication

- Informed by examination of documentation
- Draw on expert report
- Decisions made in isolation

When the complaint has been decided upon, the Adjudicator submits six documents to the ISCAS team

Decision  
'letter'

Covering letter  
to provider

Data sheet for  
ISCAS

List of all those  
named in the  
decision letter

Chronology

Invoice

# Post-decision

- Note any positive feedback

*'Thank you very much for reviewing this matter in such comprehensive detail.'*  
Complainant

*'I am really happy that you responded to my complaint and investigated my case.'*  
Complainant

*'I am extremely grateful to ISCAS for providing the opportunity for a proper and full investigation of my husband's treatment.'*  
Complainant

# Post-decision

- Note – and learn from – any negative feedback

*'I am not disappointed but disgusted with your decision.'*  
Complainant

*'I am not the problem it is the regulation of the plastic surgery industry that is the problem and until this happens more and more cases like mine will land on your desk.'*  
Complainant

Back Page 51

# Post-decision

- Signpost other organisations – e.g. General Medical Council, right to seek legal advice
- Emphasise finality of decision and completion of complaints process

## 2. Underpinning aims: Agile, responsive, transparent and fair

*‘Dealing with complaints. Easy, 6 steps; listen, sympathise, don’t justify, make notes, agree a course of action and follow through.’*

Roy Lilley, *nhsManagers.net*, 22 January 2015

Can it be this simple?



# Stronger stage 3 review

- Revising the documentation sent to complainants
  - Including the format of adjudication decision letters
- Standardising the approach to capturing the key heads of complaint
  - Developing a 'heads of complaint library'
- Redesigning the way we instruct experts

# 3. Goodwill payments

*‘Most of those who complain about NHS services do not seek financial redress. They do so because they wish to have their concerns and experiences understood and for any failings to be acknowledged and put right so that others do not suffer the same avoidable harm.’*

House of Commons Health Committee, 13 January 2015

Do people who complain about private healthcare seek these same outcomes?

# Discretion

- Independent Adjudicators have the discretion to award a goodwill payment of up to £5,000.
- Primary purpose: to reflect any distress or inconvenience arising from the issues complained about, or as a result of pursuing the complaint
- NOT a refund or compensation – beyond the complaints process to establish causation, liability or negligence (concepts tested in court)
- BUT do take into account offers or reimbursement made by provider
- Focus on whether service fell below the standards that could reasonably be expected

# Goodwill Payments Guide

- Compliance with the Code (e.g. minor or significant breaches)
- Time taken to respond to the complaint
- The provider's response (e.g. tone / substance of responses)
- The complainant's actions (e.g. whether delays partly caused by complainant)
- Nature of complaint (e.g. isolated failing v. repeated problems)
- Impact on complainant (e.g. distress, inconvenience, pain and suffering)
- Other factors (e.g. financial burden arising from making complaint)

# Provider's response to the complaint

Pack Page 60

Mitigating factors	Aggravating factors
Evidence that complaint has been taken seriously (e.g. proper investigation, attempts to resolve expeditiously)	Lack of evidence that complaint has been taken seriously /insufficient investigation
Tone of responses was constructive, empathetic and sincere	Tone of responses was unhelpful to the resolution of the complaint
Attempts made to remedy at an early stage (e.g. sincere apology, steps to rectify, review appointment offered)	Little evidence of attempts to remedy
Action reported to prevent recurrence/improve services and/or identify shortfalls	Complainant was required to take additional or unnecessary steps

# Goodwill Payments Guide

- Four tier scale

Scale	
Tier 1 (moderate)	Up to £500
Tier 2 (significant)	£500 - £1,000
Tier 3 (serious)	£1,000 - £3,000
Tier 4 (very serious)	£3,000 - £5,000

# 4. Identifying learning



# Examples of learning – complaints

- Weaknesses in the investigation of complaints at local level
  - Failing to gathering statements from doctor providing treatment
  - Failing to document evidence in a systematic way
  - Statements that are unsigned and undated
- Breaches of the Code
  - Timeframes tends to be a particular issue
- Lack of process for dealing with communications from complainants by email
  - Complaints management can quickly unravel without a clear process here

# Examples of learning – services

- Failure to give sufficient attention to recording the detail of conversations about consent
  - Doctors' clinical notes sometimes give scant reference to risks
  - Notes closed to scrutiny by illegible handwriting
  - Consent forms often have the appearance of being written in haste
- Misleading or exaggerated claims about the skills and experience of doctors
  - E.g. describing one doctor as a 'surgeon' and a 'specialist Gynaecologist and Obstetrician' who was not on the General Medical Council's specialist register and was in fact a GP

# Escalating concerns

- Concerns over how ‘Patient Coordinators’ were being used in one cosmetic surgery organisation
- The number of telephone calls another cosmetic surgery organisation made to a prospective patient
- Failures by one hospital group to deliver the distinct two-stage complaint process The impersonal and anonymous letters of response sent by one provider

Leighton Andrews AC / AM  
Y Gweinidog Gwasanaethau Cyhoeddus  
Minister for Public Services



Ein cyf/Our ref: LF-LA-0184-15

Llywodraeth Cymru  
Welsh Government

Jocelyn Davies AM  
Chair of Finance Committee

17 February 2015

Dear Jocelyn,

**Inquiry into the Consideration of Powers: Public Services Ombudsman for Wales**

You wrote to all Cabinet Ministers on 27 January asking for their views on the inquiry your committee has begun. I have been asked to respond on behalf of us all.

These are important proposals and every member of the Cabinet values the role the Ombudsman plays in Wales to help deliver the best for the Welsh citizens, promotes lessons learnt and works to improve public service.

In the past 18 months both the past PSOW and the current PSOW have raised the prospect of new powers for their office.

The Government has on two occasions commented on those suggested powers: more recently to you and previously to the chair of the Communities, Equalities and Local Government Committee.

Broadly, we said that there were some issues we could support, but taking the legislation forward is a matter for the Assembly Commission. We noted that the Assembly's programme of legislation is already very busy for the current term, and there is little prospect of a Government bill in the Fourth Assembly. When we met on 15 January, I said the timetable you alluded to seemed ambitious and it may be better to take this forward after the 2016 Assembly elections.

The Ombudsman has asked for new powers which would change the nature of the Ombudsman service, moving it from the role of an independent adjudicator championing citizens' concerns, working to persuade and influence public bodies to adopt good practice and learn lessons so that their services improve, to one where the Ombudsman's office becomes more of an enforcer issuing statutory guidance in their own right. It is something your committee may want to consider in taking evidence if the shift is something we want in Wales.


It is worth noting that a substantial part of the public sector is currently preparing for major change. The White Paper *Reforming Local Government: Power to Local People*, published recently, asks important questions about the future size, roles and functions (including complaints and scrutiny) of local authorities.

In addition, the Well-being of Future Generations (Wales) Bill will require specified public bodies to improve the economic, social and environmental well-being of Wales by contributing to the achievement of a set of “well-being goals”. The responsibility for ensuring these duties are adhered to will be vested in a Future Generations Commissioner for Wales who will be able to conduct reviews into how a public body is taking account of the long-term impact of what the body does under a well-being duty.

The Well-being of Future Generations (Wales) Bill also provides for a separate power enabling the Auditor General for Wales to examine specified public bodies for the purposes of assessing the extent to which a body has acted in accordance with the sustainable development principle when setting well-being objectives and taking steps to meet those well-being objectives.

If the Ombudsman is given powers to conduct ‘own initiative inquiries’, this could potentially duplicate the review powers of the Commissioner and examination powers of the Auditor General for Wales. The nature of the Well-being of Future Generations Bill and its well-being goals means that there are a wide range of issues the Commissioner and Auditor General for Wales could potentially look at given their focus on public services, and these may conflict with an additional power for the Ombudsman to conduct inquiries. If this provision is made we would want to ensure that the powers of the Future Generations Commissioner and Auditor General for Wales are distinguished from those of the Ombudsman. It may benefit the Ombudsman’s office to make the case for new powers after these public service reforms embed and take effect.

I hope that these comments are helpful.

A handwritten signature in black ink, reading "Leighton Andrews". The signature is written in a cursive style. Below the signature is a horizontal line that ends in an arrowhead pointing to the right.

**Leighton Andrews AC / AM**  
Y Gweinidog Gwasanaethau Cyhoeddus  
Minister for Public Services



Jocelyn Davies AM  
Finance Committee Chair  
National Assembly for Wales

Cambrian Buildings  
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Cardiff CF10 5FL

Adeiladau Cambrian  
Sqwâr Mount Stuart  
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19 February 2015

Dear Jocelyn

Thank you for the opportunity to submit comments to the Finance Committee's inquiry into the consideration of powers of the Public Services Ombudsman for Wales (the Ombudsman). You have specifically asked me to provide comment on the following:

**1. Could own initiative investigations by the Ombudsman conflict with the role of independent commissioners?**

I believe there is an opportunity for the Ombudsman to be allowed to act in a more proactive role through for example own initiative investigations, especially where there is evidence to suggest from individual cases that there could be a wider public interest issue. Many older people tell me that they complain not just to resolve their own concerns but also to ensure that there is not a repeat occurrence of the same mistakes and to prevent the same thing happening to someone else or to someone else's family.

I would fully expect that I would be consulted about any own initiative investigations which impact upon older people and be able to contribute towards the investigation and that any changes to legislation places on the Ombudsman a requirement to consult.

I already meet with the Auditor General for Wales to share our intended work programmes, identify areas of common interest, minimise duplication of effort and resource and discuss how our two organisations can work to support each other to achieve shared outcomes for older people in Wales. This has been achieved without conflict and could work along similar lines with the Ombudsman.

**2. Is there a need for a co-ordination role between the independent commissioners, the Ombudsman and the Auditor General for Wales to help their investigations and recommendations to improve public services?**

I do already meet regularly through the year with the Ombudsman to discuss our respective casework and work programmes. There are also strong relationships with officers in both organisations that ensure that information about key investigations is shared.

Section 16 of the Commissioner for Older People (Wales) Act 2006 (the Act) covers 'Working jointly with the Public Services Ombudsman for Wales'. Section 17 covers 'working collaboratively with other ombudsmen' e.g. the Children's Commissioner for Wales and Welsh Language Commissioner for Wales.

The requirements of the Act address:

- Informing the Ombudsman about a case
- Consulting the Ombudsman about a case
- Co-operating with each other in relation to the case
- Conduct a joint examination of a case
- Prepare and publish a joint report

Underpinning the legislation we have developed a Memorandum of Understanding which sets out in more practical terms how we would work collaboratively together and extends to joint training, sharing information about trends and pro-active sharing of relevant reports.

The memorandum states that the overarching aim is to contribute to the development of excellent public services in Wales that respect and promote the human rights of citizens in Wales and are sensitive to the needs of the most disadvantaged and vulnerable members of society and make best use of public resources. I see no reason why this Memorandum could not be extended to cover own initiative investigations.

**3. Would the proposed reforms of the Ombudsman's role be better carried out in advance of wide public sector reforms, or after?**

I would favour any reforms of the Ombudsman's role to be carried out in advance of wide public sector reforms so there is no delay in investigating concerns raised by individuals.

Additionally I have also considered some of the other questions listed in Annex A to your request:

- **Oral complaints**

Whilst I acknowledge the importance of a written record to support a complaint; insisting that a complaint is in writing before any action can be taken can create a barrier to some older people and others with protected characteristics that may need assistance in documenting a complaint.

I would hope that in accordance with the principles and requirements of the Equality Act 2010, that reasonable adjustments could be made to allow people to make complaints by email, in person or by telephone that could later be confirmed in writing or through alternative means e.g. with support from an advocate or where relevant an interpreter.

- **Complaints handling across the public services**

I would welcome a model complaints policy which all public bodies would be obliged to adopt, provided that the language used is accessible, there is a named individual appointed to investigate the complaint and that timelines for investigation and response are prompt.

Whilst I would always encourage older people to trust in the complaints processes of public bodies, as this is a proven way that public bodies can learn from mistakes and strengthen their own processes, there can however be some cynicism and a model complaints policy would go some way to alleviate this concern.

Any model complaints policy would however need to be supported by training and promotional materials for staff in public bodies and for people who use services. There would also be an impact on other organisations that provide support in making a complaint such as Community Health Councils and Citizen Advice Bureaux. I would be supportive of any move to improve the way in which complaints are investigated across public bodies in Wales.



- **Ombudsman's jurisdiction**

My preference would be for the pathway followed by the individual to form the basis of the pathway of the complaint investigation and not be limited to just the public bodies along that pathway; individuals do not live their lives in such linear patterns.

As the future model of public service delivery is likely to become more diverse and extend to social enterprises and other innovative public/private partnership arrangements then this pathway approach needs further consideration.

- **Links with the Courts**

Many of the people that contact me are looking for restorative justice and an assurance that no-one has to go through what they have been through. Making a complaint can be a very emotional experience as can the pursuit of remedy through a legal challenge.

Careful consideration must therefore be given to the best interests of the individual as to which are the most effective paths to follow. There needs to be honesty at the outset in what can and cannot be achieved. Support must be available to individuals during the complaints and legal process.

It would be helpful to know the numbers of cases and examples of cases where the Ombudsman would have acted differently had the possibility of recourse been available.

I can see merit in allowing the Ombudsman being able to refer cases to the Court for a determination on a point of law if it brings about a swifter resolution for an individual rather than having to go through a separate legal process to seek resolution.

- **Other issues**

As highlighted in the evidence session I gave to the Silk Commission, alongside the then Ombudsman, there is a frustration that changes to the devolution settlement can mean an individual finds themselves having to follow more than one complaint process. It is important therefore that the jurisdiction of the Ombudsman be reviewed as the settlement changes to ensure wherever possible

the impact on the individual does not get lost between systems and processes.

I would lend my support to the recommendations of the Ombudsman being binding so that the impact of failure by public bodies is felt by those bodies and not just by individuals who have been failed by them.

Yours sincerely

A handwritten signature in black ink that reads "Sarah Rochira". The signature is written in a cursive style with a long, sweeping tail on the final letter.

**Sarah Rochira**  
**Older People's Commissioner for Wales**

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Ms Jocelyn Davies AM  
Chair, Finance Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Date: 19 February 2015  
Our ref: HVT/2271/fgb  
Page: 1 of 2

Dear Jocelyn

**INQUIRY INTO THE CONSIDERATION OF POWERS:  
PUBLIC SERVICES OMBUDSMAN FOR WALES**

Thank you for your letter of 26 January 2015.

My views on the particular issues you raise are as follows. My answers to your general (Annex A) consultation questions are attached in the Annex.

- (i) *Whether given my role in overseeing the Welsh Consolidated Fund there would be any significant financial issues arising from the Ombudsman's proposals should a Bill be introduced, particularly in relation to Standing Order 26.6 (viii)?*

In terms of Standing Order 26.6 (viii), I do not think it should be necessary or likely for the proposals put forward by the Ombudsman to require provision to be made for charging directly on the Fund. As you know, direct charge provisions enable funds to be paid without further Assembly approval (in the form of budget motions), and are appropriate for enabling certainty of payment, such as for indemnities and salaries of constitutionally significant offices (such as that of the Presiding Officer). The Ombudsman's proposals do not seem to relate to that kind of matter. One of the five areas put forward is termed "Complaints Standards Authority", but I understand that this is intended to be a brand for the proposed model complaints policy work, rather than a proposal for a new public body that might require provision for direct charges.

My further views on the wider financial implications of the Ombudsman's proposals are in my answers to your Annex A consultation questions (please see Annex to this letter).

- (ii) *Whether I have any concerns that 'own-initiative' investigations by the Ombudsman could conflict with the Auditor General's value for money investigations. How could this risk be managed?*

I think that there is a possibility of overlap with my value for money studies, but I do not think it would be a great risk. Furthermore, I think that risk could be managed effectively fairly easily. I am sure that both the Ombudsman and I would in any case continue to confer with one another regarding our respective forward programmes. To put the matter

beyond doubt, however, it would be appropriate to include provision in legislation requiring the Ombudsman and the Auditor General each to take account of the other's views before exercising the relevant functions and to co-operate with one another in so far as they consider is necessary for the effective exercise of those functions.

(iii) *Is there a need for a co-ordination role between the Auditor General for Wales, the Ombudsman and independent commissioners to help their investigations and recommendations to improve public services?*

I think the requirements that I suggest in response to question (ii) would provide appropriate co-ordination. I do not think that further co-ordination provision, such as specific co-ordination role to be held by any particular person should be necessary.

(iv) *Would the proposed reforms of the Ombudsman's role be better carried out in advance of wider public sector reforms, or after?*

For the most part, I do not think that there are strong timing issues either way. However, I do think that it would be somewhat more economical and efficient to introduce a requirement on public bodies to adopt model complaints policies at the same time as establishing complaints policies for merged bodies than either introducing such requirements before or after mergers. Such timing should help bodies to avoid having to make two sets of changes to their complaints procedures.

I should be happy to provide further explanation if the Committee would find that helpful.

Yours sincerely



**HUW VAUGHAN THOMAS**  
**AUDITOR GENERAL FOR WALES**

*Enc: Annex A: Responses to Annex Consultation Questions*

## RESPONSES TO ANNEX CONSULTATION QUESTIONS

1. *What are your views on the effectiveness of the current Public Services Ombudsman (Wales) Act 2005?*

On the basis of our monitoring of issues arising from the audit of accounts and wider monitoring for the purposes of planning value for money studies, I have no particular concerns regarding lack of effectiveness of the current legislation.

### Own initiative investigations

2. *Currently, the Ombudsman may only investigate a matter that is the subject of a complaint made to him/her. What are your views on 'own initiative' investigations powers, which would enable the Ombudsman to initiate his/her own investigations without having first received a complaint about an issue. Please explain your answer.*

I consider that own initiative investigations would enable wider systemic problems to be addressed coherently. I also think that such a power should enable evidently problematic matters to be investigated despite the absence of complaints, which might, for example, be the case with systemic problems that affect particular groups who tend to be reluctant or unable to raise complaints.

I consider that such a power to undertake such investigations should be used sparingly, but I think it is very likely that resource constraints and oversight of resourcing by the Assembly will ensure that the power is not used excessively.

3. *Do you have any concerns that own-initiative investigation powers could result in the Ombudsman's responsibilities overlapping with the responsibilities of other bodies? How could this be managed?*

I think that there is a possibility of overlap with my value for money studies, and perhaps with inspections by the Welsh Ministers (HIW and CSSIW) and Estyn. But I think the risk could be managed effectively fairly easily. As I say in my covering letter, I am sure that both the Ombudsman and I would in any case continue to confer with one another regarding our respective forward programmes. To put the matter beyond doubt, however, it would be appropriate to include provision in legislation requiring the Ombudsman and the Auditor General each to take account of the other's views before exercising the relevant functions and to co-operate with one another in so far as they consider is necessary for the effective exercise of those functions.

4. *Do you have a view on the likely financial costs and benefits of the Ombudsman having own-initiative powers?*

The cost estimate provided in the Ombudsman's proposal paper are realistic in respect of sparing use of own-initiative investigation powers—say one or two investigations each year. In terms of benefits, it is not possible to predict the likely monetary benefits of such powers. I would hope that good use of such powers would lead to reduced levels of

maladministration leading to efficiency savings as well as increased public satisfaction (and reduced harm and distress to individuals), but such benefits are very difficult to quantify, let alone predict.

### **Oral complaints**

5. *At present, the Ombudsman can only accept complaints in writing. What are your views on the Ombudsman being able to accept complaints made orally? Please explain your answer.*

As I understand it, it is not actually the case that the Ombudsman can only accept complaints in writing. Section 2(4) of the Public Services Ombudsman (Wales) Act 2005 provides the Ombudsman with discretion to investigate oral complaints, and I gather that the Ombudsman does indeed investigate such complaints. I do, however, also understand that Ombudsman's office time is taken up in writing up oral complaints and seeking confirmation that the complainant wishes the Ombudsman to proceed with investigation. I am not sure what the most appropriate solution to that problem is; I am not sure that removing the requirement in section 5 of the 2005 Act for complaints to be made in writing would, on its own, make much difference, given the discretion to investigate complaints that do not meet section 5. I do suspect, however, that new provision for own-initiative investigations should help the Ombudsman address serious issues that have been raised orally but not confirmed.

6. *What other type/form of submission should be acceptable (eg email, website form, text messages)*

As I understand it, email, webform and text message submissions would be held by the courts to be written submissions. I do not see it should necessary for a submission to be made by letter on paper.

7. *Do you have a view on the financial costs and benefits of this provision?*

As I not sure how specific provision for oral complaints would operate, I cannot give a view on financial costs and benefits. If a solution can be found to the problem of staff time being spent on recording oral complaints that are not confirmed, then there may be some financial saving in the sense of avoiding what can be regarded as nugatory work. But I think any solution that makes it easier to submit complaints orally will also lead to more complaints, which will increase costs. I do, however, see that there may be real benefit to vulnerable people in making the submission and investigation of oral complaints easier.

### **Complaints handling across public services**

8. *At present there is no consistency in the way public bodies deal with complaints. Adoption of the model complaints policy issued by the Welsh government is voluntary. What are your views on the Ombudsman preparing a model complaints policy which public bodies would be obliged to adopt. Please explain your answer.*

I think this proposed development would be likely to be beneficial overall. I think there is a strong parallel with the Information Commissioner providing clear guidance to

public bodies on review procedures for FOI, which helped eliminate some very unhelpful practices in some bodies. The required adoption of model policies should enable good and efficient complaints handling practice to be embedded across public bodies. This should be conducive to improved effectiveness (better handling).

It may helpful to provide for the Ombudsman to be able to approve deviation from a model policy, such as where the requirements of a body's operations do not fit well with the model policy. There may also be a need to exempt certain matters from the model policy, such as FOI review procedures, as those are subject to other regulation.

9. *Do you have a view on the financial costs and benefits of this provision?*

While the overall net savings are not likely to be great and will be hard to quantify, particularly where complaint handling staff do not work with a time recording system, I think the required adoption of model policies should be conducive to improved economy by, among other things, saving bodies spending time and money on devising their own policies. Similarly some savings might be achieved where public bodies are operating poorly designed policies.

### **Ombudsman's jurisdiction**

10. *What are your general views on the Ombudsman's current jurisdiction?*

Generally, I think the Ombudsman's current jurisdiction is appropriate.

11. *At present the Ombudsman can investigate private health care that has been commissioned by the NHS. The Ombudsman would like the jurisdiction to be extended to enable him/her to investigate when a patient has received private healthcare (self-funded not commissioned by the NHS) in conjunction with public healthcare. This would enable the complaints process to follow the citizen rather than the sector. What are your views on extending the Ombudsman's jurisdiction in this way?*

I can see merit in a "follow the citizen" approach, where private healthcare is received in conjunction with public healthcare. I do, however, see defining linkages in care histories as possibly quite challenging in some cases. And there may be other issues in defining the scope of healthcare to be covered by the Ombudsman's jurisdiction. There are, however, also wider public policy issues on which I do not think it is appropriate for me to comment.

12. *How do you think the investigation of private health care complaints should be funded? (Possibilities include a levy, charging on a case by case basis or no charge.)*

These are public policy issues on which it is probably not appropriate for me to comment.

13. *Do you have a view on the financial costs and benefits of this provision?*

Again, I am not in a position to comment.

## Links with the courts

14. *What are your views on the removal of the statutory bar to allow the Ombudsman to consider a case which has or had the possibility of recourse to a court, tribunal or other mechanism for review? (ie this would give complainants the opportunity to decide which route is most appropriate for them.)*

Given the potential additional cost to the public purse, I would be concerned if the removal of the statutory bar meant that complainants had not just a choice of remedy (ie one or the other) but two remedies to pursue. Furthermore, as the statutory bar does not apply if the Ombudsman is satisfied that in the particular circumstances it is not reasonable to expect the person to resort to the right remedy, I am not sure that there is a pressing case for the removal of the statutory bar in terms of removing impediments to remedy for vulnerable people.

15. *What are your views on the Ombudsman being able to refer cases to the Courts for a determination on a point of law?*

In principle, referral of cases to the Courts for the determination of points of law seems sensible, but there is need for consideration of who should bear the cost of such referrals.

16. *Do you have a view on the financial costs and benefits of this provision?*

My answers to questions 14 and 15 indicate my concerns as to the costs of such changes.

## Other issues

17. *Do you have any specific examples where the Ombudsman having the additional powers proposed could have been useful in securing a successful conclusion to an issue?*

No, but that is not to say that I do not see an own initiative investigation and model complaints policy functions as not having benefits.

18. *Schedule 3 of the current 2005 Act, provides a list of authorities that are within the Ombudsman's jurisdiction to investigate complaints. Please provide details of any other bodies/organisations that should be included in this list?*

I am not aware of any significant omissions from the list.

19. *If extended powers were given to the Ombudsman in a new Bill/Act, at what point should the impact of this legislation be evaluated?*

A baseline review before commencement would be helpful. Thereafter, given the timescales for undertaking and allowing the effects of own-initiative investigations and model complaints policy work, evaluation at least three to five years after commencement would be appropriate if the evaluation is to address effectiveness. However, if the evaluation were confined to assessing whether the provisions were fit for purpose in terms of enabling the processes to commence (which is quite a narrow focus), then it could be undertaken one to two years after commencement.



20. *What unintended consequences could arise as a result of these provisions becoming legislation and what steps could be taken to deal with these consequences?*

While mentioned above, I would say again that there may be unintended cost consequences of specific provision for oral complaints. Similarly, there may be unintended cost consequences of removal of the statutory bar on matters that could be considered by the Courts.

21. *What factors should be measured to determine the cost-benefit analysis of this legislation being brought forward?*

I would need to undertake some extended research in order to answer this properly.

22. *Do you have any comments on the following issues:*

- *areas coming into jurisdiction over time, should consideration be given to other bodies being included in the Ombudsman's jurisdiction;*

Such consideration would be appropriate for any new service-delivery organisations, but probably not for new review bodies (eg the forthcoming Future Generations Commissioner).

- *recommendations and findings - should the recommendations of the Ombudsman to public bodies be binding. This would mean that bodies cannot decide to reject the findings;*

In my view, binding recommendations could be problematic. They may confuse or reduce the accountability of the executives of public bodies. The existing provisions in the Act for reporting and certifying non-action seem appropriate.

- *protecting the title - there has been a proliferation of schemes calling themselves ombudsmen, often without satisfying the key criteria of the concept such as independence from those in jurisdiction and being free to the complainant. Should anyone intending to use the title ombudsman gain approval from the Ombudsman;*

This seems to me to be a sensible precaution against misuse. Regulations already exist to provide such protection for titles such as "government" and "auditor general" (it may be appropriate to ask for an insertion into Schedule 4 of the *Company, Limited Liability Partnership and Business (Names and Trading Disclosures) Regulations 2015*).

- *code of conduct complaints – the Ombudsman would prefer to focus on the element of his work that deals with service users and service delivery, rather than local authority and town and community councils' resolutions. Whilst a local resolution procedures exists and has been adopted by 22 local authorities, variance exists in practice.*

I can see the merits of that preference, but I consider that there is a need for investigation of serious code of conduct complaints.

23. *Do you have any views on any aspects of future planned or proposed public sector reforms that would impact on the role of the Ombudsman?*

I think it is likely that the proposed public sector reforms and continuing austerity will increase the volume of the Ombudsman's casework, at least in the short to medium term—separating the effect of the proposed reforms and the effect of austerity may be difficult. Similarly, the proposed public sector reforms and continuing austerity will increase the volume of complaints to public bodies. This latter point may reinforce the case for Ombudsman having model complaints policy functions.

24. *Do you have any other issues or concerns about the current Act and are there any other areas that need reform or updating?*

Not at present.

**19 February 2015**

Huw Lewis AC / AM  
Y Gweinidog Addysg a Sgiliau  
Minister for Education and Skills



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref

Jocelyn Davies AM  
Chair  
Finance Committee  
National Assembly for Wales  
Ty Hywel  
Cardiff Bay  
Cardiff  
CF99 1NA

10 February 2015

Dear Jocelyn,

### **Finance Committee – Consideration of the financial implications of the Qualifications Wales Bill**

Thank you for your letter of 29 January, seeking further information on two points following Members consideration of the financial implications of the Qualifications Bill. For ease of reference, I have set out my response underneath each of the points that Members are seeking further information on.

#### **ICT costs**

You asked for a breakdown of the cost calculations for the ICT costs presented in the Qualifications Wales Bill's Explanatory Memorandum.

I am pleased to enclose such a breakdown in Annex A.

#### **Total and additional costs of the preferred option**

You also asked me to confirm which budget will be used to cover the total and additional costs that will result from implementing the legislation.

The total and additional costs for the new organisation are already part of the 2015/16 budget for Education, and will be met from the Qualifications Budget Expenditure Line (BEL) of the Education and Skills Main Expenditure Group (MEG), which currently totals £7.903m. In order to meet the anticipated costs of the preferred option which totals £9.412m in 2015-16, there will also be a transfer from the department's Delegated Running Costs budget within the Central Services and Administration MEG to the Qualifications BEL to cover the costs of the staff that will move from the Welsh Government to Qualifications Wales.

The following extract from the Children, Young People and Education Committee evidence paper discussed at the meeting on 23 October as part of the scrutiny process for Welsh Government's Draft Budget 2015-16 will be useful:

### **Qualifications Wales**

*A budget provision of £7.903m has been allocated to qualifications in 2015-16, covering both the on-going implementation of the Review of Qualifications and the establishment of Qualifications Wales.*

*An additional £2.3m has been allocated to the Qualifications Action in 2015-16 for the set up costs associated with Qualifications Wales. The final breakdown of costs will be published as part of the Regulatory Impact Assessment when the Qualifications (Wales) Bill is introduced on 1 December 2014. A further transfer is anticipated from the Central Services and Administration MEG to the Qualifications Action, to be actioned as part of a Supplementary Budget in 2015-16, to account for the Welsh Government staff transferring to Qualifications Wales from 1 September 2015.*

In proposing this budget, which was accepted by the Assembly, we reviewed all the education priorities and made appropriate provision for each. I am therefore content that the cost estimates for the set up and running of Qualifications Wales are appropriate and realistic.

I trust that this information is helpful to Committee Members.

I am copying this letter to the Chair of the Children, Young People and Education Committee.

*Best Regards  
Huw*

**Huw Lewis AC / AM**  
Y Gweinidog Addysg a Sgiliau  
Minister for Education and Skills

Breakdown of the cost calculations for the ICT costs

**Table 25 - Revenue Costs: ICT**

Summary costs provided in RIA

	2015-2016 Set-up	2015-2016 Operational	Ongoing
<b>SET-UP COSTS</b>			
Consultancy	457,000		
WAN	22,000		
Other Software	101,000		
<b>OPERATING COSTS</b>			
Consultancy			95,000
WAN			87,000
Other Software			70,000
Microsoft Support			47,000
Hardware			27,000
	<b>580,000</b>	<b>£0</b>	<b>£326,000</b>

Detailed breakdown of these costs (subtotals include VAT and are rounded)

**Breakdown of Revenue Costs: ICT**

	Start Up (3 year)	Annual
<b>Consultancy (Set-up cost)</b>		
System Integrator	£84,000	£28,400
Web Site Development	£65,000	£26,500
Regulations Database	£96,000	£24,000
Welsh Government ICT Resources	£120,000	
Quality Assurance	£15,800	
<i>Subtotal including VAT</i>	<b>£457,000</b>	
<b>Consultancy (Ongoing cost)</b>		
<i>Subtotal including VAT</i>		<b>£95,000</b>
<b>WAN / LAN (Set-up cost)</b>		
Telephony Costs	£9,000	£9,000
Mobiles	30 users £9,450	£9,450
<i>Subtotal including VAT</i>	<b>£22,000</b>	
<b>WAN (Ongoing cost)</b>		
WAN / Telephony / Firewall	100 users	£11,000
Video Conferencing	100 users	£10,080
Broadband (PBSA WAN & Internet)	200/100mb	£33,000
<i>Subtotal including VAT</i>		<b>£87,000</b>
<b>Other Software (Set-up cost)</b>		
Adobe Creator	30 Users	£5,440
Virus Detection Suite	100 users	£12,000
Client Apps (other)	100 users	£22,000
HR Application	3 users	£27,000
Finance Application	3 users	£10,000
Proc Applic	2 users	£8,000
<i>Subtotal including VAT</i>	<b>£101,000</b>	
<b>Other Software (Ongoing cost)</b>		
<i>Subtotal including VAT</i>		<b>£70,000</b>
<b>Microsoft Support</b>		
<i>Subtotal including VAT</i>		<b>£47,000</b>
<b>Hardware (Ongoing cost)</b>		
Mobile Phone	30 users	£6,300
Video Conferencing (telepresence)	1 OF	£4,300
Printers and Peripherals	5 OF	£12,000
<i>Subtotal including VAT</i>		<b>£27,000</b>

**Table 26 - Capital Costs: ICT**

Summary costs provided in RIA

	2015-2016 Set-up	2015-2016 Operational	Ongoing
<b>SET-UP COSTS</b>			
Cloud Licensing and Support*	247,000		
Hardware	204,000		
WAN	213,000		
<b>OPERATING COSTS</b>			
Hosting and License			178,000
	<b>£ 664,000</b>	<b>£0</b>	<b>£178,000</b>

Detailed breakdown of these costs (subtotals include VAT and are rounded)

**Breakdown of Capital Costs: ICT**

	Start Up (3 year)	3 year point costs
<b>Cloud Licensing (Set-up costs)</b>		
Client licencing	100 users £94,672	£94,672
Azure Hosting	Annually £54,000	£54,000
Microsoft Support	Annually £39,000	
Microsoft Training	Setup £18,000	
	<i>Subtotal including VAT</i> <b>£247,000</b>	
<b>Hosting and License (Ongoing costs)</b>		
	<i>Subtotal including VAT</i> <b>£178,000</b>	
<b>Hardware (Set-up costs)</b>		
Client Package (Desktop)	80 users £44,355	
Client Package (Laptop)	20 users £14,400	
Servers and Peripherals	2 Stacks (M) £38,000	
Mobile Phone	30 users £6,300	
Video Conferencing (telepresence)	1 OF £25,000	
Projectors and Peripherals	2 OF £7,000	
Printers and Peripherals	5 OF £27,000	
Interactive White Boards Kits	4 OF £8,000	
	<i>Subtotal including VAT</i> <b>£204,000</b>	
<b>WAN / LAN (Set-up costs)</b>		
WAN / Telephony / Firewall	100 users £80,000	
Video Conferencing	100 users £25,370	
Broadband (PBSA WAN & Internet)	200/100mb £72,000	
	<i>Subtotal including VAT</i> <b>£213,000</b>	

*These are estimated costs as the procurement exercises have not yet been completed. The treatment of costs as capital or revenue has also not yet been confirmed.*

Document is Restricted



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Jocelyn Davies AM  
Chair, Finance Committee  
National Assembly for Wales  
Tŷ Hywel  
Cardiff Bay  
CF99 1NA

Reference	IG-2015-003(E)
Date	20 January 2015
Pages	1 of 2

Dear Chair

Thank you for your letters of 15 December and the Committee's report published in November on our *Annual Report and Accounts, Interim Report 2014-15* and *Estimate for 2015-16*.

#### Appointment of Baker Tilly as External Auditors of the Wales Audit Office

In light of the Committee's endorsement, we will proceed in appointing Baker Tilly as our External Auditors. I can confirm that performance metrics will be agreed as part of the contract. Our Audit & Risk Assurance Committee will also provide oversight of the auditors' performance, particularly in relation to future value-for-money work undertaken.

We will be happy to provide the Committee with updates as required.

#### Fee Scheme 2015

We welcome the Committee's agreement to the Scheme and will now proceed in publishing it and agreeing fees with individual audited bodies in accordance with the published rates. I am grateful for the Committee's recognition of the internal savings and efficiencies the Board has required so as to not affect the fees.

To clarify one answer I gave the Committee in relation to the consultation on our fee scales, we consulted with all audited bodies covered by the statutory regulations in relation to Local Government fee scales and fee scales for the National Fraud Initiative. Legislation does not require us to consult beyond that, though of course we benefited from comprehensive feedback through our Stakeholder Survey held earlier in the year, which I touched on with the Committee.

We will come back to the Committee in due course with proposals for a simpler model for the recovery of public audit costs.



Supplementary Estimate 2014-15

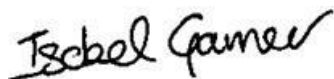
We very much welcome that the Committee was content with our Interim Report for 2014-15 and our Estimate for 2015-16. I can confirm that your recommendations are being incorporated into our normal business planning processes.

When attending your Committee on 6 November, we provided an update on the purchase and implementation of a new audit IT system to replace legacy systems that are now causing business continuity risks. The capital cost, to be met wholly in 2014-15, is estimated at £216,000. We explained that we would need to transfer revenue resources to capital to properly account for the investment.

The Committee noted the need for a supplementary budget to effect this transfer and welcomed that we could meet the additional spend through existing resources rather than seeking a budget increase. I am pleased to enclose an Explanatory Memorandum for the Committee's agreement and can confirm it has been discussed with Welsh Government officials to align with the Welsh Government's supplementary budget timeline. I have written separately to the Minister for Finance and Government Business.

As always, we are keen to provide your Committee with any information it may need.

Yours sincerely



**Isobel Garner**  
**Chair, Wales Audit Office**



WALES AUDIT OFFICE  
SWYDDFA ARCHWILIO CYMRU

# Explanatory Memorandum

# Explanatory Memorandum to the Finance Committee Regarding the Variation of the Budget of the Wales Audit Office for the Year Ending 31 March 2015

Submitted to the Finance Committee of the National Assembly for Wales  
for consideration under Standing Order 20.35.

Isobel Garner  
**Chair, on behalf of the Wales Audit Office**

Huw Vaughan Thomas  
**Auditor General for Wales**

# Contents

## Explanatory Memorandum

Overview	4
Purpose of this Explanatory Memorandum	5
Introduction	5
Adjustments to revenue and capital resource	6
Net cash requirement	6
Summary	6

## Appendices

Summary of the 2014-15 budget requirements for inclusion in the Welsh Ministers' Supplementary Budget Motion under section 126 of the Government of Wales Act	7
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# Overview

- 1 For each financial year, the Wales Audit Office must submit an annual estimate of its income and expenditure to the Finance Committee of the National Assembly. The responsible committee must examine that estimate and lay it before the National Assembly after making any amendments that it considers appropriate.
- 2 The Estimate for the Wales Audit Office for 2014-15 was included in the Annual Budget Motion under Standing Order 20.26 and was approved in Plenary on 10 December 2013, following scrutiny by the Finance Committee.
- 3 Further to evidence provided to the Finance Committee on 6 November 2014, the Wales Audit Office now seeks to amend the approved Estimate for the year ending 31 March 2015.

# Purpose of this Explanatory Memorandum

## Introduction

- 4 The budget motion authorised the Wales Audit Office to retain £17.639 million of accruing resources, generated through fees charged to audited bodies, and supplied a further £5.974 million of other resources. Together, this £23.613 million is used to fund the costs of the Wales Audit Office in delivering its duties under the Public Audit (Wales) Act 2013.
- 5 Our Estimate for 2014-15 explained that a variety of legacy IT systems are in use by the Wales Audit Office to plan, manage, record and store audit work across our two audit practices (financial audit and performance audit). These legacy systems were inherited by the Wales Audit Office on its creation. The Finance Committee was advised that a project had been initiated to identify whether there was a common audit platform that could undertake these various functions and help improve the way in which audit work is carried out. It was highlighted to the Committee that additional capital funding may be required through a Supplementary Budget, should the project identify a viable solution.
- 6 In testing the market, we found that our aspirations could not be achieved in the short term without significant resource input and pioneering software that was untested in the external audit sector. The Board concluded that the risks of implementation were too high, yet also, business continuity risks were too significant to justify a 'do nothing' continuation. A letter from the Chair of the Wales Audit Office to the Chair of the Finance Committee on 29 October 2014, set out the Board's decision to procure a new audit management system for our financial audit practice. The system will also rationalise and simplify supporting systems, as it will replace our current time-recording and resource-management systems. The capital cost is £216,000, along with initial revenue costs of £46,000 in 2014-15. It will lead to reduced system running costs and improved workforce efficiency, releasing resources following full implementation (effective from 2016-17). The Board retains its aspiration for a common audit platform across the two practices, which we anticipate may be achievable in the medium term, particularly as we continue to work closely with the other UK external audit bodies.
- 7 As explained to the Finance Committee on 6 November, through careful management of our resources, these additional costs can be met internally, without the need to seek increased funding. The Supplementary Budget mechanism is therefore being used to make a technical adjustment to the Estimate of the Wales Audit Office in order to move revenue funds to capital. The Committee noted the need for a supplementary budget to effect this transfer and welcomed that we could meet the additional spend through existing resources rather than seeking a budget increase. This Explanatory Memorandum sets out the technical adjustments required.

## Adjustments to revenue and capital budgets

- 8 As explained above, the Wales Audit Office has identified savings and efficiencies within its 2014-15 revenue budget which will allow it to fund the purchase and initial implementation costs of the new audit management system. The technical budgetary changes required are set out in [Table 1](#).

Table 1

	Approved Estimate 2014-15	Supplementary Estimate 2014-15	Revised Estimate 2014-15
	£'000	£'000	£'000
Revenue resource	5,876	(200)	5,676
Capital resource	98	200	298
Accruing resources	17,639	–	17,639
Total expenditure	23,613	–	23,613

## Net cash requirement

- 9 No change is required to the approved net cash requirement of £5.974 million.

## Summary

- 10 [Table 2](#) provides a summary of the revised capital and revenue resources and net cash requirement on approval of this supplementary estimate.

Table 2 – Summary of revenue resource and cash requests

	Resource request	Net cash requirement
	£'000	£'000
Revenue resource	5,676	5,676
Capital resource	298	298
Total	5,974	5,974

# Appendix 1

## Summary of the 2014-15 budget requirements for inclusion in the Welsh Ministers' Supplementary Budget Motion under section 126 of the Government of Wales Act 2006

Under section 126 of the Government of Wales Act 2006 ('the 2006 Act'), Ministers may move a Supplementary Budget Motion in the National Assembly to authorise the use of resources, retention of income and drawings of cash from the Consolidated Fund for certain relevant persons, including the Wales Audit Office.

In respect of the services and purposes of the Wales Audit Office in the year ending 31 March 2015, the Budget Motion will authorise:

- the amount of resources to be used by the Wales Audit Office;
- the amount of resources accruing to the Wales Audit Office which may be retained (rather than paid into the Consolidated Fund); and
- the amount which may be paid out of the Consolidated Fund to the Wales Audit Office.

These requirements, which due to the variability of income streams can only be estimates, are summarised in [Table 1](#) below.

[Table 1 – Summary of the estimated 2014-15 budget requirements](#)

	£'000
Resources other than accruing resources for use by the Wales Audit Office on the discharge of the statutory functions of the Wales Audit Office, the Auditor General and local government appointed auditors, and on the administration of the Wales Audit Office:	
• Revenue	5,676
• Capital	298
Accruing resources from fees and charges for audit and related services (excluding for local government audit, assessment and inspection work); other recoveries of costs associated with the functions of the Auditor General; miscellaneous income from publications, conferences, provision of administrative and professional and technical services; recoveries of costs of seconded staff; repayments of staff loans; recoveries of car leasing payments; and interest received on working balances for use by the Wales Audit Office on related services and the administration of the Wales Audit Office.	17,639
Net cash requirement from the Consolidated Fund to meet the net amounts falling due for payment in the year by the Wales Audit Office.	5,974



Table 2 provides a reconciliation of the Wales Audit Office's total resource request with its net cash requirement for the year ended 31 March 2015.

Table 2 – Reconciliation of resource requirement to cash drawing requirement from the Consolidated Fund

	£'000
Net request for resources – revenue and capital	5,974
Net working capital adjustments	–
Net cash requirement	5,974



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**Angela Burns AC/AM**

**Comisiynydd y Cynulliad  
Assembly Commissioner**

**Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales**

29 January 2015

Dear Jocelyn,

I am writing to bring to the attention of Committee that the Commission will be submitting a Supplementary Budget for 2014-15. The Commission is proposing adjustments to increase the:

- Annually Managed Expenditure (AME) budget from £0.75million to £1.2million.
- amount of income the Commission is permitted to accrue from £0.25million to £0.4million.

These changes reflect anticipated changes in requirement as identified by the in-year budget monitoring process.

### **The AME Budget**

The AME budget is an accounting adjustment relating to the future financial liability of the Members' Pension Scheme. There is no associated cash requirement and making changes to it has no impact on the Commission Resource budget or service delivery.

The final value cannot be calculated until after 31 March, but estimates are requested from professional advisors during the year. The most recent estimate indicates that the liability for the current year is likely to be in excess of £1million, which is higher than the current budget. In order to provide an element of contingency, we are seeking to increase the budget to £1.2 million.

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Ysgrifenyddiaeth Comisiwn y Cynulliad/Assembly Commission Secretariat



## **Income**

The budget ambit states the maximum level of income that the Commission can accrue during the financial year to be used for service delivery. This was set at £0.25million for 2014-15. However, this year has seen an increase in the number of staff taking external secondment opportunities for which we receive payment. There has also been an increase in income from car park charges. We would therefore like to increase the limit to £0.400million.

The overall effect of these changes will be:

- Resource budget remains at £50.598million
- AME budget increases from £0.750million to £1.2million

In accordance with Standing Order 20.32, the Commission will be laying an explanatory memorandum with this request. A copy is attached. If you need any further information please let me know.

Yours sincerely

**Angela Burns**  
**Comisiynydd y Cynulliad**  
**Assembly Commissioner**

**National Assembly for Wales**  
Assembly Commission

# Supplementary Budget 2014-15 Explanatory Memorandum

February 2015

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



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**National Assembly for Wales**  
Assembly Commission

**Supplementary Budget 2014-15**  
**Explanatory Memorandum**

February 2015

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales







# Contents

<b>01. Background .....</b>	<b>2</b>
<b>Explanatory memorandum.....</b>	<b>2</b>
<b>Resource Budget .....</b>	<b>2</b>
<b>Annually Managed Expenditure (AME).....</b>	<b>3</b>
<b>Budget impact .....</b>	<b>3</b>
<b>02. Budget Ambit.....</b>	<b>4</b>

# 01. Background

The Commission's **2014-15 Budget** was included in the Annual Budget Motion under Standing Order 20.26 and was approved in Plenary on 20 November 2013, following scrutiny by the Assembly's Finance Committee.

The budget motion provided the Commission with £50.600 million of Resource Budget in relation to:

- £36.500 million for Assembly services; and
- £14.100 million for the Remuneration Board's Determination for Assembly Members.

A further £0.750 million was provided for non-cash accounting adjustments in respect of the Assembly Members' Pension Scheme, through the Annually Managed Expenditure budget.

This Explanatory Memorandum is laid in compliance with Standing Order 20.32, in support of changes to be proposed to the Commission's approved budget, via Supplementary Budget Motion.

## Explanatory memorandum

The effect of the Commission's supplementary budget will be to increase the total Income that the Commission is permitted to accrue, and to increase Annually Managed Expenditure in line with projections.

## Resource Budget

Over the past few years, there has been an increase in the levels of income received by the Commission with no amendment made to the limit within the Budget Ambit. The consequence of this is that the Commission is at risk of being unable to re-invest the income into services and instead having to return the excess to the Welsh Consolidated Fund.

The primary reasons for the increase are:

- Increased support for staff development via external secondment opportunities which generates income in respect of salary cost recovery;
- An increase in car park usage and therefore an increase in car park charge income;
- Sale of equipment which has exceeded its useful life in terms of Commission requirements but still has a value in the wider market.

The Commission needs to maximise the use of income to support investment in services and manage both income and expenditure appropriately as a resource.

## **Annually Managed Expenditure (AME)**

The Commission's AME budget is for the non-cash accounting adjustment in respect of the future financial liability of the Assembly Members' Pension Scheme. The purpose of this adjustment is to ensure a true and fair view of the Scheme liability is recorded in the balance sheet of the Commission; it does not reflect the monetary sums paid by the Commission into the Scheme. There is no associated cash requirement and making changes to it has no impact on the Commission Resource budget or service delivery.

The final value cannot be calculated until after 31 March, but estimates are requested from professional advisors during the year. Based on calculations reflecting known changes to the discount rate and other variables which impact on the estimated liabilities of the scheme, the latest estimate is just under £1.0million.

The Commission is therefore proposing a supplementary AME budget of £1.200 million in order that there is sufficient contingency to manage any variation from the estimate in the final year-end figures.

### **Budget impact**

The Supplementary Budget Motion proposes the following:

- an increase to the limit on accruing resources of £0.150 million to £0.400 million
- an increase to the AME budget of £0.450 million to £1.200 million.

## 02. Budget Ambit

This supplementary budget submission is laid in compliance with National Assembly Standing Order 20 to assist in the compilation of the Budget Motion required by Section 126 of the Government of Wales Act 2006. This submission seeks to amend the resource and annually managed expenditure requirements of the Assembly Commission for the year ending 31 March 2015.

The Supplementary Budget Motion authorises the net resources to be used for the services and purposes of Members and Assembly Services. The motion includes the maximum income (or accruing resources) that may be retained for use on those services and purposes instead of being paid into the Welsh Consolidated Fund, and the cash amount that will need to be issued from the Welsh Consolidated Fund to meet the anticipated net amounts falling due for payment by the Commission.

The amended 2014-15 Budget for the Assembly Commission, addressing the revised requirements, is set out in Table 1 below.

**Table 1**

**Revised  
£000**

Resources other than accruing resources for use by the National Assembly for Wales Commission on revenue and capital costs associated with the administration and operation of Assembly Services to support the National Assembly for Wales ("the Assembly"); promotion of the Assembly including payments to the Electoral Commission and others; payments in respect of the Commissioner for Standards and Remuneration Board; any other payments relating to functions of the Assembly or functions of the National Assembly for Wales Commission.	36,500
Resources other than accruing resources for use by the National Assembly for Wales Commission in respect of decisions of the Remuneration Board.	<u>14,100</u>
<i>Total resources, other than accruing resources</i>	<i>50,600</i>
Annually Managed Expenditure for use by the National Assembly for Wales Commission in respect of Assembly Members' Pension provision.	1,200
Accruing resources for retention pursuant to section 120(2) of the Government of Wales Act 2006 and use by the National Assembly for Wales Commission:	
from the disposal of fixed assets and other capital income for use on the purchase or acquisition of fixed assets; or	400
rental income; gifts; grant support; recharges and income from commercial sales and other services provided to the public or others for use on administrative costs of the Assembly.	
Amount to be issued from the Welsh Consolidated Fund to meet the anticipated amounts falling due for payment in the year in respect of the above services and purposes less expected retainable receipts and recoverable VAT.	46,448

Table 2 below reconciles the net resource requirement to the cash drawing requirement from the Welsh Consolidated Fund.

**Table 2 Cash requirement**

**£000s**

**2014-15  
Revised**

<b>Members Revenue Requirement</b>	14,100
<b>Commission Revenue Requirement</b>	36,000
<b>Capital Requirement</b>	500
<b>Assembly Members' Pension Provision (AME)</b>	1,200
<b><i>Adjustments:</i></b>	
<b>Depreciation (Non cash)</b>	(4,000)
<b>Movements in provisions</b>	(1,200)
<b>Movement in debtors and creditors</b>	(252)
<b>Use of provisions</b>	100
<b>Net cash requirement for issue from the Welsh Consolidated Fund</b>	46,448



Y Pwyllgor Cyllid  
Finance Committee

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



Angela Burns AM  
Commissioner  
National Assembly for Wales

5 February 2015

Dear Angela

### **Assembly Commission Supplementary Budget 2014-15**

Thank you for your letter dated 29th January in relation to the Commissions Supplementary Budget. At this stage I do not think it will be necessary for you to attend Committee to be scrutinised on the supplementary budget. However, in order to aid the Committees scrutiny of the supplementary budget I would be grateful if you could provide me with further details in relation to the following areas.

#### **Resource Budget**

The Committee would like a breakdown of how the additional income is expected to be raised. As you will be aware there was a discussion in Committee in relation to the decision to start charging for car parking during budget scrutiny in 2011.

Please could you provide:

- an update of revenue and costs of the car parking scheme for 2014-15 and how this compares to the estimates at budget last autumn; and
- how this has changed since the scheme was started?

Although there is no change in the overall cash requirement from the Welsh Consolidated Fund, the Committee notes there appears to be a switch of funding from capital to revenue. Could you confirm that there have been discussions with the Welsh Government about this intention as this is not detailed in the explanatory note.

#### **Annually Managed Expenditure (AME)**

In relation to the pension amendment we would request further details on this adjustment after 31st March when final values have been calculated.

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Pack Page 115

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In order for the Committee to consider the Assembly Commissions Supplementary Budget at our meeting on the 25th February, I would be grateful for a response from you on this by Wednesday 18th February (with the exception of the pension issue).

Yours sincerely

A handwritten signature in cursive script that reads "Jocelyn Davies".

**Jocelyn Davies AM**  
Chair



Jocelyn Davies AM  
Chair of the Finance Committee  
National Assembly of Wales  
Tŷ Hywel  
Cardiff Bay  
Cardiff  
CF99 1NA

18 February 2015

Dear Jocelyn

Thank you for your letter of 5 February 2015 about the Commission's Supplementary Budget 2014-15.

You asked for a breakdown of the additional income that is expected to be raised. This is set out in Table 1.

**Table 1**

<b>Income Stream</b>	<b>Description</b>	<b>Original Budget Estimate for 2014-15 £000's</b>	<b>Revised Estimate for 2014-15 £000's</b>
Secondments	Income received in respect of employees undertaking secondments to other organisations	£0	£173
Rent	Charged to organisations occupying space on the Commission Estate	£90	£76
Assembly Shop	Income generated from Senedd shop sales and other miscellaneous income such as sale of equipment	£15	£32
Car Parking	Income generated from staff charges for use of the car parking facilities	£100	£91
Other	Contingency for other income	£45	£28
<b>Total</b>		<b>£250</b>	<b>£400</b>

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Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh

The increase of £150k to £400k is necessary in order to manage the 2014-15 position and provide a small contingency for any upward variation to the forecast.

### Car Parking Analysis

In regards to your specific query about car parking, the projected income for the current financial year compared with previous financial years is shown in Table 2.

**Table 2**

Year	Expenditure	Income	Net Cost	% of cost recovered via charges
2011-12	98,556	84,405	14,151	85.64%
2012-13	115,109	85,976	29,133	74.69%
2013-14	103,404	88,968	14,437	86.04%
2014-15 (forecast as at January 2015)	98,334	91,300	7,034	92.84%

The approved budget for 2014-15 stated that the costs of car parking were expected to be £120k. However, due to careful management of the car parking facilities, costs have decreased compared to previous years. In addition, a change to the classification of car park costs has meant that the Commission is now able to reclaim VAT on the costs we pay to the external parking company which has reduced costs further.

### Revenue and Capital Movement

As part of our regular work, we liaise with colleagues in Welsh Government to ensure there is transparency and clarity concerning any budget changes the Commission is proposing. As our budget is such a small proportion of the total budget managed by Welsh Government, our proposed changes rarely have any impact on the Welsh Government. We provide regular information in advance to help with the Government's planning process and to mitigate the risk of any unexpected budget impact. I can therefore confirm that there have been discussions with Welsh Government officials about the Commission's Supplementary Budget proposals.

I note your request for the pension information and I shall ensure this is forwarded to you as soon as possible after 31 March 2015.

I hope this explanation is sufficient to answer your queries, please do not hesitate to ask if you require any further information.

Yours sincerely

A handwritten signature in black ink that reads "Claire Clancy". The signature is written in a cursive style with a large initial 'C'.

**Claire Clancy**  
**Prif Weithredwr a Chlerc/Chief Executive and Clerk**  
**Cynulliad Cenedlaethol Cymru/National Assembly for Wales**

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# Supplementary Budget Motion 2014-15

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*Laid Before the National Assembly for Wales by the Minister for Finance and Government  
Business*

*February 2015*

**Supplementary Budget Motion****The Assembly is asked to agree the following:**

“1. This resolution for the year ending 31 March 2015 is made by the National Assembly for Wales (“the Assembly”) pursuant to Section 126 of the Government of Wales Act 2006.

**Welsh Government**

2. The Welsh Government is authorised -

(a) to use resources (not including accruing resources) during the financial year ending 31 March 2015 for the services and purposes specified in Column 1 of Schedule 1, up to a maximum of the corresponding amounts specified in Column 2 of that Schedule;

(b) in addition, to retain income, within the categories of accruing resources specified in Column 1 of each Part of Schedule 2, during the financial year ending 31 March 2015, for use on the services and purposes specified in the corresponding entries in Column 2 of each Part of that Schedule, up to the limit specified for each Part of that Schedule; and

(c) to draw cash out of the Welsh Consolidated Fund for use on the services and purposes specified in Schedule 1, up to the net cash requirement limit specified in Schedule 5.

3. Despite paragraphs 2(a) and (b), the resources which may be used for the services and purposes specified in Column 1 of Schedule 1 (or, as the case may be, in Column 2 of each Part of Schedule 2), may exceed the amount specified in the corresponding entry in Column 2 of Schedule 1 (or, as the case may be, in each Part of Schedule 2) if-

(a) in the case of resources other than accruing resources, the first condition is met, or

(b) in the case of accruing resources, the second condition is met.

4. The first condition is that the total resources (other than accruing resources) used during the financial year ending 31 March 2015 for all services and purposes specified in Column 1 of Schedule 1 does not exceed the total of the sum of the amounts specified in Column 2 of that Schedule.

5. The second condition is that the total accruing resources used during the financial year ending 31 March 2015 for all services and purposes specified in Column 2 of Schedule 2 does not exceed the total of the sum of the amounts specified for each part of that Schedule.

Assembly Commission

6. The Assembly Commission is authorised-

(a) to use resources (not including accruing resources) during the financial year ending 31 March 2015 for the services and purposes specified in Column 1 of Part 1 of Schedule 3, up to a maximum of the corresponding amounts specified in Column 2 of Part 1 of Schedule 3;

(b) in addition, to retain income, within the categories of accruing resources specified in Column 1 of Part 1 of Schedule 4, during the financial year ending 31 March 2015, for use on the services and purposes specified in the corresponding entries in Column 2 of Part 1 of that Schedule, up to the limit specified for Part 1 of that Schedule; and

(c) to draw cash out of the Welsh Consolidated Fund for use on the services and purposes specified in Column 1 of Part 1 of Schedule 3, up to the net cash requirement limit specified in Schedule 5.

Public Services Ombudsman for Wales

7. The Public Services Ombudsman for Wales is authorised –

(a) to use resources (not including accruing resources) during the financial year ending 31 March 2015 for the services and purposes specified in Column 1 of Part 2 of Schedule 3, up to a maximum of the corresponding amounts specified in Column 2 of Part 2 of Schedule 3;

(b) in addition, to retain income, within the categories of accruing resources specified in Column 1 of Part 2 of Schedule 4, during the financial year ending 31 March 2015, for use on the services and purposes specified in the corresponding entries in Column 2 of Part 2 of that Schedule, up to the limit specified for Part 2 of that Schedule; and

(c) to draw cash out of the Welsh Consolidated Fund for use on the services and purposes specified in Column 1 of Part 2 of Schedule 3, up to the net cash requirement limit specified in Schedule 5.

Auditor General for Wales

8. The Auditor General for Wales is authorised-

(a) to use resources (not including accruing resources) during the financial year ending 31 March 2015 for the services and purposes specified in Column 1 of Part 3 of Schedule 3, up to a maximum of the corresponding amounts specified in Column 2 of Part 3 of Schedule 3;

(b) in addition, to retain income, within the categories of accruing resources specified in Column 1 of Part 3 of Schedule 4, during the financial year ending 31 March 2015, for use on the services and purposes specified in the corresponding

entries in Column 2 of Part 3 of that Schedule, up to the limit specified for Part 3 of that Schedule; and

(c) to draw cash out of the Welsh Consolidated Fund for use on the services and purposes specified in Column 1 of Part 3 of Schedule 3, up to the net cash requirement limit specified in Schedule 5.

Specification of Categories of Accruing Resources

9. The categories of accruing resources listed in Column 1 of each Part of Schedule 2, and in Column 1 of each part of Schedule 4, are specified categories for the purposes of section 120(2)(a) of the Act.”



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**Summary of Resource and Capital Requirements**
*Welsh Ministers*

<b>Ambit</b>	<b>Resources (£000)</b>	<b>Accruing Resources (£000)</b>
Health and Social Services	5,657,480	1,016,908
Local Government	3,616,564	351
Communities and Tackling Poverty	636,948	72,770
Economy, Science and Transport	1,182,168	70,886
Education and Skills	2,040,988	137,023
Natural Resources	419,855	356,187
Central Services and Administration	366,163	610,550
<b>Total Resources Requested and Accrued Income relating to Welsh Ministers</b>	<b>13,920,166</b>	<b>2,264,675</b>

*Direct Funded Bodies*

<b>Ambit</b>	<b>Resources (£000)</b>	<b>Accruing Resources (£000)</b>
National Assembly for Wales Commission	51,800	400
Public Services Ombudsman for Wales	4,023	6
Auditor General for Wales	5,974	17,639
<b>Total Resources and Accrued Income for Direct Funded Bodies</b>	<b>61,797</b>	<b>18,045</b>

## Schedule 1 – Ambits for expenditure incurred by Welsh Ministers

<b>Ambits for expenditure incurred by Welsh Ministers (excluding accruing resources)</b>	
<i>Column 1</i>	<i>Column 2</i>
<i>Services and purposes</i>	<i>Amount £000</i>
<p><b>Health and Social Services</b></p> <p>For use by Welsh Ministers to spend on Health and Social Services including promoting or improving economic, social or environmental wellbeing.</p> <p>Resource and capital funding for Local Health Boards and Welsh NHS Trusts and associated healthcare providers; Public Dividend Capital to NHS Trusts; loans to NHS Trusts; payments for contracted services including dentistry, ophthalmic and pharmaceutical services; general medical services, support for education and training; research and development; mental health services; chronic disease treatment; and measures to combat Inequalities in Health; funding for the Welsh Risk Pool; funding for support for children and their families, including children and families organisations and Advocacy; Grants to deliver the Substance Misuse strategy and support for the Food Standards Agency; support for older person's services and for social services and carers; social services improvement (including the funding of the Association of Directors of Social Services (ADSS) Cymru and Social Care Institute for Excellence (SCIE); for the Care Council for Wales; the National Institute for Health and Clinical Excellence (NICE); the Older People's Commissioner; and contributions to UK health and social care bodies.</p> <p>Funding for the Children and Family Court Advisory and Support Service (CAFCASS) Cymru; funding for services provided to or on behalf of the Scottish Government, Northern Ireland Executive and Department of Health; services for the improvement of health and the prevention, diagnosis and treatment of illness; and any related expenditure and non cash resource use.</p>	<p><b>5,657,480</b></p>

<b>Ambits for expenditure incurred by Welsh Ministers (excluding accruing resources)</b>	
<i>Column 1</i>	<i>Column 2</i>
<i>Services and purposes</i>	<i>Amount £000</i>
<p><b>Local Government</b></p> <p>For use by Welsh Ministers to spend on promoting economic, social and environmental wellbeing in the areas of local government and public service delivery and the promotion of community safety. The unhypothecated and hypothecated funding of local government unitary authorities; police and crime commissioners and fire and rescue service authorities through unhypothecated grant funding by means of revenue support grant, redistributed national non-domestic rates (NNDR) and general capital funding or discrete resource and capital grant funding for specific policy purpose relevant to the above areas of activity. The funding and sponsorship of public bodies and nonstatutory organisations with functions relating to the audit, regulation and inspection; the promotion and representation of democracy; the performance development and change management; the promotion and maintenance of standards and accountability (including appellate functions); the delivery of outcomes; and the improvement of performance in respect of local government. Funding for the programme, staffing and general administrative costs (including leasing costs) of the Care and Social Services Inspectorate and the Healthcare Inspectorate Wales, Sponsorship of Estyn including staff costs and general administrative expenditure and depreciation and any related expenditure and non cash resource use. Funding Community Safety Partnerships in respect of community safety and development; work to support the armed forces, veterans and their families; the combating of domestic abuse and sexual violence; and the prevention of young people from offending, and related expenditure and non cash resource use. Matched funding under Priority 4 of the European Social Fund and support for the Valuation Office Agency.</p>	<p><b>3,616,564</b></p>

<b>Ambits for expenditure incurred by Welsh Ministers (excluding accruing resources)</b>	
<i>Column 1</i>	<i>Column 2</i>
<i>Services and purposes</i>	<i>Amount £000</i>
<p><b>Communities and Tackling Poverty</b></p> <p>For use by Welsh Ministers to spend on promoting economic, social and environmental well being in the areas of Supporting Communities and People including the regeneration and development of communities, the funding of Third Sector organisations; Tackling Poverty initiatives; support the Communities First Programme; community development; development of voluntary organisations and volunteering; financial inclusion including credit unions; digital inclusion; post offices; Criminal Records Bureau checks; and welfare reform projects funding and administration.</p> <p>Funding for support for children and their families, including funding for Flying Start, Families First, the Children’s Commissioner for Wales, child poverty strategies, childcare, play, children and young people’s rights, participation, children and families organisations, support for local authorities, the third and private sectors for childcare purposes and support for out of school and ‘wrap-around’ childcare.</p> <p>Funding for the support and promotion of Equality, Diversity and Inclusion including matters relating to programme funding for equality and equal opportunities; for improving social inclusion and social justice and community cohesion; and any other related expenditure and non-cash resource use.</p> <p>Funding for Housing and Regeneration including promoting or improving culture and economic, social or environmental wellbeing; provide funding, advice and administrative support for local authorities, agencies and other bodies to promote, facilitate and deliver a range of schemes and services in connection with Housing and Regeneration; improve the supply and quality of housing across Wales, including the standard of local authority and social landlord housing, and improve housing-related services; acquisition, leasing, development and maintenance of land and buildings; housing stock transfers, community mutual support and capacity building; social housing; support for physical regeneration including housing renewal areas and licensing houses in multiple occupation; supporting people; preventing and addressing homelessness; providing funding for adaptations and facilities to enable people to remain in their own homes; regulation and inspection of registered social landlords; Regeneration policy and administration of policies and funding including promoting economic, social and environmental wellbeing for business, individuals, communities and places in Wales; transpose and implement UK, European and international legislation and obligations; administration and delivery of EC structural funded projects; carry out investigations, research, and evaluation; promotion,</p>	<p><b>636,948</b></p>

publicity and services; and any other related expenditure and non-cash resource use.	
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<b>Ambits for expenditure incurred by Welsh Ministers (excluding accruing resources)</b>	
<i>Column 1</i>	<i>Column 2</i>
<i>Services and purposes</i>	<i>Amount £000</i>
<p><b>Economy, Science and Transport</b></p> <p>For use by Welsh Ministers on Economy, Science and Transport including promoting economic, social or environmental wellbeing for business, individuals, communities and places in Wales.</p> <p>For the provision of resource and capital funding to assist the establishment, growth, development and sustainability of business and tourism in Wales</p> <p>Expenditure relating to support culture, sport, media, publishing, and the historic and natural environment including funding to the Amgueddfa Cymru – National Museum of Wales; the National Library of Wales; the Arts Council of Wales; the National Botanic Garden of Wales; the Sports Wales and other organisations that promote sport and active lifestyles throughout Wales; Cadw and the Royal Commission for Ancient and Historic Monuments in Wales and other organisations to promote and widen access to, conserve, protect, sustain and present buildings, ancient monuments and places of cultural, historical, archaeological or architectural interest in Wales and any other related expenditure and non cash resource use.</p> <p>Resource and capital funding for road transport and infrastructure, including construction, operation, maintenance and improvement of trunk roads in Wales; delivery of passenger rail and air services; road safety; regulation of pedestrian crossing and on-street parking; funding and administration of programmes to local authorities and other bodies designed to deliver a range of transport schemes and services including concessionary fares; support for the promotion and development of walking and cycling; and any other related expenditure and non cash resource use that provides broader economic benefit to Wales.</p> <p>Capital repayments to the National Loans Fund.</p>	<p><b>1,182,168</b></p>

<b>Ambits for expenditure incurred by Welsh Ministers (excluding accruing resources)</b>	
<i>Column 1</i>	<i>Column 2</i>
<i>Services and purposes</i>	<i>Amount £000</i>
<p><b>Education and Skills</b></p> <p>For use by Welsh Ministers on Education and Skills to fund: improving literacy and numeracy; extending entitlement and 14-19 learning pathways; the Foundation Phase; curriculum improvements support for Techniquet; teacher training, development and support; qualification development and regulation; capital and resource funding for Qualification Wales; resource provision for post-16 education and training including further education, apprenticeships and work based learning; capital and resource funding for the Higher Education Funding Council for Wales; support for undergraduate medical education; schools performance improvement; the funding of inspections; support for improving standards and school effectiveness; pupil deprivation grant; capital and resource funding for IT development in learning; capital to support the school and post-16 infrastructure; skills development and workplace learning; careers advice services; support for the Youth Service; support for young people not in employment, education or training; inclusion and additional learning needs; provision of school milk; learner and student finance including Student Loans Company costs and Education Maintenance Allowances; tackling disaffection; bilingual learning; support for the Welsh Language Commissioner and grants and projects which promote the Welsh Language; support for international education initiatives; educational research and evaluation; promotion of education and skills; associated non cash items and any related expenditure and non cash resource use.</p>	<b>2,040,988</b>

<b>Ambits for expenditure incurred by Welsh Ministers (excluding accruing resources)</b>	
<i>Column 1</i>	<i>Column 2</i>
<i>Services and purposes</i>	<i>Amount £000</i>
<p><b>Natural Resources</b></p> <p>For use by Welsh Ministers on Natural Resources, including promoting and improving economic, social or environmental wellbeing; including environmental and energy, and renewable energy; providing funding, advice and administrative support for local authorities; agencies and other bodies to promote, facilitate and deliver a range of schemes and services in connection with Natural Resources, landscape and outdoor recreation; providing funding to support the work of Natural Resources Wales to ensure that the environment and natural resources of Wales are sustainably managed, enhanced and used; promote and deliver sustainability, climate change and environment quality; support and promote low carbon energy generation; energy efficiency and sustainable management of water resources and improvements in water quality; provide and fund water and sewerage services, flood and coastal protection and risk prevention measures; provide funding and loan support and advice relating to climate change, energy efficiency, fuel poverty, water and flood and coastal erosion risk management; provide funding, compensation, support and advice relating to the sustainable management of waste and resources; waste prevention, disposal, collection and management, recycling schemes, street cleansing and landfill tax credits; manage radioactivity, environmental pollution, environment quality and noise pollution; promotion of biodiversity, natural resource management and ecosystem services; conservation; animal and plant health; seeds, pesticides and GM crops; public health; measures to mitigate greenhouse gas emissions from the land based sector; administration of policies and grants including promoting economic, social and environmental wellbeing for business, individuals, communities and places in Wales; transpose and implement UK, European and international legislation and obligations; administration and delivery of EC structural funded projects; European funding to support farmers in Wales, including Direct Payments; administration of European funding for farmers in Wales: carry out investigations, research and evaluation; promotion, publicity and services; provide financial assistance to support landscape and the development of facilities for, and the promotion of outdoor recreation and green spaces, funding for the National Parks; projects relating to Wales' National Parks; develop and monitor planning and building regulations, legislation, policy, procedures, technical advice and standards; commissioning research, publishing reports and guidance; determining appeals and other casework, and sponsorship of the Planning Inspectorate; providing grant in aid funding and support, including the Aggregates Levy Fund; Funding for the support and promotion of projects and initiatives of the Welsh Government Sustainable Development Policy, Scheme and</p>	<b>419,855</b>



charter expenditure relating to Agriculture, Rural Development, Fisheries and Marine activities, Food, Animal Welfare and Traceability, Land Management and Woodlands; disease surveillance activities and any other related expenditure and non cash resource use.	
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<b>Ambits for expenditure incurred by Welsh Ministers (excluding accruing resources)</b>	
<b><i>Column 1</i></b>	<b><i>Column 2</i></b>
<i>Services and purposes</i>	<i>Amount £000</i>
<p><b>Central Services and Administration</b></p> <p>For use by the Welsh Government on administration expenditure and running costs including: staff costs and expenses; the running costs and investment for the civil estate; general administrative expenditure; expenditure on IT and communications; expenditure on business improvement programmes; other administrative resource and capital expenditure; public appointments; enabling and promoting open government; supporting research and evaluation; promoting economic, physical social or environmental wellbeing; managing corporate internal communications events and external communication of Government policy and actions; funding for inter-governmental relations, including the British Irish Council, and constitutional development, including costs of any referendum; hosting events of national importance; the costs of public inquiries; the cost of tribunals; funding to public sector bodies for achieving efficiency gains; funding Value Wales, Xchange Wales and Public Service Management Wales; payments to support overseas development and links; grants and financial support to other public sector organisations; support to EU funded projects; the administration and delivery of EC structural funded projects; and any related expenditure and non cash resource use.</p>	<b>366,163</b>

## Schedule 2 – Use of accruing resources by Welsh Ministers

### Part 1: Health and Social Services

<i>Column 1</i> <i>Category of accruing resource</i>	<i>Column 2</i> <i>Services and purposes for which income may be retained</i>
<p>Accruing resources include income under the Pharmaceutical Price Regulation Scheme; income in respect of settlement of legal claims; charges for accommodation, goods and services to private and NHS patients, local authorities and others; repayment of Invest to Save funding from Local Health Boards and Welsh NHS Trusts; income from the Scottish Government, Northern Ireland Executive, Department of Health, other government departments and the European Union; income from fixed penalty notices issued under the Food Hygiene Rating (Wales) Act 2013: income generation schemes; National Insurance Income from HM Revenue and Customs; non-operating income from sale of land, buildings, vehicles, equipment and property and recoveries of VAT.</p>	<p>Services and purposes include expenditure on primary and community health services; the purchase or acquisition of fixed assets by Welsh NHS Trusts, Local Health Boards and associated healthcare providers; supporting the provision and administration of health and social care services.</p>
<b>Overall amount of Income (£000)</b>	<b>1,016,908</b>

**Part 2: Local Government**

<i>Column 1</i> <i>Category of accruing resource</i>	<i>Column 2</i> <i>Services and Purposes for which income may be retained</i>
<p>Accruing resources include grant funding from the European Commission; repayment and recovery of grant payments and recoveries of VAT; fees and charges for inspections and regulatory services; provision of training and development events; charges for dental registration; income from staff secondments; repayment of staff loans; rental income on property; compensation under commercial and civil settlements and levy of facilitation fees; income from the sale of capital assets.</p>	<p>Services and purposes include running costs, general administration costs and resource expenditure of Inspectorates and the Valuation Tribunal; the delivery of training interventions for the Welsh Public Service; supporting expenditure on safer communities and regeneration; the payment of grants to local authorities and Third Sector bodies; all European funded projects; and to support all expenditure as identified within the expenditure Ambit.</p>
<b>Overall amount of Income (£000)</b>	<b>351</b>

**Part 3: Communities and Tackling Poverty**

<i>Column 1</i> <i>Category of accruing resource</i>	<i>Column 2</i> <i>Services and Purposes for which income may be retained</i>
<p>Accruing resources including repayment and recovery of grant payments and recoveries of VAT; fees and charges for inspections and regulatory services; provision of training and development events; income from staff secondments; repayment of staff loans; income from the sale of capital assets; income from repayments of Social Housing Grant; grant recoveries from local authorities, third sector organisations and other public and private sector organisations; rental income; receipts from the sales of assets, funding from other government departments and recoveries of VAT; funds via European and other funding schemes; recoveries of grants or settlements in respect of grant payments; recovery of loans made and any interest charges thereon; ad-hoc grants from other sources and recoveries of VAT.</p>	<p>The payment of grants to local authorities and Third Sector bodies; all European funded projects; Social Housing expenditure and funding and schemes part supported by other government departments; market housing expenditure and schemes; expenditure on Regeneration schemes and all European funded projects and to support all expenditure as identified within the expenditure Ambit.</p>
<b>Overall amount of Income (£000)</b>	<b>72,770</b>

**Part 4: Economy, Science and Transport**

<i>Column 1</i>	<i>Column 2</i>
<i>Category of accruing resource</i>	<i>Services and Purposes for which income may be retained</i>
Accruing resources and funding either direct or indirect from the European Commission; property rental and other associated income; business services charges; project contributions from other public sector and private sector organisations; investment income; grant repayments and repayable business finance; income from the sale of capital assets; income relating to tourism activities; transport studies receipts; compensation under commercial and civil settlements and levy of facilitation fees; Admission charges and other operational income at Cadw and the Royal Commission for Ancient and Historic Monuments sites; and recoveries of VAT.	All European funded projects and to support all expenditure as identified within the expenditure Ambit.
<b>Overall amount of Income (£000)</b>	<b>70,886</b>

**Part 5: Education and Skills**

<i>Column 1</i>	<i>Column 2</i>
<i>Category of accruing resource</i>	<i>Services and Purposes for which income may be retained</i>
Accruing resources include income from European Projects, research & evaluation and business skills development; curriculum and qualifications royalties; recoveries of Student Loans; funding from the Higher Education Research Capital fund; sales of publications and recoveries of VAT.	Services and purposes include supporting European projects, CQFW, programme development, business skills development, research & evaluation current expenditure; to support curriculum and qualifications current expenditure and to support all expenditure as identified within the expenditure Ambit.
<b>Overall amount of income (£000)</b>	<b>137,023</b>

**Part 6: Natural Resources**

<i>Column 1</i> <i>Category of accruing resource</i>	<i>Column 2</i> <i>Services and Purposes for which income may be retained</i>
<p>Accruing resources include funding either direct or indirect from the European Commission including income from European structural funds; income from the EU to support farmers and rural communities in Wales; income from wind farm projects; income from Pwllpeiran Farm or the sale of capital assets; income from grant recoveries from local authorities, third sector organisations and other public and private sector organisations; civil penalty fines associated with emission trading schemes; income from marine licences; income from the salvage of carcasses from animals slaughtered for disease control ad-hoc grants from other sources and recoveries of VAT; receipts from sales of assets including buildings, funding from other central government departments and income related to Natural Resources.</p>	<p>Services and purposes include expenditure relating to Pwllpeiran Farm; grant payments, schemes part supported by other government departments; all European funded projects and to support all expenditure as identified within the expenditure Ambit.</p>
<b>Overall amount of Income (£000)</b>	<b>356,187</b>

## Part 7: Central Services and Administration

<i>Column 1</i> <i>Category of accruing resource</i>	<i>Column 2</i> <i>Services and Purposes for which income may be retained</i>
<p>Accruing resources include income from staff secondments and fees; repayment of staff loans; the refund of statutory PAYE deductions; recoveries of VAT; the sale of land and buildings; the sub let of properties; the sale of administrative assets; the sale of goods and services; administrative income; income from ICT services provided; training provider repayments; recovery of costs shared with other public sector bodies; receipts of recoverable grants including Invest-to-Save receipts; and funding either direct or indirect from the European Commission.</p>	<p>Services and purposes include funding of: running costs and general administrative expenditure; supporting capital expenditure on the Welsh Government's estate and asset base; and all European funded projects.</p>
<b>Overall amount of Income (£000)</b>	<b>610,550</b>

**Schedule 3 – Expenditure Incurred by Direct Funded Bodies (excluding accruing resources)**

**Part 1 – National Assembly for Wales Commission**

<i>Column 1</i>	<i>Column 2</i>
<i>Services and Purposes</i>	<i>Amount £000</i>
Resources other than accruing resources for use by the National Assembly for Wales Commission on resource and capital costs associated with the administration and operation of Assembly Services to support the National Assembly for Wales (‘the Assembly’); promotion of the Assembly including payments to the Electoral Commission and others; payments in respect of the Commissioner for Standards and Remuneration Board; any other payments relating to functions of the Assembly or functions of the National Assembly for Wales Commission. Resources other than accruing resources for use by the National Assembly for Wales Commission in respect of decisions of the Remuneration Board and expenditure in respect of Assembly Members’ Pension provision.	<b>51,800</b>

**Part 2 – Public Services Ombudsman for Wales**

<i>Column 1</i>	<i>Column 2</i>
<i>Services and Purposes</i>	<i>Amount £000</i>
Resources other than accruing resources for use by the Public Services Ombudsman for Wales (‘the Ombudsman’) 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 cash items.	<b>4,023</b>

**Part 3 – Auditor General for Wales**

<i>Column 1</i>	<i>Column 2</i>
<i>Services and Purposes</i>	<i>Amount £000</i>
Resources other than accruing resources for use by the Wales Audit Office on the discharge of the statutory functions of the Wales Audit Office, the Auditor General and local government appointed auditors, and on the administration of the Wales Audit Office.	<b>5,974</b>



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**Schedule 4 – Use of accrued resources by Direct Funded Bodies**
**Part 1 – National Assembly for Wales Commission**

<i>Column 1</i>	<i>Column 2</i>
<i>Category of accruing resource</i>	<i>Services and purposes for which income may be retained</i>
Accruing resources for retention pursuant to section 120(2) of the Government of Wales Act 2006 and use by the National Assembly for Wales Commission from the disposal of fixed assets and other capital income; rental income; gifts; grant support; recharges; income from commercial sales and other services provided to the public or others.	For use on the purchase or acquisition of fixed assets and for use on administrative costs of the Assembly.
<b>Overall amount of Income (£000)</b>	<b>400</b>

**Part 2 – Public Services Ombudsman for Wales**

<i>Column 1</i>	<i>Column 2</i>
<i>Category of accruing resource</i>	<i>Services and purposes for which income may be retained</i>
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.
<b>Overall amount of Income (£000)</b>	<b>6</b>

## Part 3 – Auditor General for Wales

<i>Column 1</i> <i>Category of accruing resource</i>	<i>Column 2</i> <i>Services and purposes for which income may be retained</i>
Accruing resources from fees and charges for audit, grant certification and related services; grants received to fund audit services ; other recoveries of costs associated with the functions of the Auditor General; miscellaneous income from publications, conferences, provision of administrative, professional and technical services; recoveries of costs of seconded staff; repayments of staff loans; recoveries of car leasing payments; recoveries of any costs incurred for a third party; and interest received on working balance fees.	For use by the Wales Audit Office on the discharge of functions of the Auditor General and local government appointed auditors, and on related services and the administration of the Wales Audit Office.
<b>Overall amount of income (£000)</b>	<b>17,639</b>

**Schedule 5: Resource to Cash Reconciliation 2014-15 (£000)****Table 1: Resource to cash Reconciliation for 2014-15 included in the June 2014 Supplementary Budget Motion (£000)**

	<b>Welsh Ministers</b>	<b>Assembly Commission</b>	<b>Public Services Ombudsman</b>	<b>Auditor General for Wales</b>
<b>Net Resource Requirement</b>	12,851,407	49,607	4,010	5,876
<b>Net Capital Requirement</b>	578,855	1,741	13	98
Adjustments:				
Capital Charges	-118,880	-4,400	-105	0
Impairments	-63,303	0	0	0
Movements in Provisions	-73,472	-500	-30	0
Profit/Loss on sale of assets	0	0	0	0
Movements in stocks	0	0	0	0
Movements in debtors/creditors	0	0	20	0
Use of Provisions	0	0	254	0
Other	0	0	0	0
<b>Net Cash Requirement for issue from the Welsh Consolidated Fund</b>	<b>13,174,607</b>	<b>46,448</b>	<b>4,162</b>	<b>5,974</b>

**Table 2: Changes to the Resource to cash Reconciliation included in this Supplementary Budget Motion (£000)**

	<b>Welsh Ministers</b>	<b>Assembly Commission</b>	<b>Public Services Ombudsman</b>	<b>Auditor General for Wales</b>
<b>Net Resource Requirement</b>	373,525	1,693	0	-200
<b>Net Capital Requirement</b>	116,379	-1,241	0	200
Adjustments:				
Capital Charges	-41,986	400	0	0
Impairments	-35,035	0	0	0
Movements in Provisions	-109,806	-700	0	0
Profit/Loss on sale of assets	0	0	0	0
Movements in stocks	0	0	0	0
Movements in debtors/creditors	92,848	-252	0	0
Use of Provisions	0	100	0	0
Other	0	0	0	0
<b>Net Cash Requirement for issue from the Welsh Consolidated Fund</b>	<b>395,925</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Table 3: Resource to cash Reconciliation included in this Supplementary Budget Motion (£000)**

	<b>Welsh Ministers</b>	<b>Assembly Commission</b>	<b>Public Services Ombudsman</b>	<b>Auditor General for Wales</b>
<b>Net Resource Requirement</b>	13,224,932	51,300	4,010	5,676
<b>Net Capital Requirement</b>	695,234	500	13	298
Adjustments:				
Capital Charges	-160,866	-4,000	-105	0
Impairments	-98,338	0	0	0
Movements in Provisions	-183,278	-1,200	-30	0
Profit/Loss on sale of assets	0	0	0	0
Movements in stocks	0	0	0	0
Movements in debtors/creditors	92,848	-252	20	0
Use of Provisions	0	100	254	0
Other	0	0	0	0
<b>Net Cash Requirement for issue from the Welsh Consolidated Fund</b>	<b>13,570,532</b>	<b>46,448</b>	<b>4,162</b>	<b>5,974</b>

**Notes:**

1. This table content and format complies with Section 125(1) (c) and 126(2) of the Government of Wales Act 2006 (“the Act”) which states that for the purposes of authorising the motion there shall be a statement authorising ‘the amount which may be paid out of the Welsh Consolidated Fund in the financial year to the relevant persons, or for use pursuant to a relevant enactment, for the purposes so specified’. Payments made out of the Welsh Consolidated Fund are made in cash; therefore this table shows the relevant cash requirements in support of the resources requested in support of Schedules 1 to 4 which state the relevant purposes for which resources may be used.
2. This table content and format also complies with Standing Order 20.28(v), which states that the budget motion must include reconciliation between the resources to be authorised under section 125(1) (a) and (b) of the Act and the amounts to be authorised for payment out of the Welsh Consolidated Fund under section 125(c) of the Act.
3. These tables are presented under S126 of the Act and SO20.31 showing variations to the resources allocated in the Annual Budget Motion and the amounts to be paid out of the Welsh Consolidated Fund.

**Schedule 6: Reconciliation of resources requested in the budget motion to resources made available by the Treasury for the Welsh Block for 2014-15**

**Table 1: Reconciliation of Resources Requested in the June 2014 First Supplementary Budget Motion to the resources made available by the Treasury for Wales (£000)**

	2014-15 (£000)				Total
	Resource DEL	Capital DEL	Resource AME	Capital AME	
<i>Resources Requested in the Budget Motion:</i>					
- Welsh Ministers	12,869,993	240,533	-18,586	338,322	13,430,262
- Assembly Commission	48,857	1,741	750	0	51,348
- Ombudsman	4,234	13	-224	0	4,023
- Auditor General	5,876	98	0	0	5,974
<b>Total Resources Requested in the Supplementary Budget Motion</b>	<b>12,928,960</b>	<b>242,385</b>	<b>-18,060</b>	<b>338,322</b>	<b>13,491,607</b>
<i>Adjustments:</i>					
(i) Resource Consumption of AGSBs and LHBs	176,840	0	122,340	0	299,180
(ii) Grants	-1,111,284	1,111,284	0	0	0
(iii) Supported Borrowing	0	88,800	0	0	88,800
(iv) Other	1,996,849	0	0	0	1,996,849
<b>Total Adjustments in the Supplementary Budget Motion</b>	<b>1,062,405</b>	<b>1,200,084</b>	<b>122,340</b>	<b>0</b>	<b>2,384,829</b>
- Direct Charges on the Welsh Consolidated Fund	2,427	0	0	0	2,427
- Wales Office	4,859	25	0	0	4,884
- Unallocated Reserve	244,526	12,618	0	0	257,144
<b>Total Managed Expenditure (Block)</b>	<b>14,243,177</b>	<b>1,455,112</b>	<b>104,280</b>	<b>338,322</b>	<b>16,140,891</b>

**Table 2: Changes to the Reconciliation of Resources Requested in the June 2014 First Supplementary Budget Motion to the resources made available by the Treasury for Wales (£000)**

	2014-15 (£000)				Total
	Resource DEL	Capital DEL	Resource AME	Capital AME	
<i>Resources Requested in the Budget Motion:</i>					
- Welsh Ministers	241,151	68,326	132,374	48,053	489,904
- Assembly Commission	1,243	-1,241	450	0	452
- Ombudsman	0	0	0	0	0
- Auditor General	-200	200	0	0	0
<b>Total Resources Requested in the Supplementary Budget Motion</b>	<b>242,194</b>	<b>67,285</b>	<b>132,824</b>	<b>48,053</b>	<b>490,356</b>
<i>Adjustments:</i>					
(i) Resource Consumption of AGSBs and LHBS	2,390	0	-28,000	0	-25,610
(ii) Grants	999	-999	0	0	0
(iii) Supported Borrowing	0	0	0	0	0
(iv) Other	-7,016	-7,300	0	0	-14,316
<b>Total Adjustments in the Supplementary Budget Motion</b>	<b>-3,627</b>	<b>-8,299</b>	<b>-28,000</b>	<b>0</b>	<b>-39,926</b>
- Direct Charges on the Welsh Consolidated Fund	0	0	0	0	0
- Wales Office	0	0	0	0	0
- Unallocated Reserve	-129,910	-10,688	0	0	-140,598
<b>Total Managed Expenditure (Block)</b>	<b>108,657</b>	<b>48,298</b>	<b>104,824</b>	<b>48,053</b>	<b>309,832</b>

**Table 3: Reconciliation of Resources Requested in this Supplementary Budget**

	2014-15 (£000)				Total
	Resource DEL	Capital DEL	Resource AME	Capital AME	
<i>Resources Requested in the Budget Motion:</i>					
- Welsh Ministers	13,111,144	308,859	113,788	386,375	13,920,166
- Assembly Commission	50,100	500	1,200	0	51,800
- Ombudsman	4,234	13	-224	0	4,023
- Auditor General	5,676	298	0	0	5,974
<b>Total Resources Requested in the Supplementary Budget Motion</b>	<b>13,171,154</b>	<b>309,670</b>	<b>114,764</b>	<b>386,375</b>	<b>13,981,963</b>
<i>Adjustments:</i>					
(i) Resource Consumption of AGSBs and LHBs	179,230	0	94,340	0	273,570
(ii) Grants	-1,110,285	1,110,285	0	0	0
(iii) Supported Borrowing	0	88,800	0	0	88,800
(iv) Other	1,989,833	-7,300	0	0	1,982,533
<b>Total Adjustments in the Supplementary Budget Motion</b>	<b>1,058,778</b>	<b>1,191,785</b>	<b>94,340</b>	<b>0</b>	<b>2,344,903</b>
- Direct Charges on the Welsh Consolidated Fund	2,427	0	0	0	2,427
- Wales Office	4,859	25	0	0	4,884
- Unallocated Reserve	114,616	1,930	0	0	116,546
<b>Total Managed Expenditure (Block)</b>	<b>14,351,834</b>	<b>1,503,410</b>	<b>209,104</b>	<b>386,375</b>	<b>16,450,723</b>

**Notes:**

1. The total resource requirement for the Welsh Government is equivalent to the total of the allocations included in the Ambits of Schedule 1.
2. Standing Order 20.28(ii) states that the annual budget motion should include the resources agreed by the Treasury for the Welsh block budget for the financial year covered by the motion. Schedule 6 satisfies this requirement.
3. Standing Order 20.28(iii) states that the annual budget motion must include a reconciliation between the resources allocated to the Welsh block budget by the Treasury and the resources to be authorised for use in the budget motion. Schedule 6 satisfies this requirement.

4. The schedules above show variations authorised for the financial year under S126 of the Act and SO20.31.
5. Direct charges on the Welsh Consolidated Fund are:

<b>Item</b>	<b>2014-15 £000</b>
Payments to the National Loans Fund	1,677
Salaries and related pension costs of the Presiding Officer and the Deputy Presiding Officer	239
Salaries and related pension costs of the Ombudsman	191
Salaries and related pension costs of the Auditor General	193
Salaries and related pension costs of the Chair of the Wales Audit Office	27
Salaries and related pension costs of the Commissioner for Standards	22
National Non Domestic Rates Income	-1,037,585
National Non Domestic Rates Payable	1,037,585
Election Costs	78
<b>Total</b>	<b>2,427</b>



**Schedule 7: Reconciliation of cash inflows to the Welsh Consolidated Fund to the cash issues to be requested in the budget motion (£000)**

	<b>Previous Provision 2014-15</b>	<b>Changes</b>	<b>Revised Provision 2014-15</b>
Estimated net amounts payable to Welsh Ministers:			
Grant payable by the Secretary of State to the Welsh Consolidated Fund under Section 118 (1)	13,399,228	292,801	13,692,029
Payments from Other Government Departments	941,985	31,399	973,384
Payments from other sources	2,080,544	248,332	2,328,876
<b>Estimated amounts payable to Welsh Ministers</b>	<b>16,421,757</b>	<b>572,532</b>	<b>16,994,289</b>
Less amounts authorised to be retained by Welsh Ministers	-1,981,529	-283,146	-2,264,675
Less amounts retained in the Welsh Consolidated Fund	-1,041,000	3,415	-1,037,585
<b>Amounts available for distribution from the Welsh Consolidated Fund</b>	<b>13,399,228</b>	<b>292,801</b>	<b>13,692,029</b>
Distributed as follows:			
- Welsh Ministers	13,174,607	395,925	13,570,532
- Assembly Commission	46,448	0	46,448
- Ombudsman	4,162	0	4,162
- Auditor General	5,974	0	5,974
<b>Cash Released from the Welsh Consolidated Fund in the Motion</b>	<b>13,231,191</b>	<b>395,925</b>	<b>13,627,116</b>
<i>Plus:</i>			
Direct Charges on the Welsh Consolidated Fund	2,427	0	2,427
Unallocated Funds	165,610	-103,124	62,486
<b>Total Estimated Payments</b>	<b>13,399,228</b>	<b>292,801</b>	<b>13,692,029</b>

**Notes:**

1. Section 125(3) of the Act states that the annual budget motion must be accompanied by a written statement made by Ministers showing:
  - i. the total amount of the payments which they estimate will be made for the financial year under Section 118(1);
  - ii. the total amount of the payments which they estimate will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year by Ministers of the Crown and government departments; and
  - iii. the total amount of payments which they estimate will be made to the Welsh Ministers, the First Minister or the Counsel General for the financial year otherwise than by a Minister of the Crown or government department.

2. The schedule above shows variations in these amounts as required under SO20.31.

**February 2015**

Document is Restricted

## **One Voice Wales Consultation Response**

### **CONSULTATION ON AN ENQUIRY INTO THE CONSIDERATION OF POWERS OF THE PSOW.**

#### **INTRODUCTION**

One Voice Wales is recognised by the Welsh Government as the national representative body for community and town councils in Wales. It represents the sector on the Local Government Partnership Council and over three-quarters of the 735 community and town councils are already in membership, with numbers growing year on year. As well as our representative role, we also provide support and advice to councils on an individual basis and have previously launched, with Welsh Government support, a modular training programme for councillors. We believe strongly that community councils are well-placed to develop the economic, social and environmental well-being of the areas they serve and, as such, are active and proactive in debating key issues such as energy policies, environmental issues and strategic planning. Our sector is therefore well placed to contribute to a successful future nation, building community and public services from the bottom up.

#### **GENERAL**

Question 1 – The PSOW service is well established within Wales and its role is understood and respected by community and town councils. The service appears to work effectively and its decisions are communicated through the production of annual reports and full updates. The Code of Conduct guidance available to community and town councils is widely available and its content has been used in the development of training materials delivered by One Voice Wales.

#### **OWN INITIATIVE INVESTIGATIONS.**

Question 2 – Rigid procedural adherence is often necessary to protect both the complainant and the person(s) to whom the complaint has been made against. However, it is possible that on limited occasions, intelligence may be received which highlights concerns that might be harmful to individuals and for whatever reason the individual(s) find themselves powerless to complain in a formal sense. Such intelligence could be revealed through a range of sources (e.g. information from third parties, press reports etc.) and it is important that the PSOW has the power to investigate in order to assess whether there is a serious matter requiring investigation. It is important that individuals who may be unduly restricted for whatever reason from raising the alarm by way of making a complaint should be protected. Effective arrangements would need to be in place to require the PSOW to liaise with other relevant bodies such as the Police, Older Person' Commissioner etc.

Question 3 – There would inevitably be issues relating to over-lapping responsibilities and proper mechanisms would need to be in place to ensure that effective communication and co-ordination of activity was in place. It may be necessary to establish a forum of key players that would meet as necessary to consider the possible involvement of the PSOW in appropriate cases. There are many models in place within other sectors such as Case Conferences, MAPPAs arrangements etc.

Question 4 – One Voice Wales has no particular view on the financial costs and benefits except to say that proper investigation of own initiative investigations could save time and money in the longer term but more importantly could prevent the continuation of poor practices which have adverse effects on individuals.

### **ORAL COMPLAINTS**

Question 5 – The case made by the PSOW for enabling complaints to be submitted electronically or orally is compelling and it is vitally important that all members of society do not face unnecessary obstacles which might prevent them from having their complaint properly investigated. There will however, need to be some ground rules established to ensure the appropriateness of complaints not submitted in writing in order to prevent an escalation of vexatious type complaints where a proper assessment of the nature of the complaint has been given scant attention by the complainant.

Question 6 – E-Mail, website form and text messages should all be accepted as a legitimate means of complaint submission. In the case of oral submissions it is important that if necessary complainants in such cases should have the opportunity of an interview where the nature of their complaint would be recorded by a competent individual.

Question 7 – There could be additional costs involved in seeking additional information from complainants as electronic methods of making a complaint would not follow a questioning technique that is built in to complaints forms. There would also be additional costs associated with the arrangement of interviews for those who are unable to communicate in writing.

### **COMPLAINTS HANDLING ACROSS PUBLIC SERVICES.**

Question 8 – One Voice Wales would support a model complaints and concerns policy becoming mandatory for public service bodies in Wales. In order to save on time and costs it would be appropriate for models to be produced for each sector body e.g. NHS, Unitary Authorities, Community and Town Councils etc. A mandatory model would ensure greater consistency across Wales and set a desired standard for the handling of complaints.

Question 9 – There would be little in the way of additional costs as there is already a model in place. The additional direct cost of producing variable models for each sector would be more than offset by the reduced costs incurred by each body in adapting their own.

### **OMBUDSMAN'S JURISDICTION.**

Question 10 – In general terms the Ombudsman's jurisdiction is about right. However, where there are overlapping elements into private healthcare or private nursing homes it is fundamentally wrong to restrict the extent of an investigation which is frustrating to both the investigator but more importantly to the aggrieved.

Question 11 – One Voice Wales would support the proposed extension of the Ombudsman's role.

Question 12 – Perhaps charging could be on the basis of a charge per case based on time spent on the investigation which would not be applied if the performance of the private provider was found to be acceptable.

Question 13 – No comments.

**LINKS WITH THE COURTS.**

Question 14 – One Voice Wales considers that it would be important to provide the complainant with the choice. This would help resolve the matter without the costs and individual pressure that Courts processes can entail.

Question 15 – One Voice Wales has no particular strong view on this though accepts that having this recourse may be appropriate in specific cases so would not be averse to such a development.

Question 16 – No comments.

**OTHER ISSUES.**

Question 17 – No comments.

Question 18 – There is a need to amend to reflect the formation of Natural Resources Wales.

Question 19 – One Voice Wales would suggest ‘after 5 years.’

Question 20 – There is a possibility that there could be an escalation in complaints received and some of these might be lightweight or inappropriate.

Question 21 – No comments.

Question 22 –

**Jurisdiction** – No comment

**Recommendations and Findings** – They should be binding subject to appropriate appeal arrangements being in place.

**Protecting the Title** – One Voice Wales agrees that the PSOW should give approval to use of titles by others.

**Code of Conduct Complaints** – It is considered important that the PSOW retains his current remit for our sector where internal resolution arrangements are not in place.

Question 23 – No comment.

Question 24 – No comment.

## **WLGA Evidence**

### **Finance Committee Inquiry: Consideration of powers: Public Services Ombudsman for Wales**

#### **February 2015**

The WLGA welcomes the opportunity to present evidence to the Committee on its inquiry into the consideration of powers for the Public Services Ombudsman.

The WLGA is aware that this inquiry could potentially lead to new legislation concerning the Ombudsman's powers being introduced, possibly by this Committee, before the end of this Assembly term. Clearly the Committee must conclude its Inquiry, which may or may not lead to proposals to introduce legislation as a result.

The WLGA notes however that a Committee Inquiry which led to the introduction of a significant new piece of legislation could mean a curtailed process around policy review and legislative scrutiny given it is our understanding that a Committee Bill would automatically bypass the Stage 1 Committee process. If this is the case, there would be reduced scope for effective consultation and engagement with the general public and public bodies affected by policy proposals and legislation.

The WLGA therefore would request that should the Committee decide to move to legislation, that a Draft Bill is published to encourage the widest opportunity for consultation before the formal introduction of the Bill.

#### **1. What are your views on the effectiveness of the current **Public Services Ombudsman (Wales) Act 2005**?**

The Act is generally regarded as effective. As noted by the Ombudsman's own submission to the Committee, the Law Commission commented favourably on the Act but put forward a number of proposed amendments to clarify and improve the Ombudsman's role.

#### **Own initiative investigations**

**2. Currently, the Ombudsman may only investigate a matter that is the subject of a complaint made to him/her. What are your views on 'own initiative' investigations powers, which would enable the Ombudsman to initiate his/her own investigations without having first received a complaint about an issue. Please explain your answer.**

**3. Do you have any concerns that own-initiative investigation powers could result in the Ombudsman's responsibilities overlapping with the responsibilities of other bodies? How could this be managed?**

**4. Do you have a view on the likely financial costs and benefits of the Ombudsman having own-initiative powers?**

The WLGA recognises the Ombudsman's frustration where his current powers prevent him from exploring suspected wider concerns within public services stemming from an investigation into an initial individual complaint. The WLGA however shares the Welsh Government's concerns over the risks of 'mission-creep' (as stated in a letter to the Communities, Equalities and Local Government Committee from Minister for Local Government and Government Business on 12<sup>th</sup> February 2014). In principle, it is of course appropriate that such concerns over wider and potentially systemic public service issues should be investigated, however there are a number of investigatory bodies whose role it is to examine matters of governance or public service concerns or improvements. There would be scope for duplication between the Ombudsman and these existing bodies, such as the Auditor General for Wales, as well as potential burden for public service bodies.

Whilst the Welsh Government notes that any such new powers should be carefully circumscribed and available in specific and exceptional circumstances, an alternative model could be that where the Ombudsman has identified wider systemic concerns following an initial investigation into a complaint, he then writes to the Auditor General for Wales (or relevant inspectorate) advising him/her to undertake a special inspection or produce a Public Interest Report into the matter.

## **Oral Complaints**

**5. At present, the Ombudsman can only accept complaints in writing. What are your views on the Ombudsman being able to accept complaints made orally? Please explain your answer.**

**6. What other type/form of submission should be acceptable (e.g. email, website form, text messages)**

**7. Do you have a view on the financial costs and benefits of this provision?**

The WLGA agrees that alternative arrangements for submitting complaints should be considered to ensure that the Ombudsman is accessible to all. Oral complaints should be acceptable, but such safeguards and procedures will be need to be introduced to ensure such complaints can provide consistency in terms of detail, as well being recorded and stored securely and confidentially.

The financial costs and/or benefits of any such provision would depend on digital solutions, any necessary additional administrative support and the volume of oral complaints received.

## **Complaints handling across public services**

**8. At present there is no consistency in the way public bodies deal with complaints. Adoption of the model complaints policy issued by the Welsh government is voluntary. What are your views on the Ombudsman**



**preparing a model complaints policy which public bodies would be obliged to adopt. Please explain your answer.**

**9. Do you have a view on the financial costs and benefits of this provision?**

The WLGA supported the Ombudsman in the development of the model complaints policy which was published in 2011<sup>1</sup>. The WLGA understands that 21 of the 22 authorities have implemented the model policy and 1 is reviewing its complaints procedures in line with the model. It is likely that the anticipated mergers of local authorities would see further streamlining and consistency of complaints processes within local government.

## **Ombudsman's jurisdiction**

**10. What are your general views on the Ombudsman's current jurisdiction?**

**11. At present the Ombudsman can investigate private health care that has been commissioned by the NHS. The Ombudsman would like the jurisdiction to be extended to enable him/her to investigate when a patient has received private healthcare (self-funded not commissioned by the NHS) in conjunction with public healthcare. This would enable the complaints process to follow the citizen rather than the sector. What are your views on extending the Ombudsman's jurisdiction in this way?**

**12. How do you think the investigation of private health care complaints should be funded? (Possibilities include a levy, charging on a case by case basis or no charge.)**

**13. Do you have a view on the financial costs and benefits of this provision?**

The WLGA does not have strong views regarding the Ombudsman's jurisdiction or powers in private healthcare, although the case put forward in the Ombudsman's paper appears compelling.

## **Links with the courts**

**14. What are your views on the removal of the statutory bar to allow the Ombudsman to consider a case which has or had the possibility of recourse to a court, tribunal or other mechanism for review? (ie this would give complainants the opportunity to decide which route is most appropriate for them.)**

**15. What are your views on the Ombudsman being able to refer cases to the Courts for a determination on a point of law?**

**16. Do you have a view on the financial costs and benefits of this provision?**

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<sup>1</sup> [http://www.ombudsman-wales.org.uk/~media/Files/Documents\\_en/Model%20Complaints%20Policy%20Final%20PSOW.ashx](http://www.ombudsman-wales.org.uk/~media/Files/Documents_en/Model%20Complaints%20Policy%20Final%20PSOW.ashx)

The WLGA recognises the Ombudsman's rationale for removing the statutory bar with a view to improving the public's accessibility to resolution of complaints. That said, this is the most significant legislative and jurisdictional reform that the Ombudsman proposes which would have implications for law across England and Wales and a potentially significant impact in terms of workload and resources for the Ombudsman. It is unclear what data is available or what analysis has been undertaken to assess the impact of such a reform or the Assembly's competence in this arena given the territorial jurisdiction of the courts. The WLGA also notes that in his oral evidence, the Ombudsman suggested that of his 5 proposed areas for reform, removal of the statutory bar (given the above complexity) was not the highest priority reform.

## **Other issues**

**17. Do you have any specific examples where the Ombudsman having the additional powers proposed could have been useful in securing a successful conclusion to an issue?**

No.

**18. Schedule 3 of the current 2005 Act, provides a list of authorities that are within the Ombudsman's jurisdiction to investigate complaints. Please provide details of any other bodies/organisations that should be included in this list?**

The list in Schedule 3 appears appropriate, although it should be updated to incorporate bodies established or renamed after the 2005 Act.

**19. If extended powers were given to the Ombudsman in a new Bill/Act, at what point should the impact of this legislation be evaluated?**

As the Ombudsman noted in his oral evidence to the Committee, there is significant and ongoing reform of public services and the devolution settlement and there would probably not be an 'ideal time' to take stock. That said, the current timeframe of ten years for reviewing the current Public Services Ombudsman (Wales) Act 2005 is probably too long given the anticipated changes to public services and a five year review would probably be more appropriate.

**20. What unintended consequences could arise as a result of these provisions becoming legislation and what steps could be taken to deal with these consequences?**

As noted above, the main concern regarding unintended consequences is the potential for jurisdiction between the Ombudsman and the Auditor General for Wales around 'self-initiative' investigations. This could be mitigated by clear criteria for such investigations, agreement of protocols between inspection bodies or a process

by which the Ombudsmen requests that other bodies carries out follow-up inspections or investigations after his initial work.

**21. What factors should be measured to determine the cost-benefit analysis of this legislation being brought forward?**

It is difficult to determine an appropriate cost-benefit analysis given limited data has been presented to date which could be used to assess the likely impact in terms of additional complaints and, subsequently, upheld complaints as a result of any legislative changes. Should this Inquiry lead to legislation, a more thorough Regulatory Impact Assessment should be completed which should assess the potential impact, particularly in terms of workload on the Ombudsman's office and public services as a result. In principle however, it is difficult to quantify the value of a regulatory or complaints regime which seeks to provide assurance and public confidence about public services, provides support and redress to individuals who have had a complaint upheld and contributes to wider service improvements.

**22. Do you have any comments on the following issues:**

- **jurisdiction – changes to the devolution settlement have led to new areas coming into jurisdiction over time, should consideration be given to other bodies being included in the Ombudsman's jurisdiction;**

See 18 above

- **recommendations and findings - should the recommendations of the Ombudsman to public bodies be binding. This would mean that bodies cannot decide to reject the findings;**

The current approach to Ombudsman recommendations works effectively in Wales. The relationship between the Ombudsman and public services is based on early, open and constructive dialogue, where 'quick fixes' are encouraged. The regulatory relationship would shift significantly if recommendations were made to be binding, with implications for local democratic discretion and/or challenge or appeal.

- **protecting the title - there has been a proliferation of schemes calling themselves ombudsmen, often without satisfying the key criteria of the concept such as independence from those in jurisdiction and being free to the complainant. Should anyone intending to use the title ombudsman gain approval from the Ombudsman;**

The WLGA does not have strong views on this matter.

- **code of conduct complaints – the Ombudsman would prefer to focus on the element of his work that deals with service users and service delivery, rather than local authority and town and community councils'**

**resolutions. Whilst a local resolution procedures exists and has been adopted by 22 local authorities, variance exists in practice.**

Local resolution procedures have been developed by local authorities, the WLGA and the Ombudsman and they are increasingly effective in managing lower level complaints about the conduct of councillors. These procedures have meant a reduced burden on the Ombudsman's office, but in turn has meant a transfer of workload (but not of resources) to local authorities. The Ombudsman's latest Annual Report shows that code of conduct complaints were down 22% in 2013-14 at 228 new complaints, of which only 111 related to county or county borough councils. Of the 228 complaints, only 41 were investigated and only 6 investigation reports led to referral to either a standards committee or the Adjudication Panel for Wales.

The Ombudsman was specifically established to investigate complaints about councillors' conduct as well as complaints about public services. Although the Ombudsman's own workload and priorities have varied during recent years, his role in independently investigating complaints about councillors' conduct remains a vital back-stop role which local government would wish to retain, particularly for most serious breaches of the code of conduct.

It is not possible to meaningfully enforce a code of conduct for councillors without an independent statutorily empowered investigative and adjudicator framework. Such a reform of the Ombudsman's role and weakening of the code would be a retrograde step at a time when so much controversial reform is proposed within local government.

**23. Do you have any views on any aspects of future planned or proposed public sector reforms that would impact on the role of the Ombudsman?**

See preamble above.

**24. Do you have any other issues or concerns about the current Act and are there any other areas that need reform or updating?**

No

Document is Restricted