

Finance Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date:

Thursday, 19 March 2015

Meeting time:

08.45

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

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Committee Clerk

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Agenda

1 Introductions, apologies and substitutions (08:45)

2 Papers to note (08:45–08:50) (Pages 1 – 4)

**3 Consideration of powers: Public Services Ombudsman for Wales:
Evidence Session 10 (08:50–09:45)** (Pages 5 – 19)

Kate Chamberlain, Chief Executive, Healthcare Inspectorate Wales

Nicola Williams, Assistant Director of Nursing, ABMU Health Board

**4 Consideration of powers: Public Services Ombudsman for Wales:
Evidence Session 11 (09:45–10:45)** (Pages 20 – 29)

Leighton Andrews AM, Minister for Public Services

Caroline Turner, Deputy Director, Permanent Secretary's Department, Welsh
Government

Sanjiv Vedi, Assistant Director, Head of Central Complaints Unit, Welsh Government

5 Motion under Standing Order 17.42 to resolve to exclude the public

from the meeting for the following business: (10:45)

Items 6, 7 and 8 of today's meeting and items 1 and 2 of the meeting on Wednesday 25 March.

**6 Consideration of powers: Public Services Ombudsman for Wales:
Discussion of evidence (10:45–11:00) (Pages 30 – 32)**

7 Forward Work Programme (11:00–11:10) (Pages 33 – 38)

**8 Collection of devolved taxes: Approach to scrutiny (11:10–11:20)
(Pages 39 – 47)**

Jane Hutt AC / AM
Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance & Government Business

Ein cyf/Our ref SF/JH/0768/15

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

9 March 2015

Dear Jocelyn,

I welcomed the opportunity to attend Finance Committee on 25 February to support your scrutiny of the Second Supplementary Budget 2014-15.

In those sessions we touched on a number of issues which I said I would follow up in writing. I am also taking the opportunity to provide the clarification which you requested in your letter of 25 February.

Local Health Boards – approval of 3 year plans

I understand that the latest 3 year plans were received on 30th January and are still going through a thorough assessment. The Minister for Health and Social Services will provide an update on the process in due course.

Protection offered to the Local Government Budget

As a consequence of UK Government decisions, by 2015-16 the Welsh Government budget will be around 9% lower in real terms than it was in 2010-11. We have protected Local Government from the bulk of these cuts.

As a result, the settlement for local government in Wales has been considerably better than that for England over the period of the 2010 Spending Review. Over the past five years, spending per head on local services in Wales has increased by 3% in cash terms, whilst in England it has decreased by around 7%.

The commissioning of the Nuffield Report

In response to your letter of 25 February, I can confirm that the Welsh Government commissioned the Nuffield Trust to undertake the study and resulting report 'A Decade of Austerity in Wales'.

I hope this is helpful.

A handwritten signature in black ink, appearing to read 'Jane', with a horizontal line above the first few letters.

Jane Hutt AC / AM

Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance & Government Business

Annex 1: Financial Transactions CDEL – schemes and allocations

Portfolio and Scheme	2013-14 £m	2014-15 £m	2015-16 £m	Total £m
Economy, Science and Transport				
Cardiff International Airport Ltd To provide a repayable loan to facilitate improvements to the Cardiff Airport facilities and services and access to the terminal.		10.000		10.000
Finance Wales Investment Funds for SMEs To provide access to finance for SMEs, support business growth, boost exports and create/safeguard jobs.	32.500	7.000	42.500	82.000
Housing and Regeneration				
Houses into Homes To expand the pilot of the Houses into Homes initiative to bring empty homes in Wales back into use.	10.000			10.000
Affordable Housing Land Scheme A new pilot scheme to provide loans to local authorities and registered social landlords to acquire land sites in order to accelerate the development of affordable housing schemes.		5.000		5.000
Town Centre Property Fund A new pilot scheme to support the regeneration of town centres and increase housing supply. It will provide a recyclable loans scheme to assist developers to convert empty commercial properties into homes for sale or rent.		5.000		5.000
Help to Buy Cymru Shared Equity Scheme To help qualifying home buyers to purchase a new build home with a low loan-to-value mortgage and provide a boost to the construction industry in Wales over the next three years.	34.500	69.000	71.000	174.500

Barry Island Strategic Regeneration Area - Link Road A local authority loan which will accelerate delivery of a key transport route as part of our strategic regeneration programme.	2.000			2.000
Culture and Sport				
Capital Loan Scheme for Sport and Leisure Facilities A new pilot scheme to provide loans to local authorities to enable them to improve sports and leisure facilities through an invest-to-save approach, increase participation in sport and physical activity and contribute to health outcomes.			5.000	5.000



11 March 2015

Response to the consultation on an inquiry into the consideration of powers of the Public Services Ombudsman for Wales.

Healthcare Inspectorate Wales (HIW) welcomes the opportunity to contribute evidence to the consideration of powers of the Public Services Ombudsman for Wales.

The role of HIW is set out at Annex 1.

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

The current Act seems to be regarded as a broadly effective framework for the Public Services Ombudsman in carrying out his core role of investigating complaints from the public where they feel that public service providers have let them down and ensuring that public bodies learn from this..

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?

There are already a number of bodies that undertake this type of review and it would be important to ensure that there is no overlap with the roles of inspectorates and regulators, the Auditor General for Wales, and Commissioners.

It would be helpful to see an articulation of where the PSOW would have liked to exercise such powers in previous years and has not been able to do so. A number of

the example reviews that the PSOW gives in his supplementary evidence from other countries could have been undertaken by other bodies in Wales and there exists an opportunity for the PSOW to raise such matters with others as part of existing collaborative arrangements in Wales. I am not aware that this has been done previously.

It is therefore difficult to comment on the proposed costs and potential benefits as it is not clear how the Ombudsman has arrived at the estimate of 1–2 own initiative investigations per year without understanding where he may have wished to investigate in previous years and why such investigations could not have appropriately been undertaken by other existing organisations.

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?

We would support this proposal. The PSOW points out that some people may find it difficult to express themselves adequately in writing and it would therefore assist with access to allow complaints to be submitted in a variety of formats.

It will, however, be important that the Ombudsman does capture for the record the information in a written format and does confirm with the complainant that the record accurately reflects the issues that they wished to raise.

As before it is difficult to comment on the potential costs without an estimate of the volume of complaints that are likely to be submitted in alternative formats and the potential additional administrative effort required.

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 submission from the PSOW highlights that take up of the model complaints policy has been patchy, but is improving. It also identifies recent changes to the social services statutory complaints procedure. Given the improving picture that has

been identified I am not clear what case the Ombudsman is making for the need for the establishment of a Complaints Standards Authority and for enforcement powers.

Since the potential additional activity and workload associated with this has not been quantified it is difficult to comment on costs and benefits.

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 Social Care and Well-being (Wales) Act 2014 extended the jurisdiction of the Ombudsman to include care homes, domiciliary care and palliative care. In general I support provisions that, where appropriate, bring the arrangements around health and social care into alignment and avoid arbitrary sectoral distinctions.

The Ombudsman's supplementary evidence is clear that he is specifically seeking powers 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. This appears reasonable.

I would anticipate that the Ombudsman's role would be to intervene where existing mechanisms have failed to reach a satisfactory conclusion. It would therefore be important to map how the existing complaints processes for NHS and private healthcare worked in relation to the Ombudsman in order to provide clear and simple guidance for complainants as to the route they should follow.

The potential costs of such an extended role would need to be monitored, but the Ombudsman is clear that he would expect cases of this type to be very small in number.

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?

HIW does not have a view on this.

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?

HIW does not.

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?

We are not aware of any other bodies or organisations that should be included at present.

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?

Given the uncertainty surrounding the potential workload and costs associated with new powers these should be monitored annually and evaluated after a maximum of five years.

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?

There is the potential for confusion and duplication around the role of the Ombudsman in relation to the role of other audit, inspection, regulatory bodies and in relation to Commissioners, particularly with regard to own initiative investigations.

There is the potential for public confusion around the route they should take to pursue complaints and seek redress should the Ombudsman's jurisdiction change. At present the Community Health Councils can provide advocacy and support for patients complaining about NHS care and it may be appropriate to consider a similar extension to the scope of support they can provide to patients receiving a combination of NHS and private health care.

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

For a number of these proposals the Ombudsman has not set out clearly the scale of the problems that he is trying to address. In the absence of this information we lack a robust basis on which to quantify the likely additional workload and the resources likely to be required to implement the proposed new powers.

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;

The bodies under the Ombudsman's jurisdiction should be subject to regular review

- 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;

It is difficult to comment without understanding on how many occasions, and on what basis, public bodies have previously rejected the findings.

- 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;

HIW does not have a view on this.

- 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 local resolution procedures exists and has been adopted by 22 local authorities, variance exists in practice.

HIW does not have a view on this.

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?

A broad range of proposed legislation and reform is likely to impact upon the environment in which the PSOW operates. The response to own initiative investigations highlights the landscape in which the PSOW operates and this

landscape continues to evolve. A key requirement is to be able to communicate clearly to the public the role of each organisation and their specific purpose. It is important that changes to the role of one body are not considered in isolation from the changes being proposed to others.

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.

Annex 1

Healthcare Inspectorate Wales (HIW) is the independent inspectorate and regulator of healthcare in Wales.

Purpose

To provide the public with independent and objective assurance of the quality, safety and effectiveness of healthcare services, making recommendations to healthcare organisations to promote improvements.

Values

- **Patient-centred:** we place patients, service users and public experience at the heart of what we do
- **Openness and honesty:** in the way we report and in all our dealings with stakeholders
- **Collaboration:** building effective partnerships internally and externally
- **Professionalism:** maintaining high standards of delivery and constantly seeking to improve
- **Proportionality:** ensuring efficiency, effectiveness and proportionality in our approach.

Outcomes

Provide assurance:

Provide independent assurance on the safety, quality and availability of healthcare by effective regulation and reporting openly and clearly on our inspections and investigations.

Promote improvement:

Encourage and support improvements in care through reporting and sharing good practice and areas where action is required.

Strengthen the voice of patients:

Place patient experience at the heart of our inspection and investigation processes.

Influence policy and standards:

Use our experience of service delivery to influence policy, standards and practice.

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Agenda Item 4

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

Finance Committee
FIN(4)-06-15 Paper 2



Llywodraeth Cymru
Welsh Government

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

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.

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Llinell Ymholiadau Cymraeg 0845 010 4400
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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, appearing to read 'Leighton Andrews', with a long horizontal line extending from the end of the signature.

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

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Agenda Item 6

By virtue of paragraph(s) vi of Standing Order 17.42

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