

Mark Isherwood MS
Committee Chair
Public Accounts and Public Administration Committee
Senedd Cymru

Sent via email: SeneddPAPA@senedd.wales

31 January 2023

Dear Chair,

Re: Inquiry into the funding of Commissioners

In your letter, dated 30th November 2022, you indicate that your Committee is gathering information about the funding of Commissioners in Wales, which follows the publication of the Senedd Equality and Social Justice (ESJ) Committee's Report in April 2022 relating to its annual scrutiny of the Future Generations Commissioner for Wales.

I became Wales' fourth children's commissioner in April 2022. As well as running a large-scale consultation of children and young people to help establish my first three year strategy (we have secured over 10,000 responses), I have also been analysing the way this independent institution functions and delivers on its statutory remit. Here's a summary of critical facts about this institution, which I feel are pertinent to your inquiry into the funding of commissioners:

- Funding from Welsh Government has, in real terms, decreased year-on-year since 2016.
- Current staffing complement is smaller than pre-2015.
- Office space occupied is 64% smaller than pre-2015.
- Travel and subsistence costs have more than halved compared to pre-2015 figures (with savings predating Covid19 pandemic restrictions).
- Unqualified accounts secured annually, since its establishment, from Audit Wales.
- Systematically reduced the high level of financial reserves – from £408,000 in April 2015 to £51,000 in 2021.
- Our legislation is silent on the Children's Commissioner generating income, charging for our services or securing financial contributions from others – currently, our sole funder is Welsh Government. We'd welcome further exploration of this.
- Cyber Essentials Plus accredited organisation.
- Seen a three-year reduction in short-term absences, despite experiencing a global pandemic.



Tŷ Llewellyn/Llewellyn House
Parc Busnes Glan yr
Harbwr/Harbourside Business Park
Heol yr Harbwr/Harbourside Road
Port Talbot
SA13 1SB

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- Over the last three years have:
 - Heard from over 51,000 via surveys
 - Directly engaged with over 20,000 young people
 - Delivered training on children's rights to over 1,000 professionals
 - Handled 1,894 cases via our Investigations and Advice service
 - [This evaluation](#) documents the changes to children's lives secured as a result of the organisation's work.
- Delivering all project work over the last three years and additional work in response to the pandemic for £315,000 = £0.34 per child in Wales.

As a final critical point, this independent institution has its own unique statutory functions. You'll appreciate that the remits of the four commissioners within the scope of your inquiry are different (with some even having regulatory functions over each other e.g. Welsh Language Commissioner's role in holding us to account on our delivery of the Welsh Language Standards), our structures are different, our funding is different, but a common thread is the desire to provide excellent public service to our respective sectors and a willingness to work in partnership if doing so would result in significant, positive change to the lives of citizens in Wales. We deliver this via a mutually drafted and mutually agreed Memorandum of Understanding. Here are key principles of that agreement:

- *The overarching aim of our five bodies 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*
- *We are bodies of equal status and will show regard for each other's remits and activities*
- *We are open to joint working where this may be more effective and appropriate to our joint remits. This may involve cases, thematic reviews, campaigns or joint examinations.*

Here is our response to your request for information:

1. Roles and responsibilities

- **A summary of the roles and responsibilities of your office, together with information about how these may have changed over time, as suggested by the Senedd Equality and Social Justice (ESJ) Committee in its Report. Whether there has been any financial impact of such changes and the details of those implications.**

Our statutory responsibilities:

In 2001, Wales became the first country in the UK to appoint an independent human rights institution for children. My statutory functions are included in two laws: the Care Standards Act 2000 and the Children's Commissioner for Wales Act 2001 (which amended the Care Standards Act 2000).

My principal, statutory aim is to safeguard and promote the rights and welfare of children in Wales. I also have:

- The power to review and monitor the arrangements for complaints, whistleblowing and advocacy of defined public bodies;
- The power to review the exercise of functions (powers and duties) or proposed exercise of functions of defined public bodies, including Welsh Government;

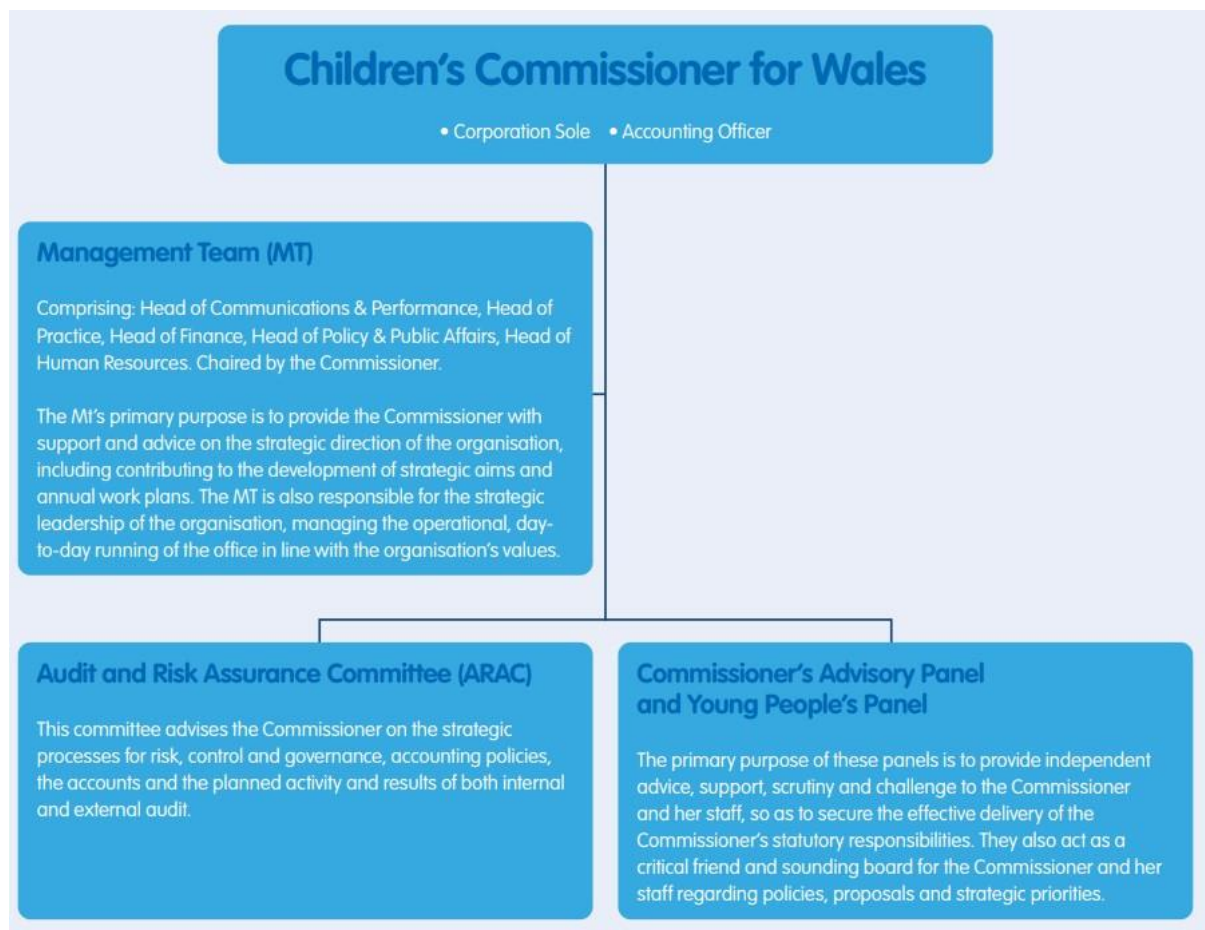


- The power to examine cases, in respect of individual children;
- The power to provide assistance to individual children; and
- The power to make representations to the First Minister, Welsh Ministers and the Counsel General about any matters affecting the rights and welfare of children which concern me and for which I do not have the power to act.

As corporation sole, I am also the Accounting Officer and need to ensure there is sound financial control in place. We manage our public funds according to 'Managing Welsh Public Money' and have in place a detailed Governance Framework. This work is firmly rooted in 'The Good Governance Standard for Public Services', the 'International Framework: Good Governance in the Public Sector' and draws on elements from the 'UK Corporate Governance Code', maps how we build on the Nolan Principles for the conduct of individuals in public life by setting out six core principles of good governance we've adopted.

The way we work:

This diagram describes our governance structure



Supporting my Management Team are interrelated functions - policy, participation, investigations and advice, communications and HR, finance and IT - that work together in a whole-team approach. We deliver a work programme – which is completely interdependent. Officers take expert roles within this according to their specialism but are dependent on the other parts of the organisation to deliver the programme of work.

As a public office in receipt of public funds, we are committed to implementing rigorous and transparent accountability and decision-making systems. Our evaluation framework provides a framework by which we monitor and report on the delivery of our core work and the internal processes within the organisation. It focuses on four elements: our people, our organisational processes, the Commissioner's financial sustainability and value for money and children and young people. These reports are discussed monthly at Management Team meetings, quarterly by the Audit and Risk Assurance Committee and highlights are published within our annual reports.

Changes to powers and duties

Whilst my powers and duties within the original laws which established the office have not changed since the Care Standards Act 2000, and the Children's Commissioner for Wales Act 2001 (which amended the Care Standards Act 2000), there are three new Welsh laws which have come into effect during this time: the Rights of Children and Young Persons (Wales) Measure, the Social Services and Well-being (Wales) Act 2014 and related Codes of Practice and the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

To note, all related activities resulting from these changes are welcomed by this office but are flagged here for the purposes of this inquiry as evidence that our scope of work has increased but our funding has not. The Rights of Children and Young Persons (Wales) Measure requires Welsh Ministers to have due regard to children's rights, resulting in further scrutiny work for us. That Measure also requires Welsh Government to involve us in preparing its children's scheme, which outlines the arrangements Government has in place for ensuring children's rights are considered in undertaking its work. The Social Services and Well-being (Wales) Act 2014 requires 'persons exercising functions under this Act in relation to a child... Must have due regard to Part 1 of the United Nations Convention on the Rights of the Child...', resulting in further scrutiny work for us. The Additional Learning Needs and Education Tribunal (Wales) Act 2018, places a duty on 'relevant body exercising functions... in relation to a child or young person must have due regard to Part 1 of the United Nations Convention on the Rights of the Child...', resulting in further scrutiny work for us.

On a related note, in 2021 my predecessor undertook a formal review of the Welsh Government Ministers' exercise of functions in respect of two education policy matters, using the power in Section 72B of the Care Standards Act. The report concluding that Review sets out a number of areas where the team identified difficulties or deficiencies in the exercise of our formal powers.

The original legislation pre-dates the extension of the devolution settlement in Wales. Notably, the powers of the post holder in England were reviewed and revised 10 years following the creation of the office; it's been over 20 years since the post was created in Wales, with no substantive amendments made to the legislation beyond consequential amendments.

In summary, here are the apparent gaps or anomalies with our current legislation:

- Appointment is by the Executive and not the Legislature; this is not the recommended practice for independent human rights institutions;
- A mixed picture on how the different powers can be exercised, with some lacking the operational or practical details needed to make them viable;



- Changes to organisations' roles and remits and new organisations created since the post was enacted, that do not fall within the Commissioner's existing remit;
- Lack of information on how the Commissioner can require access to documentation and settings in discharging their functions;
- Inability to intervene in certain settings due to the current devolution settlement.

We have corresponded with the Senedd's Children, Young People and Education Committee on the issue and can expand on this further, if the Public Accounts Committee wishes to follow up on any of the above points.

- **How the actual cost of delivering your functions compares with any cost estimates that may have been made at the time your role was established (such as any estimates set out in the Explanatory Memorandum/Regulatory Impact Assessment to support the legislation), with reasons to explain any variances (where appropriate).**

As the Children's Commissioner's office was established under the Care Standards Act 2000 the original budget estimate for the period 2001-02 was £936,000, which included the costs associated with the establishment of the office and its systems and processes, such as information technology etc. Due to retention periods of documents, we do not hold further information (other than published information contained within the organisation's first annual report and accounts available [here](#)) about the cost estimates that may have been made over 20 years ago when the role was established.

2. Budget approval process

- **Views on the budget process, including timescales and engagement with Welsh Ministers and officials, such as those in Partnership Teams (sponsors) within Welsh Government departments. Is any information provided by Welsh Government officials ahead of the submission of your estimate for the forthcoming year, such as the Welsh Government's best assessment of the level of funding available in future years and factors to take into account when preparing the estimate.**

Under paragraph 6 (2) of Schedule 2 of the Care Standards Act 2000 I am required to submit a budget estimate to Welsh Ministers that outlines the resources required to discharge my statutory functions. The budget estimate should be presented to Welsh Ministers by 31st October, of the year prior to the start of the financial period to which it relates.

We have in place a Memorandum of Understanding: operational working arrangements between the Children's Commissioner for Wales and the Welsh Government, last updated in June 2022 and signed by the commissioner and Minister for Social Justice, Jane Hutt MS. Its purpose is to ensure both institutions work proactively and constructively for the benefit of children, young people and their families, whilst respecting the independence of this office. Here's an extract from that Memorandum of Understanding about the current budget process:

7. Funding of the Children's Commissioner's Office

The Children and Families Division will advise the Children's Commissioner at the earliest opportunity of the funding to be made available in the following financial year following Ministerial approval.

The Children's Commissioner will invoice the Welsh Government on a quarterly basis and be able to draw down the funds in a timely manner. In accordance with principles outlined in Managing Welsh Public Money, grant in aid must only be drawn down to make the payments expected to fall due before the next claim is due. The payment requested will be actioned in accordance with the Welsh



Government's financial governance arrangements and the published timescales. A cash grant in aid claim form will be provided with grant award letters.

Under the provisions of the 2000 Act Schedule 2, paras. 6(1) to 6(4), the Children's Commissioner has to submit an estimate of her income and expenditure to Welsh Ministers at least 5 months before the start of the financial year. The legislation requires Welsh Government to examine each such estimate submitted and, having done so, lay the estimate before the Senedd Cymru Welsh Parliament with any such modifications as they deem fit. However, the Welsh Government fully acknowledges and respects the Children's Commissioner's independence and as such will not seek to influence in any way the Children's Commissioner's work programme or outputs.

As stated above, the Children's Commissioner will endeavour to produce a draft of her budget for the following year by August of the current financial year. If necessary, the Children's Commissioner's office and Head of Finance will discuss the Estimate of income and expenditure at the last 'Welsh Government Officials meeting' prior to submission (summer), where they will discuss any issues with the Deputy Director Children and Families Division and the Head of Children's Branch. The Children's Commissioner's office will then finalise the budget estimate for formal submission by no later than 31st October.

The Children's Commissioner recognises that the Permanent Secretary, as the Welsh Government's Principal Accounting Officer, has a duty to ascertain that the Children's Commissioner has put in place adequate arrangements to ensure that the annual allocation is used with regard to the need for regularity, propriety and value for money. As such, the Children's Commissioner will provide the Welsh Government with any relevant information that it might require in advance of discussion at each 'Welsh Government Officials meeting'. To be clear, this is for information only and the Welsh Government will not seek to influence any of the Children's Commissioner's budgetary decisions.

The Children's Commissioner and her Audit and Risk Assurance Committee will be made aware at the earliest opportunity of any internal audit or other financial review that might impact on the Children's Commissioner's office, and the Children's Commissioner will be provided with a copy of any Terms of Reference and eventual report. The Children's Commissioner and her staff are committed to providing the Children's Branch with any appropriate assistance in preparation for or during such review.

In 2022, for the first time, we received a request from the sponsor department to share an early outline of our budget estimate for the 2023-24 financial period, by August 2022, to inform internal, departmental discussions. We did so.

Although we provide early indication of our budget request, we do not receive an indication from Welsh Government of our settlement until its draft budget is published for scrutiny in December. At that point, we are able to establish what our proposed budget will be; at this point, if that differs from our submitted estimate, we are not always told the reasons why.

If concerned at this point, we will usually make representation to our link Minister.

We receive confirmation of our budget late in our strategic planning cycle, sometimes as late as April of the new financial year, therefore making long-term business planning extremely difficult.

Despite including three year forecasts in our budget, we are not informed by Welsh Government what the likely settlement will be in future years for us.



- **What process is in place to agree any modifications to the estimate. How are these communicated and agreed. How significant have they been and what impact have they had on the work of, and plans for, your office.**

There is no agreed process for agreeing any modifications to the estimate. We are not informed of the detailed reasons why our budget estimate may not have been granted in full.

Despite this, over recent years, we have sought modifications by discussing needs with officials and at times, taking issues directly to Welsh Ministers.

The latest example of this was in relation to our budget estimate discussions for 2022-23 financial period. The Commissioner wrote directly to the Minister for Social Justice to outline the potential shortfall in the annual estimate request and the proposed level of funding (as was requested in the original estimate submission) be provided by the Welsh Government. Whilst in this particular instance the level of funding was increased, there is no certainty that a direct appeal to Welsh Ministers will have such a positive outcome as happened in this case.

- **In December 2021, the Welsh Government published its Draft Budget 2022-23 and its first multi-year Welsh Budget since 2017. To what extent are you and the Welsh Government moving to a 'Term of Government' approach, while complying with the statutory requirement to submit an estimate to Welsh Ministers at least five months before the financial year to which it relates. What are the main benefits to doing this.**

Our present budget estimate is submitted for the next financial period and includes indicative figures only for a further two financial periods. The current process makes it almost impossible to plan strategically long-term, due to uncertainty of funding, therefore I would welcome the opportunity of moving to a 'Term of Government' approach to enable better long term financial planning and resource allocation to be achieved.

3. Collaboration, including sharing functions and staff

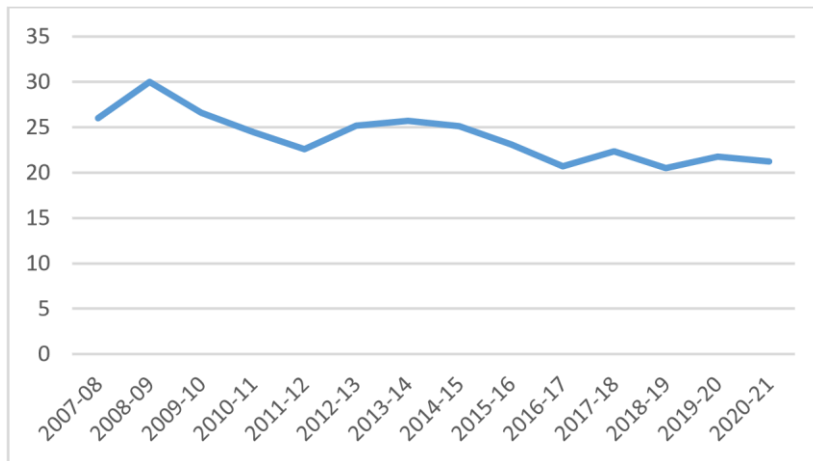
- **During its scrutiny of the 2013-14 Accounts, the Public Accounts Committee of the Fourth Assembly explored with the then Commissioners whether they could deliver savings through greater collaboration and possibly, sharing back-office functions. In its Report, Scrutiny of Accounts 2013-14 (March 2015), the Committee summarised the evidence and recommended: ...that efforts to achieve efficiencies and greater productivity through collaboration, including integration of back-office functions, continue between the Commissioners and the Ombudsman, and that this be reported on in their 2014-15 annual reports and accounts. Responses to the Report are included on the Committee page for the scrutiny of accounts for 2013-14. The Committee would welcome an update about how Commissioners collaborate and the benefits that arise from any joint working, as well as any sharing of backroom functions and staff.**
- **Any learning from these experiences: what worked well; how did you mitigate any risks with accountability; what savings did you make; and why you may not have continued with such arrangements. Details of any sharing of functions or staff with other public bodies/regulators in Wales.**

Over the last seven years, we have strived to be an efficient and effective organisation by making ourselves as lean as possible, with staffing and office costs. As can be seen in Figure 1, the staffing



complement is smaller than pre 2015, with a largely stable workforce meaning that many of my staff have reached the top of their pay band levels. This brings a wealth of experience and expertise to the work of the office as well as stability in our workforce; it means I have a staff team who are able to deliver, at fast pace, high quality and high volume work.

Figure 1: Average Staff Numbers 2007-21



In addition to a reduction in the staffing complement, the physical office space we are occupying is also 64% smaller, delivering more value for the public purse. This has been achieved by reducing the number of offices from two to one in 2016 and a move to a smaller office in 2021.

Table 1: reduction in office occupancy by square metre 2015-2023

	2015-16	2022-23	Difference	Difference (%)
Office Accommodation square metre	664.94 (m2)	238 (m2)	426.94 (m2)	64.2

With our new accommodation, we are in a prime position to be able to establish ourselves as a real public sector hub in the heart of Port Talbot in a sustainable building, accessible to all via solid public transport infrastructure, a suitable and safe space for staff. This move included cost savings of £56,000 from the figure of our dilapidations provision and on average a saving of £20,000 per year on rates and rental costs.

It is important to note here that we do not distinguish any of our small staff team as 'back-office' – we require all staff to integrate their specialism with duties related to the delivery of our statutory functions. We all work collaboratively, via a detailed project management approach, to deliver our statutory functions and any additional work we undertake in response to what children and young people are telling us.



During my predecessor's term in office, the team sought opportunities to work collaboratively with other public bodies. The organisation has benefitted from both inward and outward secondment opportunities, working with other organisations to gain experience and knowledge, and reduce the pressure on the public purse. Opportunities have been developed with other organisations with secondments to/from:

- Future Generations Commissioner for Wales;
- Senedd Commission;
- Children's Legal Centre, Swansea University
- Social Care Wales; and
- The Cabinet Office – via the Fast Stream Civil Service scheme

We have also pursued other opportunities for collaborative working, to deliver our statutory remit including:

- As one of our contributions as a public service during the national emergency, we worked with the Welsh Government, Children in Wales and the Senedd leuencid/Youth Parliament during the Covid19 pandemic to undertake large-scale consultations with nearly 43,000 children and young people - 'Coronavirus and Me'-which we estimate would have the cost the Welsh Government over £100,000 in 2020-22 if they had procured the work from another organisation.
- Since 2017, we have been supporting organisations to transform services and ways of working using our 'Right Way' model, which enables public services to place children's human rights at the heart of all planning decisions and service delivery. In our most recent evaluation of the work, here's what practitioners had to say:
 "The Right Way has helped us to put in place structures to transform our value of listening to children and young people into action.... The Right Way changed the lens – children were not perpetrators who deserved punitive measures, but people who needed restorative support. This has led to the changing of policies that are deemed to be punitive."
 "Official guidance and documents from the office of the Children's Commissioner have been useful in gaining buy-in from our senior decision makers. Navigating all of the pressures of and demands of service provision requires a little more direct encouragement and Sally brings that. People see her name and they pay attention. It's not my voice anymore but a strategy and resources and a Commissioner. We welcome that."
- We work with other organisations where opportunities for sharing training costs align with organisational requirements.
- We work with other Commissioners and the Ombudsman in Wales to jointly procure the services of internal audit.
- We offer hot desk facilities for other organisations
- We support each other with interview processes where external panel members can be beneficial for many reasons.
- We work with our UK counterparts to deliver joint training and good practice exchange and work with them on submitting a joint report to the UN Committee on the Rights of the Child on the state of children's human rights across the UK.



Most of this work is time-bound for the completion of a specific project or piece of work. Where we have embarked on any type of collaborative working a Business Case and full Project Plan is developed to ensure all possible risks are identified and where possible mitigated controls are used to treat the identified risk.

In terms of delivering value for money and securing wider benefits, I would draw the attention of the committee to three aspects of work under my predecessor which I'm keen to maintain and build on (we have already identified some ideas as part of our strategic planning process):

- Shared training has been very effective and has allowed us to build relationships with others.
- Secondments, both inward and outward, have also been useful for dealing with either short-term problems, sharing expertise or knowledge, furthering common goals or ensuring that our organisational resilience and efficiencies have increased.

Most of these secondments have been time-bound for the completion of a specific project, a piece of work or due to an employee's resignation. Where we have embarked on an inward or outward secondment a secondment agreement has been drafted to ensure clarity with the employment relationship, ensure all possible risks are identified and where possible mitigated controls are used to treat the identified risk.

- Joint procurement exercises: we have worked with the Public Services Ombudsman most recently to procure internal audit services and will consider other opportunities for joint procurement when service contracts are due for renewal.

I'm nine months into post and can categorically conclude that partnership working will be a key pillar of the way we work during my term in office, not only from a prudent accounting officer perspective but with an acknowledgment that our statutory remit cannot be delivered alone with such a lean staff team of 24, and a budget which equates to 0.96% of the Social Justice division spend within Welsh Government (figure based on 2023/24 indicative budgets).

In relation to other Welsh commissioners and the Public Services Ombudsman in Wales, we have a Memorandum of Understanding in place (last updated in December 2020) and here are pertinent principles from that agreement:

- *The overarching aim of our five bodies 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*
- *We are bodies of equal status and will show regard for each other's remits and activities*
- *We are open to joint working where this may be more effective and appropriate to our joint remits. This may involve cases, thematic reviews, campaigns or joint examinations.*

Our remits are different, our structures are different, our funding is different, but a common thread is the desire to provide excellent public service to our respective sectors and a willingness to work in partnership if doing so would result in significant, positive change to the lives of citizens in Wales. There are clear human rights breaches pertinent to my office and the Welsh Language Commissioner's office and I have sought an early meeting with the new Welsh Language Commissioner to discuss how we could collaborate to challenge those stubborn issues; there are shared concerns around the access to public transport, which I will continue pursuing with the Future Generations Commissioner and there will always be a need to avoid pitching one generation against the other, hence the need for regular dialogue between my office and that of the Older People's



Commissioner for Wales. My focus will be on addressing those real issues affecting children and young people in Wales and working with fellow commissioners, or others if required, to push for change. An area of improvement for me, in relation to this, will be how as a public service, we're making the most of the data we're gathering on children's lives.

I will also continue with the arrangement of having annual discussions with the Permanent Secretary, raising with him not only pertinent issues on children's human rights matters, but also on any matters of relevance to him as principal accounting officer. I know the organisation has previously used this contact to offer support and staffing to the civil service during the Covid19 pandemic.

4. Current financial position and future challenges

- An assessment of the current financial position of the organisation and an assessment of future needs in the context of the pressures on public funds.

It would be remiss of me not to acknowledge the significant pressures on public services and public finances – the pandemic, cost of living crisis and the war in Ukraine has placed significant challenges at the door of the Welsh Government. All three have had a devastating impact on children's human rights. These issues bring into sharp focus the importance of having a strong and stable independent champion for children's human rights in Wales, that can amplify children's voices but also support Government and others to protect and promote those fundamental rights. This can only be achieved by having a more sustainable funding model.

In my first estimate as Commissioner, I wanted to be certain there was no waste nor extravagance, and took time to evaluate every budget line with my management team.

The financial period 2022-23 - being the first year for me as the new Commissioner - is a consultative year. We have a Strategic Planning cycle in place that sets out the key points for our work programme, within the context of my seven-year term. As part of this planning cycle, we have engaged with children, and those who care for and about them, across Wales, with qualitative engagement across the summer and a large-scale nationwide survey in the autumn – in which nearly 10,000 took part. This, along with our usual staff planning sessions to share intelligence gathered from across our areas of work, will form the basis of our 3-year strategic plan (2023-2026) and the annual work plan for 2023-24.

As at January 2023, this work is continuing and is an important part of exercising my legal remit by allowing children and young people to directly influence my work plans and priorities, however, these priorities have not been fully costed. That said, we have been able to rely on our forecasting figures and historic information about likely spend on projects (which we used as the basis of our draft budget estimate).

Notably, quite a significant proportion of our spend is comprised of fixed costs. Like all public sector employers, my office has faced increased staff costs, largely due to increased pension contributions, incremental in-band pay increases that mirror those of the civil service, and the increase in employers' national insurance contributions. In the last four years, the rise in pension costs (64%) has significantly outstripped the rise in our wage bill (11.4%).



- The impact of the designation of your office under the changes to the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2018 on your current and future financial position. What were the main challenges in moving to the new arrangements and what do you see at the most significant change(s) as a result of them.

To note, as an organisation we have always welcomed plans to 'simplify systems, improve the consistency and transparency of Welsh Government finance and provide clearer accountability to the Assembly [now Senedd] and the public'. However, the inclusion of our office in the Order does present a risk, which we have highlighted on numerous occasions to Welsh Government, as there are potential unintended consequences of these changes in relation to the independence of this institution.

In particular, the new limit to the general fund which can be carried over from year to year, of 5% of our annual grant (circa. £86K) has created an increased risk of us not being able to deliver our statutory function and our ability to act swiftly to undertake urgent additional work (as seen during the Covid19 pandemic) due to lack of funding. An example of this in year is our request to Welsh Government for additional funds to support our participation in the Covid19 UK Public Inquiry as one of only eight core participants of Module 2B, which will look into decision-making in Wales during the pandemic.

The order sees us having to request additional funds to undertake pieces of work, such as undertake statutory reviews or examinations of Welsh Government, from Welsh Government itself. There remains lack of clarity about the method by which this may be requested or the rationale for it being granted or how. This consequently has the potential to compromise the independence of my office and curtail my ability to undertake additional work.

I concur with my predecessor that this risk could be mitigated if plans were put in place to make this office accountable to Senedd Cymru.

As a reminder, the Paris Principles – which establish the minimum standards required for the independence and effective functioning of national human rights institutions – require that a national institution such as the Children's Commissioner for Wales: "Shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff premises, in order to be independent of the Government and not be subject to financial control which might affect its independence."

I trust this submission will be of interest and of use to committee members during the inquiry. Please do not hesitate to request any additional information from us.

Yours sincerely,



Rocio Cifuentes MBE
Children's Commissioner for Wales



Inquiry in the funding of Commissioners

Written evidence Future Generations Commissioner for Wales, Sophie Howe

December 2022

Dear Chair,

Please find our responses to your letter dated 30 November 2022 about the funding of my office.

Headlines

- Duties and powers were vastly underestimated by the Government and do not reflect the reality of the role and remit, this has not yet been resolved.
- New bodies, and therefore new duties on the Commissioner, have been added to the Future Generations Act without being funded. More bodies are due to be added and the funding is being negotiated with the Government and is not yet guaranteed.
- Ministers refer to many specialist areas being covered under the Act (lately fair work, the proposed private members' food Bill, digital decarbonisation etc.) implying we need technical knowledge and input in a huge amount of technical topics without giving us the corresponding budget.
- I have managed to negotiate with Welsh Government annual uplifts in the last few years, but this does not enable me to recruit staff on a permanent basis. I need to train often and cannot always retain talent. Increasing my baseline would be much more efficient for my office and enable longer-term thinking as required by the Act.
- We have sought to save and generate income by recovering costs, through the sharing of staff and other resources with other Commissioners and broader partners.
- The legislation prohibits my office charging and making a profit for services which, if addressed, could enable my office to generate income from elsewhere to support public body work and compensate for the lack of funding. I have still managed to

bring over my term additional resources for my office of around £1.9million over my term.

- The budget alignment exercise has further substantially inhibited our ability to find alternative resources to support ongoing long term public body support work and to work in collaboration as required by the Act. It has raised questions of independence when we have to ask for funding, for example, to review Welsh Government or monitor and assess their progress in greater depth.

Responding to your questions highlighted in blue throughout the document:

Roles and responsibilities:

A summary of the roles and responsibilities of your office, together with information about how these may have changed over time, as suggested by the Senedd ESJ Committee in its Report.

General duty and powers

As [Future Generations Commissioner for Wales](#), my **general duty is to promote the sustainable development principle.**

My general duty under section 17 of the Act includes:

“Promoting the sustainable development principle (including the five ways of working), in particular to act as a guardian of the ability of future generations to meet their needs; and encourage public bodies to take greater account of the long-term impact of the things they do.

For that purpose, monitoring and assessing the extent to which well-being objectives set by public bodies are being met.”

As the first Commissioner, I am raising awareness about the Act and the sustainable development principle and I am a critical friend for public bodies, public services boards and anyone who can help contribute to the achievement of the national well-being goals.

I support and challenge public bodies to embrace their duty and improve all aspects of economic, social, environmental and cultural well-being for the whole population of Wales, which is a huge task as most decisions currently made in Wales will impact the well-being of current and future generations. Over 350 well-being objectives have been set as well as thousands of steps to meet those.

I have chosen to use my general duty to make a difference over my term by setting **four strategic purposes**:

Purpose 1 - Highlighting and acting upon the big issues and challenges facing future generations

Purpose 2 - Supporting and challenging public bodies to use the Well-being of Future Generations Act

Purpose 3 - Creating a movement for change

Purpose 4 - Walking the talk – being the change that we want to see in others.

You can find my term strategic plan [here](#).

To carry out my general duty, I have a range of **specific [functions and powers](#)**:

- Section 18 (a) General duty – Promote the sustainable development principle
- Section 18 (b) General duty – Monitor and assess the extent to which well-being objectives set by public bodies are being met
- Section 19 (a) Power - Provide advice or assistance to public bodies (which includes providing advice on climate change)
- Section 19 (b) Power - Provide advice to the Auditor General Wales on the Sustainable Development principle
- Section 19 (c) Power - Provide advice to a public services board in relation to the preparation of its local well-being plan
- Section 19 (d) Power - Provide any other advice or assistance to any other person who the Commissioner considers is taking steps that may contribute to the achievement of the Well-being Goals
- Section 19 (e) Power - Encourage best practice in public bodies in taking steps to meet their well-being objectives in accordance with the Sustainable Development principle

- Section 19 (f) Power - Promote awareness amongst public bodies of the need to take steps to meet their well-being objectives in accordance with the Sustainable Development principle
- Section 19 (g) Power - Encourage public bodies to work with each other and with other persons if this could assist them to meet their well-being objectives
- Section 19 (h) Power - Seek the advice of an advisory panel in relation to the exercise of the Commissioner's functions
- Section 20 to 22 - Power to conduct reviews and to make recommendations

I also have a great number of specific powers and duties under the Act, including:

Specific powers and duties

Powers and duties relating to Welsh Government (WG)

- I must be consulted on revisions of WG indicators and milestones (s.10).
- I must be consulted if the WG by regulations to amend the threshold dictating when a community council is caught by the Act s.40.
- I must be consulted if the WG by regulations amends the definition of public body in the Act s.52.
- If I make recommendations to WG on goals and indicators, we must publish them s.21.
- In setting their objectives WG must take into account my Future Generations report s.8.
- I may provide advice or assistance (including advice on climate change) public bodies, AGW, PSB, any other person who may contribute to the goals s. 19.
- Power to make recommendations to WG on goals and indicators s.21.

Powers and duties relating to public bodies

- I must be consulted by the Auditor General during their examinations of public bodies (s.15). Duty once during period (1 year before election/1 year 1 day after).
- Public bodies must take all reasonable steps to follow our review recommendations unless good reason not to do so s.22.
- In conducting a review, I must take into account examinations by the AGW s20, we must publish a report of a review.

- In revising their objectives public bodies must take into account my FG report s.9.

Powers relating to Public Services Boards (PSBs)

- Before publishing their Well-being assessments the PSBs must consult me and provide me with a draft s.38.
- Before publishing their Well-being plans the PSBs must consult me and provide me with a draft s.43.
- Before publishing a revision of their Well-being plans the PSBs must consult me s.44.
- Local Authority Overview and Scrutiny Committees must send me their reports or recommendations to the PSBs with respect to the board's functions or governance arrangements s.35.
- Each PSB must send me a copy of their well-being assessments s.37.
- Each PSB must send me a copy of their well-being plan s.39.
- Each PSB must send me a copy of their revised well-being plan s.44.
- Each PSB must send me a copy of their annual report setting out the steps taken to meet the objectives contained in their plan s.45.
- I must give advice within 14 weeks to PSBs on how to take steps to meet the local objectives to be included in the plan according to the Sustainable Development (SD) principle. It must be in writing and will be published with the plan (s.42)
- In setting their well-being assessments PSBs must take into account our FG report s.39.
- I may promote awareness on need to take steps to meet objectives.

Miscellaneous powers

- I must be consulted on appointments and dismissals of members of the advisory panel s.27.
- I must prepare and publish before end of reporting period (before 5 May 2020) a Future Generations Report including an assessment of improvements public bodies should make to set and meet objectives in accordance with SD principle. (s.23)
- I must consult statutory consultees before publishing the FG report s.24, must take into account the WG annual reports, future trends report and AGW's reports.

- I must publish an annual report before 31st August and must send a copy to the Welsh Ministers - must include summary of activity, effectiveness of such actions, summary of work programme past and future years, summary of complaints; can include an assessment of necessary improvements to be made by public bodies to meet their objectives in accordance with SD (Sch2. Para.17).
- I must consult advisory panel before publishing annual report (Sch2. Para.17). (Annual report laid before the Assembly – would expect scrutiny/appearance??)
- I must prepare estimates for each financial year of income and expenses before 5th of December Sch.2 para.19.
- Duty to keep proper accounting records, prepare accounts Para 20.
- Duty to submit accounts to Auditor General before 31 August
- I may conduct joint reviews with other commissioners s.25.
- I may do anything the Commissioner considers appropriate in connection with the Commissioner's functions Sch.2 para 8.

Changes over time

Whether there has been any financial impact of such changes and the details of those implications.

My powers and duties have not changed since the Act came into force, but the numbers of bodies coming under its remit have changed, thus affecting the burden on my office.

In December 2021, **4 public bodies** (Joint Corporate Committees) have been added to the list of bodies caught by the Act without any additional funding.

The numbers of **PSBs have reduced from 19 to 14** this year through mergers. But, as the PSBs have now been in operation for 7 years, the advice and challenge required has been **more demanding** as many PSBs seek to be **more ambitious and / or review the way they have operated to date**. In seeking to influence the work of the PSBs more effectively, we are also **working more closely with PSBs during this second round of well-being assessments and plans**, meeting with them regularly and providing ongoing, iterative support and advice (which is supplemented by our formal advice). This approach has been welcomed but didn't equate to a reduction of work despite the mergers.

Expected additions

The Welsh Government is conducting a review of the public bodies which should fall under our legislation from April 2023. There is a **proposal for 8 additional bodies** in the current government's consultation and this increase will have a direct impact on my resources and **needs to be properly resourced given the existing constraints on my budget.**

I am in the process of negotiating these additional costs with Welsh Government to ensure that the new RIA reflects the additional costs for my office.

The addition of new bodies to the Act without addressing the ongoing shortfall in funding for support would only add to this problem. I need to be able to retain fixed-term staff who have built up expertise on the Act and would be difficult to replace. We hope for a sustainable increase in our baseline this year onwards to enable us to make these posts permanent. **Sadly, this is not what the draft budget 2023-24 implies, confirmed by a Ministerial letter on 27th of January 2023.** The staff team I have been able to develop to support public bodies beyond Welsh Government to implement the Act, and beyond just the provision of statutory duties, will have to be cut as there is insufficient funding in the baseline budget to resource them if I don't get annual uplifts.

I have estimated that the addition of 8 national bodies (on top of the 4 Corporate Joint Committees) will require the recruitment of 3 posts, 2 full-time in my public bodies team and a Grade 4 on a part-time basis to undertake delegated projects and work from members of my SMT and my time necessary to be dedicated to the new bodies. I have also indicated transitional costs which should be reflected in the Welsh Government's upcoming RIA.

The Welsh Government have not confirmed yet the resource allocation for new bodies to be added to the Act. I have pointed out to them that new bodies will need a bigger supportive intervention in the early period to help them consider the Act, upskill staff setting well-being objectives and understand how best to apply the five ways of working to their functions. Then after a few years, they will need more in-depth and more technical support as they reform their policies and undertake bigger sustainable projects, as we have experienced so far.

The ESJ Committee had suggested finding longer term solutions to my funding and this is not happening. The amount of time which my team has to dedicate to these annual negotiations is further valuable time taken away from the exercise of my functions.

This is why the only option is to increase my baseline and at the same take into account the original underestimate.

Inability to generate income

The inability for my office to generate income and the loss of my reserves following the alignment exercise further inhibits me from taking a longer-term financial profile and to provide a better level of security for staff and work programmes. For example, resources I have been able to bring in from other partners to resource particular work or aspects of work no longer free up allocated cash to support a stable core staff team to meet duties (as current baseline funding is insufficient) and instead could be lost following the alignment exercise. A solution which would need to be explored is the possibility to allow my office to charge at profit for the services I provide to others than public bodies and possibly to public bodies when justifiable. This year for the first time we got an indication of what next year's budget could be too (24-25) but with no commitment as explained in the letter.

We operate on a partnership first approach with every piece of work and are highly successful at achieving **collaborative funding arrangements**. The downside of this is that we can **never be certain** that we will be able to obtain funding or a partnership contribution for planned nor when this will happen. Every time we have achieved this, we have been able to utilise reserves and planned funding for additional support work, often maintaining continuity of staff in roles which would otherwise have to cease. (see my latest statutory estimate and below for more detail).

Temporary increased resources

For the **last 2 years, I have used increased resources**, first using my **reserves** and then thanks to a **one-off permission to 'carry over into 2022-23 of a level of useable reserves which must not exceed £300,000'** in a letter from the Deputy Minister in response to mine, highlighting the contents of my estimate and the limitations of my budget. Following a similar process, for 2023-24, the Welsh Government's draft budget proposes a £171K similar 'useable reserves' uplift for my office, with an indication of their intent to do the same for 2024-25.



The past increased resources have enabled me to:

- Maintain **dedicated regional contacts for public bodies and PSBs** advising on a range of topics from advice when they revise their corporate strategies to advice on governance structures for a citizen involvement project. But I have still had to decline 99 requests for support in the 2021-2022 financial year and 16 requests so far for this financial year (at November 2022).
- **Recruit** a dedicated member of staff to work on **equality, diversity and inclusion policy**, developing links and partnerships with diverse communities and ensuring our internal approaches are progressive.
- Continue to employ the team deliver on **international work and Leadership Academy** while funding is being agreed.
- Undertake **my Section 20 Review** into the machinery of Welsh Government's implementation of the Act.

As set out in my estimate for 2022-23, following from my duties set out in the Act, my expenditure is **uneven over the 5-year cycles** meaning that additional resource cover will be needed for those duties additional statutory work such as large reviews year on year. 2023-24 corresponds to a Year 3 in the cycle and the additional foreseen costs are £82K. (see last year's and this year's estimate for the full detail).

I have made a case in these estimates for an increased baseline to enable me to discharge my **powers and duties in the way the Act requires** and to **maintain my independence** in discharging my functions in particular conducting reviews.

How the actual cost of delivering your functions compares with any cost estimates that may have been made at the time your role was established (such as any estimates set out in the Explanatory Memorandum/Regulatory Impact Assessment to support the legislation), with reasons to explain any variances (where appropriate).

The original budget for my office was **based on an out-of-date regulatory impact assessment** which seriously affected the service that my office was able to provide and undermined the Government's aspiration to embed future generations 'thinking and doing' throughout public services in Wales.

I have repeatedly explained, I believe the Regulatory Impact Assessment which allocated the initial budget to my office substantially underestimated the costs of meeting the statutory duties placed on me:

- At the time it could **not have been known** that public bodies between them would set in **excess of 350 well-being objectives (with thousands of steps to meet them)** and the Act places statutory **duties** on me to monitor and assess progress being made against these objectives which is **impossible based on current level of resources**.
- The power to conduct reviews was added by amendment to the Bill and its corresponding costs were not included in the RIA.
- I remain the lowest funded Commissioner body with the largest remit, as confirmed by the Senedd in April 2022.

The different roles and remits of Commissioners are difficult to compare but my distinct statutory **duties relating to the monitoring and assessing** of 44 public bodies in Wales, I believe, was not fully appreciated at the point at which my budget was set. **Over 350 well-being objectives have been set with thousands of steps to meet them**. The power to conduct **reviews was not included** at all.

National Insurance contribution increase added significant pressure to wages from April 2022.

In addition to the normal salary increases eating in my budget every year, in view of the **cost-of-living crisis**, we anticipate larger increases this year and possibly in coming years of at least 4% of salary costs but this should be 10% if we were to follow inflation and avoid any real term pay cut.

The existing baseline has **never been adequate** and with **inflation, statutory cost increases and well-being considerations my spending power is now down significantly**. With Inflation running over 10% this year, a dynamic employee market and emotional burn out from the pandemic is having a heavy impact on people's employment choices too.

This year, the **Welsh Government's Alignment of Salary Pay Directive** will cost us £36K to become fully analogous with Welsh Government minima pay scales as of April 2021, out of which, only £32K will be funded by the £652K fund set aside for Welsh Government minima



alignment. The gap between cost of minima alignment and WG provided support is forecast to increase in future years, further eating into my budget. Importantly, aligning to minima *only* does not address pay parity fully. As a fair and progressive employer, this is not a situation that we wish to be in. To remunerate our staff fairly and equitably for work of a comparable level to WG officials, it would cost our office at least £70k annually to align with WG pay scales in full. We believe this is the right and only course of action. However, with annual support limited to £16k from WG for two more years, with no promise of anything further thereafter, we found ourselves in a position where it was not an affordable option to commit to at present owing to our already stretched budget and the uncertainty around our annual baseline.

We have heard that Welsh Government did not spend all their budget on alignment and we would be keen to know how they will use the underspend.

Budget approval process:

Views on the budget process, including timescales and engagement with Welsh Ministers and officials, such as those in Partnership Teams (sponsors) within Welsh Government departments. Is any information provided by Welsh Government officials ahead of the submission of your estimate for the forthcoming year, such as the Welsh Government's best assessment of the level of funding available in future years and factors to take into account when preparing the estimate.

The Act requires us to produce an annual estimate for the expenses of our office **by 31 of November** before a new financial year. This estimate we understand is **discussed with officials** and then the Commissioner can have a conversation **with the Deputy Minister** to make her case directly.

A budget line is included in the **draft budget** which often comes as a surprise to us on publication and a **settlement letter** should finally confirm our budget position. But we would like to point that so far we have received such letters **after the start of the new financial year** (e.g. 28th of April in 2021) and we have **not received one at all** for this year 22-23. We got confirmation of our budget by a letter from the Deputy Minister on 14th of February 2022 on our estimate but had no settlement letter.

We would welcome receiving **settlement letters systematically and before the beginning of the financial year** to enable us to plan better, especially now we cannot keep reserves to compensate for any slippage.

The suggestion of planning budget per Senedd term is very welcome. This would give us much better clarity and enable more and longer-term thinking.

There seems to have been **confusion in the settlement letter we received in April 2021 as to whether the uplift in our baseline of £83K was a one-off or an ongoing uplift** (we believe it is ongoing). The line published in the budget did not include the uplift and we are waiting for clarification from the Welsh Government on this, in the absence of a settlement letter.

For the upcoming financial year (23-24), we were asked to produce our estimate early in the year, something I had suggested, and I was happy to send my estimates for 2023-24 **by August 2022** as requested by the Deputy Minister. **This is better practice as the statutory November deadline is too late in the process.**

There seems to be **inconstancy** in the way our budget is confirmed. We would **welcome some consistency, certainty and early warning** wherever possible in particular receiving settlement letter earlier.

What process is in place to agree any modifications to the estimate. How are these communicated and agreed. How significant have they been and what impact have they had on the work of, and plans for, your office.

Our budget allocation does not seem to have been linked directly to my estimate and it seems to me that my estimate has always been published as I sent it to Welsh Government without modification but the corresponding line for my office's budget in the Welsh Government's budget does not seem to relate to my estimates.

My budget has been set by letter from the Deputy Minister and the publication of the Welsh Government budget, rather than by modification of my estimate after the event and the figures do not correspond to my estimates in the last few years, from what I can see.



Having budgets confirmed very late once the financial year has started, without connexion to our estimate makes it **very difficult** for us **to plan and to retain staff** on fixed term contracts.

In December 2021, the Welsh Government published its Draft Budget 2022-23 and its first multi-year Welsh Budget since 2017. To what extent are you and the Welsh Government moving to a 'Term of Government' approach, while complying with the statutory requirement to submit an estimate to Welsh Ministers at least five months before the financial year to which it relates. What are the main benefits to doing this.

Moving to multi-year budgets is something we would really like to see and something we have been pushing for as part of our work on national budgeting. This should be explored as a matter of urgency, and we welcome any recommendations from the Committee on this issue.

Collaboration, including sharing functions and staff:

During its scrutiny of the 2013-14 Accounts, the Public Accounts Committee of the Fourth Assembly explored with the then Commissioners whether they could deliver savings through greater collaboration and possibly, sharing back-office functions. In its Report, Scrutiny of Accounts 2013-14 (March 2015), the Committee summarised the evidence and recommended: ...that efforts to achieve efficiencies and greater productivity through collaboration, including integration of back-office functions, continue between the Commissioners and the Ombudsman, and that this be reported on in their 2014-15 annual reports and accounts. Responses to the Report are included on the Committee page for the scrutiny of accounts for 2013-14. The Committee would welcome an update about how Commissioners collaborate and the benefits that arise from any joint working, as well as any sharing of backroom functions and staff.

In my case, there are formal and informal strands in my collaboration with other Commissioners.

All Commissioners sit on my advisory panel as is required by the Act.

We also meet regularly on a more informal basis at the Commissioners' level on one hand and at senior staff level on the other hand. Meetings are often quarterly to share new development, ask for advice and share good practice.

Officers liaise with one another seeking information or advice as they conduct their work as necessary.

Details of any sharing of functions or staff with other public bodies/regulators in Wales.

I welcome and actively pursue any opportunities to be more efficient and to work in collaboration. You will be aware that around seven years ago just as I took up post the Welsh Government commissioned a review of the opportunities for Commissioner bodies built on this report to collaborate and as a result of this and my desire to walk the talk of collaboration in line with the Act.

Since then, I have **shared a number of posts and functions** with other Commissioners and the Ombudsman including:

- **policy posts**, e.g. a post shared with Children's Commissioner who developed "The Right Way" toolkit (Children's Rights & Well-being of Future Generations Act);
- a **shared HR Manager** 2 days a week with the Children Commissioner for 5 years,
- **provision of resilience support** for the Children's Commissioner from my Director of Finance, for 6 months;
- **joint procurement** and attendance of a coaching accredited course for the SMT members of my office and of the Children Commissioner;
- **Joint procurement** of internal audits;
- **shared payroll services** with the Ombudsman for the last 7 years and still ongoing;
- **shared office space** with the Welsh Language Commissioner for 6 years taking on unused space at Market Chambers to save costs and offering hot-desking free for the Children's Commissioner and her team.

I have also developed a **new model with Audit Wales** to collectively meet our respective duties. Whilst this will not generate cost savings (based on the fact that the resources required to meet the monitoring and assessing duties of the Commissioner were vastly

underestimated), the new approach with Audit Wales is designed to be as collaborative and efficient as possible in meeting both our duties.

I have also pursued other opportunities for collaborating and reducing costs with **other organisations** in **multiple joint appointments and shared cost secondments** which included:

- Secondments from Welsh Government 2 posts for 2 years each and an Academi Wales graduate
- One Secondment to Welsh Government
- Two secondments from the Police
- One Secondment back to the Police
- One secondment back to Welsh Government
- One Secondment from South Wales Fire and Rescue 1 year
- Secondments from Public Health Wales for the last 4 years and still ongoing
- Eight secondments from all of the Art of the Possible bodies for 18 months each
- Five Cynefin place co-ordinators to look at involvement for 1 year each

I also shared a post with Construction Excellence Wales for a couple of years working with us on housing and planning.

In addition to saving costs, I have also been able to **recuperate costs charging for services** as the Act allows me to do, thus securing additional resources for my office such as an annual £50k from Cardiff University to fund academic work or placements and bringing in over £120K each year from the public private and third sectors and academia to deliver the Future Leaders Academy.

Savings and additional income

Over the length of my term, I have **already implemented large saving costs** (and brought in substantial additional funding) above and beyond collaboration with the other Commissioners.

Already I have had to explore every avenue to reduce costs and bring extra resources to delivering the functions of my office:

- Since 2016, I have reduced Director roles from 4 to 1 saving £232K a year.
- I have relocated my office saving £100k over 3 years.
- I have secured an additional £1.9 million of cash and staff resources through charging for services, collaborating with others, securing partner contributions and secondments.

In total, I have secured at least an additional **£1.96 million of cash and staff resources** through charging for services, collaborating with others, securing partner contributions and secondments.

Having considered in depth ways to reduce my costs, it will be quite difficult for me to find additional areas for saving on costs, but I am always keen to look further.

Any learning from these experiences: what worked well; how did you mitigate any risks with accountability; what savings did you make; and why you may not have continued with such arrangements.

Looking at learnings, working in collaboration, one of the 5 ways of working under the Act, has been **very productive** as you can see from the **savings** and the **increased expertise and cross-fertilisation of knowledge and skills** between our staff.

It is something we are **keen to continue** and so are the other Commissioners and their offices based on our regular conversations and meetings.

I have had an **initial conversation with the new Children Commissioner** to see where we could save costs by working collaboratively and we will explore some areas with our teams although we cannot see where cost saving can be made but there might be a possibility for us to further enhance our operational resilience.

My team have had some conversations with other Commissioners' teams and we will explore further how we can share procurement of training and public affairs briefings, for example.

We are committed to collaboration and our teams meet on regular basis, in addition to our regular meetings of Commissioners.

We will also continue to share information and to date this close collaboration between all the Commissioners and between their offices has been very helpful.

Looking at experience to date, bringing in secondees helps us understand the landscape better, increases networks, expertise. Seconding people to other organisation helps embed the Act further and deeper but I cannot sadly prioritise these opportunities given my current level of funding.

Wherever possible I want to continue this where cost-efficient and useful for both organisations for example like my payroll being processed by the Ombudsman's office.

Looking in more detail at the different arrangements to date, I have been successful in securing a number of **no cost secondments** to undertake specific pieces of work – paid for by the seconding organisation for mutual benefit of staff development and delivering joint priorities. Whilst this is desirable and walking the talk of the Act, the staff resource which goes into identifying and securing these partnerships should also be recognised. Nonetheless securing these arrangements has been essential in enabling me to complete a number of pieces of work including guidance for public bodies, policy development on skills, both section 20 procurement reviews and enhancing relationships with public bodies. There have been added benefits around upskilling people who return to their organisations better equipped around the Well-being Act. A challenge however is that these arrangements are generally short-lived, take time to develop and are heavily dependent of the capacity of other organisations to make such commitments of resources.

The 8 secondments from the Art of the Possible bodies were **jointly funded** by eight different bodies from the public private and third sector to develop guidance on delivering each of Wales' well-being goals for public bodies. This was a fruitful exercise which resulted in comprehensive guidance being published for each of Wales' well-being goals. It also resulted in the upskilling of those people who were seconded and the implementation of sustainable, well-being Act policies in their home organisations. Many remain friends of the office and for example the seconded staff member from United Welsh Housing went back to lead work on climate literacy and establish a Climate Assembly in Gwent.

Part-funded secondments have also been successful and I have had on ongoing shared secondment with Public Health Wales for 3 years now through a Shared Futures Literacy appointment with Public Health Wales. This has been a fruitful exercise which has enable us

to boost our futures capacity, share learning with Public Health Wales and expand this learning to others. It has also given resilience when the secondment went on maternity leave and a member of my team could cover the role as both organisation and team members were aware of the work, participated in it and could pick it up seamlessly. This is something I would like to explore further.

Construction Excellence Wales jointly funded post to deliver guidance to the construction sector and contribute to our work on reforms to planning policy. A fruitful relationship which enabled us to permeate the construction sector in a way which would not have otherwise be possible. However, it came to an end when Welsh Government funding for Constructing Excellence Wales ended and they could no longer afford to part fund a post.

Shared policy post for example the one seconded from the Children's Commissioner for one year to develop joint guidance for public bodies on implementing a Children's Rights and Future Generations Approach. It has enabled both organisations to help show the integration between strands of work, policies and legal requirements to the public bodies subject to the different Acts. It was an important piece of work to develop much needed guidance for public bodies on how to implement multiple duties.

Sharing a Head of HR post was invaluable, especially at the inception of my office. It has enabled me to build policies from scratch with someone who already had such knowledge of the environment we operate into and who could understand the role of Commissioners. That person was also very creative and understood extremely well the ambition behind the Act. Sadly, the part-time nature of the arrangement was insufficient to meet our growing needs to reform policies in general as well as fulfilling all the usual HR needs of the team. It was also very demanding on the individual to be stretched across two active organisations. But it was invaluable, and sharing posts is something I will continue to explore, for fixed term periods.

I have offered to develop work jointly with Commissioners and other member bodies on my Advisory Panel including the TUC on equality, diversity and inclusion. It is for the new Commissioner to decide what he will want to take forward.

We have also experimented secondment outwards and loaning out members of my team.

Our Finance Director (part-time) was loaned to the Children's Commissioner's office to support work to reform their internal financial procedures, which was for a period of 6

months and in order to deal with a period of staff absence, **offering once more staffing resilience** to the partner. This is something I would consider doing again.

Secondments outwards whilst beneficial are trickier as they require spare capacity from my office which I do not have. This is something I regret and wish I were able to do much more as I am convinced of the efficiency of such arrangement to discharge my duty to promote the sustainable development principle in depth within the organisation, upskilling them while also giving invaluable insight to my team on return.

In relation to **shared accommodation**, we explored continuing to share our space with Commissioners or other public bodies. At the time of our decision to move out of Market Chambers, in 2021, we considered the co-location with other Commissioners, and we concluded:

1. "Although the Welsh Government had hoped that, at some point, all the commissioners could co-locate, this has been rejected on more than one occasion by the various parties:
 - The Children's Commissioner for Wales has recently signed a new agreement for a site in Port Talbot. We were not consulted on this or asked if we would be interested in co-locating on this occasion;
 - The Older People's Commissioner signed a long-term lease in 2017 for their site in Cardiff Bay when it was proposed that we could look at co-locating as a group of Commissioners. They are able to terminate their lease in 2023 when there might be an opportunity for future collaboration;
 - When Market Chambers was put up for sale, the Welsh Language Commissioner had indicated that they were signing a lease on property in Cathedral Road. Again, we were not consulted. However due to the favourable term of the lease on Market Chambers, they withdrew and decided to continue in their existing set up on the first and second floor signing a ten-year lease with one break clause in 2023. Their current offices in Market Chambers (beneath us) would require substantial remodelling to meet our needs of a modern collaborative workspace and ongoing problems with high maintenance costs and challenges with accessibility would remain.
2. Given the above, the option of co-locating with another commissioner was not considered feasible at this stage. We did not consider a best use of public money to

pay for extra office space at Market Chambers we no longer need until 2023 to co-locate at that time with another Commissioner. Our decision could be re-examined in 2023 at the next break clause in particular as a new Commissioner would then be in post.”

On **shared training**, this was very effective and it allowed us to build relationships with each other’s SMT. Training is something we would like to continue exploring for future collaboration.

Collectively, between the Commissioners offices, we think that working on joint programmes and sharing resources to help us deliver front line activities would be more efficient than sharing back-office resources.

The alignment exercise and the lack of an uplift of my baseline will make it harder on us to work collaboratively as the Act requires of us.

[Current financial position and future challenges:](#)

[An assessment of the current financial position of the organisation and an assessment of future needs in the context of the pressures on public funds.](#)

As I explained in my 2022-23 statutory estimate, I raised concerns about how my funding level is having a negative impact on the quality and level of my support and advice to Public Bodies and in turn their ability to fulfil their duties under the Act, which I reiterated in my estimate for 2023-24 explaining the real terms cut to the underestimated baseline budget coupled with an increase in demand for my services.

In addition to the Regulatory Impact Assessment underestimate, the breadth of my remit is not sufficiently reflected in my funding: While there is no like-for-like comparison – other bodies with similar requirements to audit and monitor or with much more limited remits receive substantially more funding to meet these duties, and I provided indicative figures in last year’s estimate. I receive for example:

- less than half the funding of the Welsh Book Council,
- a quarter of the Education Workforce Council’s budget,

- £12.4mil less than the National Library.

As I have stressed in my estimate last year and before Senedd Committees, I still need significant additional funding to enable me to discharge both my duties and powers adequately, with more parity with other organisations, considering the very wide remit of my duties, their fluctuating nature and showing the Welsh Government's commitment to support the implementation of such flagship legislation envied worldwide.

This was echoed by the then Public Account Committee and public bodies who have recognised that my office is under resourced and current budget levels have not enabled me to provide the level of support public bodies want and need. Using my reserves in 21/22 and the one-off uplift of my useable reserves have meant that I was able to increase my support to public bodies and PSBs, demonstrating how additional funding is needed to be deployed. I have recently met with all public bodies to finalise our plans for this work and there was strong support for continuation of the point of contact model as well as our approach to bringing together other organisations who can provide support and developing communities of practice. Of course, this will only be able to be continued if the additional allocation made this year is embedded in my core grant in aid.

The Equality and Social Justice Committee agreed with my assessment in their findings and recommendations relating to my capacity and resources and stated: "we would reiterate our concerns about the potential impact on the Commissioner's capacity and the importance of ensuring that the resources allocated to the Commissioner are commensurate to the work that her office is expected to undertake..."

The **Minister for Social Justice** recognised the difficulties that I faced with operating within a very limited budget and as an interim measure, my grant-in-aid for 2021-22 was increased to allow me to carry over into 2022-23 a level of useable reserves of £300k. Another £171K has been proposed for 23-24. I am grateful for this, but this does not allow me to secure my public bodies staff. This additional funding has effectively enabled me to increase my resource budget for 2022-23 by the same amount which will enable me to provide core services as I was able to do the previous year by using my historical reserves. The increase this year will be around half of the increase in the past two years.

The Minister also stated that she and her officials "are eager to continue the open dialogue [...] to consider a range of options which are designed to alleviate these pressures." I can



only agree with the Equality and Social Justice Committee's assessment that this **“temporary fix should be superseded by more sustainable long-term funding arrangements** at the earliest opportunity and the Senedd should be given ample opportunity to scrutinise them.”

On 27th January 2023, I received another funding letter from the Minister awarding my office a one-off uplift of £171K of ‘useable reserves’ for 23-24, with the indication of an intention to do the same in 24-25. We welcome the attempt to give us an indication of their intention for 24-25, which we never had before, but this offers no guaranty as explained in the letter. We also have had no clarification or certainty as to whether we will receive additional funding for additional bodies (to come under the Act in the next two months) and we are awaiting to be told whether any underspend we might have at the end of this year (under 5%) can be caried over or not on top of the £171K in the letter. So at the end of January, we still have no budget clarity and sadly, we seem to still be in the temporary solution area, as no increase of my baseline has been proposed for 23-24 or after that.

I would also like to insist on the fact that the legislation as passed by the Senedd **prevents me from generating a profit through charging for services**. It would seem to me that this would be a **useful** area to address as I can certainly see opportunities to develop the work of my office in this way bringing new incomes in to support the broader and necessary work of my office with public bodies. I previously (in my statutory estimate in 2019/20) requested one off funding from Welsh Government to enable me to develop this longer-term charging model with a view to it being self-financing and driving broader benefits to what my team would have the capacity to offer to public bodies. It is unfortunate that the Government were not able to support this long term invest to save approach.

Using my reserves, before the alignment exercise, I have been able to recruit a team to provide increased engagement and advice from my team. This has helped secure procedural changes in how public bodies and PSBs are tackling procurement, health, housing, food systems, decarbonisation, social value, community engagement and measurement frameworks. This level of advice, assistance and challenge had not been possible without the additional funding.

The pilot I ran in 2021-22 of having an assigned contact for each public body has been very successful, as the quotes below show:

▪ “[We] welcome the Future Generations Commissioner decision to support Health Board implementation of the Well-being of Future Generations (Wales) Act through the allocation of a dedicated point of contact within the Future Generations team.” Health Board

▪ “This is a welcome initiative to have that point of contact with the Commissioner and the Commissioner’s office.” Local council leader

▪ “I am definitely in support of this initiative, before this we didn’t have too much interaction with the Office and now it feels like we have a two-way conversation.” Cabinet Member within a local council

▪ “It’s made the world of difference (having a Point of Contact)” National Library

▪ “I really welcome this way of working together. It’s great to have a consistent and frequent point of contact.” Denbighshire Council

▪ “The Point of Contact is something that is needed, and we have been requesting this for some time. It is good there is an acknowledgement that reports is not the only way to communicate with public bodies.” North Wales Fire and Rescue Service

▪ “The relationship is working really well with having the regular liaison and us getting to know each other and having that contact.” Vale of Glamorgan Council.

Following on from the success of the pilot, we have now formed a Public Bodies and PSBs team in 2022-23 with the temporary uplift granted to me. The new Commissioner will need to retain this team and permanent contracts need to be secured for the whole team, which sadly is not possible without an increase in our baseline.

Requests for advice and assistance from my office identify significant gaps in capacity in all public bodies and lack of support being provided on ‘implementation’ of Welsh Government and other policy such as help with implementation of the Act including:

- systemically applying the Act across an organisation;
- correctly and consistently applying the sustainable development principle and ways of working;

- aligning equality and other duties with the Well-being of Future Generations Act duties;
- support in budgeting for well-being duties;
- support for applying the well-being Act to procurement and help in developing better well-being objectives.

We have seen by experience and from what public bodies tell us themselves, that the sustained provision of advice is crucial in their mastering and implementing the Act's requirements.

For example, they said they value my advice on their well-being assessments and objectives (Ceredigion PSB, Cardiff PSB, Wrexham PSB), or the ability of my office to sense check what they are doing and help to integrate across all their activities (Sport Wales, Amgueddfa Cymru, Arts Council for Wales, Caerphilly Council, Velindre NHS Trust) or the ability to provide encouragement and remind others of the legislation. These quotes demonstrate the value of the ongoing support my team is providing:

- *“influencing leadership, enabling our leaders to feel like they can make radical change is really helpful. Some of the work Sophie does in that space is fantastic, so more of that – more of the same. It goes back to...fear of failure, the fear of doing something too radical that rocks the boat. When people feel confident about doing that radical thing, they're more likely to take action.”* (A National Park Authority representative)
- *“Sometimes we are ploughing a lonely furrow and it's nice to be energised, walking a bit taller and thinking 'yeah, we are on the right path'. That's the support I like to see from the team.”* (A Local Authority representative)
- *“Having a named contact has been really helpful - to sense check what they're doing and that they are embracing the Act in the right way. It's helped them to integrate different things. So that's been a real positive in the past year - having an ongoing connection with the Commissioner's Office, so I'm really pleased to see that that's going to continue moving forward.”* (A representative of a national organisation)



There is a significant increase in demand on my office to provide more advice and assistance by Public Bodies and Public Services Boards.

In 2021-2022, my Office received 416 requests from public bodies and others, which is a 58% increase since 2020-2021. In the first quarter of the 2022-2023 financial year my office received 128 such requests for support, which indicates that the number of requests my office receives is valued and expected to continue to increase.

In addition to this, more and new requests will come from the addition of new bodies within my remit in the proposed Social Partnership and Public Procurement Bill and the addition of the Corporate Joint Committees.

My team have currently only had introductory meetings with one of the new Corporate Joint Committees (CJC) as they establish themselves and seek clarity on some of their foundational questions. We have also been approached and provided advice to umbrella organisations, such as the WLGA, to advise on how CJs should meet their well-being duty. We expect this to increase as the CJs develop their well-being objectives and other statutory products.

Overall, there is a choice to make between continuing transactional 'business as usual' or fully implementing the Act. I believe that the budget the Government provides should enable me to implement all my statutory duties **in an effective and progressive way** in line with the aspirations of the Well-being of Future Generations Act. Nevertheless, I will continue as I always do to look for areas of savings, **but I imagine such new savings would be marginal.**

I have managed to include some of these newly created posts in my budget for 23-24 but not all of them and only on a short-term basis. An increased baseline for my budget as already stressed is needed so that I can retain all this talent and key members of my team and to discharge my functions properly.

Alignment exercise - The impact of the designation of your office under the changes to the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2018 on your current and future financial position. What were the main challenges in moving to the new arrangements and what do you see at the most significant change(s) as a result of them.

The Well-being Act requires us to work collaboratively, in an integrated way and involving people (in addition to preventative and long-term aspirations). But partnerships take time to develop and compromise on timescales financial contributions and allocation of in-house staff time to deliver.

In short, the new WG budget alignment rules disincentivise bodies, including mine, from taking a innovative and collaborative approach as the new alignment rules mean that our ability to effectively build and make use of funding from partnerships have been limited by our inability to carry funds over. Far from us being able to make more savings, this new rule will make it significantly more difficult for us to explore innovative ways of funding the work of my office. As a matter of course, we take an approach of searching for co-financing partners for our work programme. On many occasions we are successful in attracting contributions, but this cannot be guaranteed and this does not fall neatly within financial years.

The new rules mean that we must either:

- Agree a partnership in advance of our work programme being confirmed – this is impossible as we do not know what our financial allocation from WG will be until very late in the previous financial years, for 2022-23 for example, we had our final budget confirmed in February 2022.
- Not seek partnerships and spend the full allocation we have made for the project which is easier and provides certainty for starting and ending the project within the specified annual budget timeframe and spending the allocated amount within the same timescales

I also made the point that the Alignment Project, once rolled out will prevent the use of any surplus grant-in-aid (reserves) to help **“smooth out” my irregular expenditure** profile from year to year. In any one year, my costs will comprise annual core work (undertaken every year) plus additional statutory work undertaken less frequently (e.g. large formal reviews, statutory advice to Public Services Boards on their well-being assessments and plans, and the production of the quinquennial report).

Reserves have in the past also been held for the purpose of **statutory reviews or other more exceptional or unforeseen projects**. As this will no longer be permitted, I have been advised by Welsh Government Officials that we must seek additional resourcing from Welsh

Government if I want to conduct a review or any unforeseen additional project. **This clearly compromises the independence of Commissioners** and is not in the spirit of the purpose for which they are established.

On the question of independence, **it might be useful for the Committee to explore and make recommendations as to whether our independent offices should be funded by government or by parliament.**

I hope you will find this information helpful and look forward to reading your report when available.

Yours sincerely,



Sophie Howe

Future Generations Commissioner for Wales



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7/2/2023

Dear Chair

Thank you for the opportunity to contribute a response for the Committee's attention. You will know that I am new to the role of Welsh Language Commissioner following my appointment on 9 January 2023. During my induction period I have been learning about the work of the organisation. It's clear to me that the organisation follows the principles of continuous improvement and looks for every opportunity to deliver value for money.

In my response I have focused on the arrangements arising from a financial alignment process set up prior to my appointment.

If the Committee wishes further information, I am very happy to provide it.

Yours sincerely,

Efa Gruffudd Jones
Welsh Language Commissioner

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Welsh Language Commissioner's evidence to the Public Accounts and Public Administration Committee's inquiry into the funding of Commissioners

Roles and responsibilities

1.1 Summary of roles and responsibilities

The Welsh Language Commissioner is an independent body established by the Welsh Language (Wales) Measure 2011. The principal aim of the Commissioner in implementing her functions is to promote and facilitate the use of the Welsh language. In doing so the Commissioner must work towards increasing the provision of Welsh-language services and other opportunities for people to use the Welsh language. The Commissioner must also consider:

- the official status of the Welsh language in Wales
- the duties to use Welsh which are imposed by the Welsh language standards, and the rights which arise from the enforcing those duties.
- the principle that the Welsh language should be treated no less favourably than the English language in Wales
- and the principle that persons in Wales should be able to live their lives through the medium of Welsh if they choose to do so.

The Commissioner may do anything she thinks appropriate to promote and facilitate the use of Welsh and to work towards ensuring that the Welsh language is not treated no less favourably than the English language. This includes, but is not limited to one or more of the following

- promoting opportunities to use the Welsh language.
- encouraging best practice in relation to the use of Welsh
- keeping under review the law relating to the Welsh language
- producing and publishing reports
- carrying out, or commissioning others to carry out, research
- carrying out, or commissioning others to carry out, educational activities
- making representations to any person
- making recommendations to Welsh Ministers
- giving advice to any person.

An example of the Welsh Language Commissioner's use of the above powers is giving advice and making recommendations in order to influence the consideration given to the Welsh language in policy developments and legislation.

Beyond statutory work, the Commissioner promotes and facilitates the use of the Welsh language by working with businesses and charities to improve and increase their use of the Welsh language. The Commissioner also assumes responsibility for advising on standardised forms of place names.

The majority of the Commissioner's statutory work is described in Part 4 and 5 of the Welsh Language Measure. There the functions of setting and enforcing the Welsh language standards are set out in detail. The scope of work is outlined as

a role which encompasses England and Wales. Where the organisations set out in schedules 5 – 8 of the Welsh Language Measure are not subject to Welsh language standards, a large proportion of them will be implementing statutory Welsh language plans. A group of organisations implement voluntary language plans, such as the housing sector. Investigating complaints of failures to comply with standards and determining cases is part of the Commissioner's job. The Welsh Language Tribunal will deal with appeals against determinations by the Welsh Language Commissioner in relation to Welsh language standards which result in work relating to the defence of determinations. The Commissioner may investigate interference with the freedom to use Welsh as set out in Part 6 of the Welsh Language Measure.

Beyond the main order of the Measure, the Commissioner is required to publish a 5 Year Report on the position of the Welsh language in Wales and the Commissioner may hold an inquiry into any matter relating to any one or more of its functions.

Welsh Government's Cymraeg 2050 strategy, which sets a target of one million Welsh speakers by 2050 and to double the percentage of the population who speak Welsh every day refers to the Commissioner's work and role in the strategy, specifically in terms of:

- increasing the use of the Welsh language in the workplace across all sectors, and
- increasing the range of services offered to Welsh speakers

There is an agreed Memorandum of Understanding between the Commissioner and the Welsh Government which is a framework agreement which outlines the working relationship between the two organisations.

1.2 How the actual cost of delivering compares with any cost estimates that may have been made at the time the body was established

When the Welsh Language Measure was introduced in a proposed form, the Welsh Government introduced running costs for the Commissioner in Section 8 of its Explanatory Memorandum. There it notes that £4.2m a year was required. *"... the best estimate of the running costs of the structure provided for by the proposed Bill (based on 2009-10 figures) is £4.2m per annum"*

In addition to the running costs of the organisation the above figure included the costs of the Advisory Panel (appointing members and their remuneration). It envisaged new costs associated with new enforcement functions and the challenges of responding to and defending Welsh Language Tribunal cases.

In relation to staffing costs it was anticipated that a level equivalent to that in the employment of the Welsh Language Board would be required for carrying out the statutory work:

"We anticipate that the Commissioner will need the resources currently used by the Board under the 1993 Act to carry out its functions".

In determining costs in relation to the Commissioner's powers to provide legal aid to an individual, and as there is uncertainty as to how likely it would be for costs of this kind to arise annually the Government notes the need to keep reserve funds:

"The Commissioner would, therefore, need to allocate appropriate contingencies from office running costs".

By 2022 – 23, the Welsh Language Commissioner's budget and staffing levels have reduced in response to budgetary cuts and it is impossible to operate a policy of making use of reserves and the flexibility that existed at the time the Welsh Language Measure was introduced and given royal consent. The allocated budget and comprehensive net expenditure since the Commissioner was set up on 01/04/2012 is noted below.

	Revenue Budget £000	Change to the budget %	Revenue Expenditure £000	Underspend (Overspend) £000	Capital Budget £000	Capital Expenditure £000	Underspend (Overspend) £000
2012-13	4,100		3,565	535	-	99	(99)
2013-14	4,100	0.0	4,343	(243)	-	40	(40)
2014-15	3,690	-10.0	3,738	(48)	-	60	(60)
2015-16 ¹	3,540	-4.1	3,400	140	-	21	(21)
2016-17	3,051	-13.8	3,055	(4)	-	18	(18)
2017-18	3,051	0.0	3,249	(198)	-	35	(35)
2018-19 ²	3,074	+0.8	3,137	(63)	-	31	(31)
2019-20 ³	3,157	+2.7	3,093	62	-	109	(109)
2020-21 ⁴	3,207	+1.6	3,136	71	385	272	113
2021-22	3,207	0.0	3,172	35	256	165	91
2022-23 ⁵	3,207	0.0	3,207	0	245	245	0

¹ An additional £150,000 in the year relating to the work of standard setting

² £23,000 to cover the new Commissioner's shadowing period

³ £106,000 to baseline - increase in employer contributions to pension scheme

⁴ £50,000 to baseline - reflecting wage increases

⁵ 2023-23 budget

The organisation's budget was significantly reduced in the 3 years between 2014-15 and 2016-17. This was followed by a period of stable budgets with increases in 2019-20 and 2020-21 for specific requirements.

For the period between April 2012 and April 2021 the organisation has suffered a reduction of £893,000 in the revenue budget. Over the same period RPI inflation has increased by 24.8%. If the organisation's original budget had been increased in line with inflation the budget would be £5,117,000 in 2021-22. So in real terms it could be argued that the organisation's funding level has been eroded by 37% over the 10 years.

Over the 10 years salary cost as a percentage of the organisation's expenditure has increased. In 2012-13 59% of spending was on employment and by 2022-23 this will have increased to 77%. Other than the two occasions referred to above no increase in the budget has been received from Welsh Government to enable the organisation to pay for pay increases in line with the Welsh Government settlement.

The table below gives a breakdown of employment costs of the permanent structure in December 2022, comparing the costs at current rates with the corresponding rates in the 2012-13 financial year.

	2022-23 £000	%	2012-13 £'000	%
Basic Pay	1,834	100.0	1,574	100.0
National Insurance	195	10.7	170	10.8
Employer's Pension	504	27.5	303	19.2
	2,533	138.1	2,047	130.0

Note that the cost of employing staff has increased by some £486,000 over the ten years. Please note that these increases do not include staff costs that have been foregone due to the decrease in staff numbers due to reasons of affordability. Increase in Welsh Government pay rates represents £337,000, representing an increase of 16.5%. In 2020-21 £50,000 was received for the purpose of the increase to employment costs. The remainder, being £149,000 is due to an increase in employer pension contributions to the civil service pension scheme. Additional funding of £106,000 was received in 2019-20 to fund this increase.

When the body was set up the staffing structure consisted of 47 (full time equivalent) posts in addition to the Commissioner. Due to budget cuts maintaining a structure of 47 jobs has not been affordable. Roles have been removed and working hours of roles have been reduced. This has the effect that the number of staff has reduced to 42.8 full-time equivalents (including the Commissioner), and this has had an inevitable impact on the organisation's ability to achieve its objectives.

It is evident that there was a significant underspend during the organisation's first year. This resulted in the accumulating fairly substantial reserves. In subsequent years these reserves were used to fund overspends in the years leading up to 2018-19. The Commissioner recently had a policy of maintaining underlying reserves of £250,000 to fund any legal proceedings and unforeseen running costs that might arise; as a consequence there has been a low level of underspend in recent years.

It is noted that no specific capital budget was received nor requested the financial years up to 2019-20. Where investment in offices, IT equipment or systems development was required, this was funded from the financial grant received from Welsh Government. Between the financial year 2020-21 and 2022-23 a dedicated capital budget (see table above) was received in order to invest in and transform the organisation's IT systems and services. As part of the Estimate, the Commissioner makes specific requests to Welsh Government for any funding requirements considered to be capital in nature.

Since February 2022 a new funding system exists, following the Commissioner's designation as a Central Government body under an Order of the Government of

Wales Act 2006. The impact of this is that the Commissioner does not have the right to keep reserves from one year to the next and that expenditure against revenue and capital budgets is managed within the year. Further comments on this are made below.

Budget approval process

1.3 Views on the budget process including timescales and engagement.

Section 7, *Management of Public Funds* (Appendix 1) lays a firm foundation relating to the relationship between the Government and the Welsh Language Commissioner. There is specific reference to the Welsh Language Commissioner within the section and it may be important for the Committee to have regard of the Commissioner's unique status in respect of the financial arrangements under consideration as part of this investigation.

Historically the Commissioner has submitted a written Estimate to Welsh Ministers in October before the start of the financial year. This year, in relation to planning for the 2023-24 financial year a more consultative and collaborative process was adopted with Government civil servants. Broad plans were prepared and shared in July and these were used for informal discussions and conversations between the Commissioner's officers and civil servants, so as to understand the budgetary requirements. Also, during August and September, with uncertainty in the economic climate and a significant increase in inflation, there was close collaboration between our officers and civil servants particularly in regard to modelling various scenarios in relation to employment costs.

The formal Estimate was submitted in early October, but it is noted that Government civil servants had received the information through discussions and papers in the months leading up to its formal submission.

As this is the first year this process has been adopted, we will endeavour to contribute to developing this process over the coming years.

1.4 Process to agree to any modifications to the Estimate

It should be noted that the process in relation to the Estimate is that, in accordance with the Welsh Language Measure, the Commissioner is required to submit an Estimate to Welsh Ministers by 31 October before the financial year to which it relates [Schedule 1 Part 5 Paragraph 17(2)].

It is Welsh Ministers who lay the Estimate before the Senedd. The estimate for 2022-23 was laid on 23/03/2022, after the Senedd formally voted on the Welsh Government's budget for that year.

Since the Commissioner has been established, the Commissioner is not aware of any modifications that have been made to the Estimate after it has been submitted to Welsh Ministers.

Welsh Government does not follow a practice of funding the Commissioner by default based on the Commissioner's Estimate; but this is not new practice as a consequence of the introduction of the budgetary alignment process. A difference regularly arises between the budget request in the Estimate and the budget agreed by the Senedd. Although there is a difference, the Commissioner formulates a budget for the year which is in line with that which is set out in the letter from the Minister confirming the budget for the financial year.

Recently the practice of treating the Commissioners in the same way as each other at the time of agreeing budgets has become apparent. The basis for doing so is unclear to the Welsh Language Commissioner, and more importantly the impact of conducting a joint consideration of all of the Commissioners' annual budget on the varying requirements Commissioners' Estimates on an individual basis is unclear. There is an important point here because each Commissioner is an independent corporation-sole – as highlighted by section 7 of Managing Public Money.

Official correspondence confirming the Commissioner's budget has arrived very late, creating uncertainty during the formulation of the following year's budget.

1.5 Change to the 'Term of Government' approach whilst complying with the requirement to submit an Estimate.

The Commissioner does not appear to have received specific information regarding this matter. The Commissioner forward plans and sets forecasts as it is good practice to do so.

Collaboration, including sharing functions and staff

1.6 Delivering savings through collaboration

The Public Accounts Committee has raised questions about the sharing of resources across Commissioners' offices in the past. The resource sharing model emerges across the public sector from time to time. Sharing resources can lead to both positive and negative experiences. The Welsh Language Commissioner's view is that it is essential to carefully consider the benefits and potential impact of sharing resources before outweighing the potential benefits of financial savings. e.g. consideration should be given to the extent to which the sharing of resources would adversely affect an organisation's ability to perform its respective functions; the extent to which the organisations' resources are comparable; and whether sharing resources would represent real value for money and how success would be measured.

In recent years the Welsh Language Commissioner has, and continues to, collaborate with the other Commissioners and more widely with other Welsh Government funded bodies where it is appropriate to do so.

- The Commissioner's officers with responsibility for the organisation's support functions attend and contribute to the activities of networks that meet on a quarterly basis. These networks cover Finance, HR and Information Technology issues. The networks' remits include, collaboration, sharing of good practice, discussing current issues affecting the bodies etc.
- The Commissioner has been part of a group of bodies funded by Welsh Government, to develop an Equality Strategy and Action Plan. The output of the work was bespoke strategies and plans across multiple organisations, as a consequence of the collaboration and knowledge sharing.
- The Commissioners and the Public Services Ombudsman for Wales came together to tender for an Internal Audit Services contract. This contract is now in its second year.

With the help of the Welsh Government's Estates Department, the Commissioner was able to sublet spare space in the Cardiff office to the Future Generations Commissioner for Wales. Between April 2016 and December 2018, when the lease expired; £177,000 of taxpayer money was saved, by sharing office space.

- Commissioners' policy and communications officers meet regularly, and officers also collaborate and share information as required with their peers in the other Commissioners. These discussions and meetings take place informally over e-mail or Teams. This way of working happens frequently and is a good practical example of cooperation.
- In terms of sharing 'back office' functions the Welsh Language Commissioner has been unable to take advantage of this. In terms of accessing resources and services from others, it is important to note that the Welsh Language Commissioner operates through the medium of Welsh.
- The Commissioners themselves meet, along side the Ombudsman and Auditor General to discuss their corporation-sole roles, and the work of the organisations.
- The Welsh Language Commissioner is a member of the Future Generations Commissioner's Advisory Panel.
- On a day-to-day level, officers are in contact with each other to discuss specific pieces of work if overlap arises
- There is a statutory relationship between the Commissioners and the Ombudsman in sections 20 and 21 of the Welsh Language Measure which refers to working in parallel on cases.
- In family court cases, the Welsh Language Commissioner and the Children's Commissioner are permitted persons.

The Commissioner is alert to collaboration opportunities, but to do so effectively would require securing a further budget for promotional and proactive work.

Financial situation and future challenges

1.7 An assessment of the current financial position and future needs

Revenue expenditure forecasts for 2022-23 have been challenging. Inflation has increased significantly over the past year. The level of inflation and forecasts for the year ahead are well above the forecasts when the 2022-23 budget was allocated.

The 2022-23 budget planned that 80% of the organisation's revenue expenditure was on employment. Cost of living pressure has led to demands from trade unions for much higher pay rises in response to inflation, ensuring that workers do not suffer a real cut in their wages. This has been challenging, and although the financial situation has not allowed the Commissioner to meet trade union demands, the Commissioner has been able, through savings, to meet the Welsh Government's offer of 4%, which is £50,000 more than the amount planned for.

The Welsh Government's draft budget for 2023-24 allocates a revenue budget of £3,357,000 which is an increase of £150,000 compared to 2022-23. The increase is welcome although it is approximately £50,000 less than the amount requested in the Estimate. It is expected that pressures to increase wages will continue in the medium term while inflation is above historic levels, which will be a challenge for the organisation. However, the increase provides assistance to the organisation to enable it continue to pay staff on terms which are consistent with Welsh Government.

Please note that the organisation has acted prudently and achieved value for money with public funding. In the second year of operation the organisation's expenditure on administration costs was £969,000. By the 2022-23 financial year the budget forecasts the corresponding costs to be £609,000, a reduction of £360,000 (37%). Funding cuts over the years have forced savings to be made, and delivered value for money. Over the years the spending categories where the most significant savings have been are:

Offices	£63,000	20%	reduction in the estate
IT	£87,000	44%	investment to transform the infrastructure
Training	£70,000	66%	less funding available
Travel	£97,000	80%	change in patterns following Covid-19

Challenges will remain in terms of spending on the administration of the organisation. The most significant costs are those in relation to offices. Offices now account for about 42% of the organisation's administration costs. With working patterns having changed significantly after the Covid-19 pandemic the requirement for physical office space has reduced significantly. The organisation has legal commitments on its office leases, but has plans to significantly reduce the estate during the 2023-24 financial year when leases terminate or opportunities to break leases arise. The 2023-24 Estimate states that a project will be implemented during 2023-24 to achieve savings of some £80,000 by the 2024-25 financial year.

Beyond the savings in relation to the office estate, there are few further opportunities to make financial savings. The reality is that inflationary pressures are likely to lead to an increase in the running costs of the organisation in the short/medium term as suppliers look to increase their prices.

The Commissioner's scope of work is broad and encompasses both statutory and promotional work. On more than one occasion the Commissioner has made clear in its Estimate that its ability to carry out promotional work is dependent on funding. Within the scope of statutory work there is scope for promotion with some strategic standards such as the 5 year promotion strategies. Further work in that area would contribute to the delivery of the Government's strategy for the Welsh language as set out in Cymraeg 2050. There is a duty to ensure adequate resources to respond appropriately to consumer legal rights issues so that the organisation does not run the risk of failing to act in accordance with the intention of the Measure. As a whole, the organisation does work that brings value for money to society, making a difference to the position of the Welsh language and its users.

1.8 The impact of the Commissioner's designation as a Central Government body under the Government of Wales Act 2006 Order

The Welsh Language Commissioner was designated as a Central Government body on 01/12/2021, and the order came into force on 01/02/2022.

The impact of the order is that there are changes to how the Commissioner's budget is allocated and managed. Previously, the Senedd only approved an annual funding grant, in accordance with the Welsh Government's Budget. Following the order the organisation receives a budget for the following expenditure categories: Revenue, Capital, and Non-Cash amounts (depreciation).

The organisation's expenditure is controlled against these categories, and the organisation is not entitled to spend more than which has been voted by the Senedd; this is in accordance with the '*Parliamentary Supply*' principle within the framework of the UK Managing Public Money. If the Commissioner requires additional funding against any of the categories the Commissioner is required to make an application to Welsh Government through the 'supplementary budget' process. Previously the Commissioner would have been able to manage any additional expenditure requirements from its reserves, but under the new regime it is not possible to retain reserves for these purposes, therefore the Commissioner's ability to manage is limited.

The implications of this are that if additional funding is required an application needs to be made to Welsh Government. A situation may arise where it is necessary for the Commissioner to conduct an investigation, or that a significant legal case arises with Welsh Government being investigated or is a party to a case. The Welsh Language Commissioner and the other Commissioners noted the impact this could have on their independence where it is necessary to apply for funding to the body under investigation or subject to legal proceedings. It was noted that a situation of conflict could arise if the Government refused the funding to conduct an investigation or legal proceedings. A response was received from the Government, that the request for additional funding would be determined by another Minister or the First Minister, rather than the Minister responsible for allocating funding to the Commissioner. So far the process has not been tested.

Another impact of the designation is that there is a limit to the level of cash the Commissioner can retain. At the end of any quarter, the organisation is allowed to retain up to 5% of its annual budget in cash (about £175,000). Commissioners negotiated a higher percentage than is generally allowed, because the 2% threshold would have limited this to £70,000. The lower level would have posed risks of failure to be able to pay suppliers and/or staff if circumstances arose affecting the timing of the cash outflow.

In summary, and based on early experience of implementing the system it is assumed that the new system makes it difficult for the Commissioner to bridge the period between the end of one financial year and the beginning of the next, this is due to the specified functions of the Welsh Language Commissioner. Early experiences are as follows:

- Although new financial arrangements are in place, and funding is managed with a view to not carrying underspend over from one financial year to the next, the Welsh Language Commissioner has had to correspond with the Government asking to retain underspend on a one-off arrangement.
- Being able to anticipate Welsh Language Tribunal cases and manage the legal budget in the final months of this financial year has been problematic. The Commissioner must allocate an amount from its annual budget so as to be able to defend legal proceedings, however, should a case not be brought, the Commissioner has an underspend. e.g. In the second half of January 2023, a communication was received from the Welsh Language Tribunal informing the Commissioner of possible legal proceedings. The Tribunal must consider all applications and then inform the parties of its decision: whether it will allow proceedings or not. In a situation like this, and at the end of a financial year, the Commissioner's ability to manage the budget is difficult, and the funding arrangements, where there is no power to use reserves for legal underspend, do not appear to expedite the Commissioner's work.

- The Commissioner commented, during the implementation of the process, on the conflict regarding the possibility of needing to request additional funding in order to bring proceedings against the Government, which it regulates. An undertaking was given, in writing, that the Welsh Language Commissioner could seek funding from the Minister with responsibility for Finance for the purpose of bringing legal proceedings against the Government if it did not have sufficient funding (in the absence of reserves), so the difficulties do seem to be recognised. There is no clear process in place. The Commissioner is in a position of complete reliance on the Government should funding be required to bring proceedings against it: a position of real sensitivity on both sides but most challenging for the Welsh Language Commissioner.
- In relation to the drawdown application process, the process is simple to complete and the time between submitting an application and receiving the money is relatively short, and since the process came into force there has been no risk of a lack of cash to pay suppliers or staff.

Managing Public Money, January 2016

7.16.1 The Welsh Government has set up a number of Commissioners since it was established in 1999. All have been created through legislation. It is important that Welsh Government Groups refer to the specific legislation for each Commissioner in setting up arrangements which define the way that they will work together, since there are important variations between each piece of legislation.

7.16.2 All Commissioners are champions for the people or policy areas whose interests they represent. As such, they are independent of Government and must have the freedom and discretion to undertake research, arrange visits and write reports without fear of their work having an impact on their funding. In addition, some Commissioners are also Regulators (such as the Welsh Language Commissioner), and may be investigating the Welsh Government, and imposing penalties. The relationship between the Welsh Government and Commissioners is, therefore, fundamentally different to the relationship that the Welsh Government has with other categories of bodies, such as Welsh Government Sponsored Bodies or subsidiaries.

7.16.3 Despite the policy and operational independence of Commissioners, all are funded by public funds which are provided by the Welsh Government. All Commissioners are Accounting Officers, receive Accounting Officer letters [from HM Treasury] and must attend appropriate training. They are, therefore, personally responsible for managing of the funds allocated to them. The accounts and governance arrangements of all Commissioners must be subject to internal audit, and to external audit by the Auditor General for Wales.

7.16.4 In most instances, the legislation setting up the roles of Commissioners requires them to submit Estimate of Accounts and Annual Reports to Welsh Ministers, who in turn must lay them before the National Assembly for Wales. Therefore, Ministers and officials have a role in ensuring that public funds allocated to Commissioners are set at an appropriate level to enable them to undertake their work, whilst also ensuring that adequate arrangements are in place to ensure that public funds are managed appropriately. However, it would not be appropriate for the level of scrutiny to be as detailed as that for other categories of bodies.

7.16.5 Groups responsible for funding Commissioners should put in place a protocol or Framework Agreement which is prepared with, and agreed by the Commissioner although, the content may vary from Commissioner to Commissioner, depending on their role and size of budget. In all cases, the Welsh Government Corporate Governance Unit should be consulted when such a document is prepared. All such documents should be reviewed at least every three years, and within three months of the appointment of a new Commissioner.

7.16.6 Commissioners are Corporate Souls, and are not therefore accountable to a Board of Directors. However, it is advisable for each Commissioner to have access to independent policy advice, and to establish Audit Committees consisting of independent members although the arrangements may vary from Commissioner to Commissioner due to variations in legislation".



Comisiynydd Pobl Hŷn Cymru Older People's Commissioner for Wales

Response to Public Accounts and Public Administration Committee: Funding of Commissioners

Introduction

The role of Older People's Commissioner was established through the Commissioner for Older People (Wales) Act 2006, as a Corporation Sole. The Accounting Officer responsibilities and discharge of statutory duties are vested personally in the Commissioner. As a Corporation Sole, there is no Board, and the Commissioner holds personal responsibility for directing and controlling the organisation and its resources.

I have an Audit and Risk Assurance Committee who review the comprehensiveness of the systems of assurances that I have put in place to meet my Accounting Officer needs and review the integrity and reliability of these systems.

The role of an independent Older People's Commissioner in Wales was the first in the world. The first Commissioner took up post in April 2008, the second Commissioner in June 2012, and I, as the third Commissioner, took up post in August 2018 on a four-year term of office. In accordance with the Commissioner for Older People in Wales (Appointment) (Amendment) Regulations 2016, the First Minister approved my request to extend my term of office by a further two years until August 2024, following consultation with older people and key stakeholders.

My organisation is funded by, but operates independently of, Welsh Ministers and as Accounting Officer I am accountable to the Welsh Parliament for the use of the resources made available to me.

My response to the request for evidence from the Senedd Public Accounts and Public Administration Committee into the funding of Commissioners draws on my own experience as well as the experience of the organisation prior to 2018, which includes the 2015 response to the Public Accounts Committee's Report on the Scrutiny of Accounts 2013/14.

1. Roles and responsibilities

Question: A summary of the roles and responsibilities of your office, together with information about how these may have changed over time, as suggested by the Senedd ESJ Committee in its Report. Whether there has been any financial impact of such changes and the details of those implications.

My Role

As Commissioner, I am an independent voice and champion for older people throughout Wales. My work is focused on making Wales a place where older people are valued, rights are upheld and no-one is left behind, delivered both through my own priorities, as well as my wider work to influence policy, and scrutinise government action and decisions on behalf of older people.

My work programme is based around four priority areas relating to key issues affecting older people in Wales: protecting and promoting older people's rights, ending ageism and age discrimination, stopping the abuse of older people, and enabling everyone to age well.

To maximise the impact of the work I deliver through my work programme, I use a variety of approaches to raise awareness about key issues, empower older people, and influence policy and practice.

For example, as part of my work to protect older people's rights, I recently launched a guide to rights in care homes, which has been distributed to every care home in Wales and is being shared more widely by partners and stakeholders. I have also used my legal powers to issue formal guidance to local authorities and health boards to ensure older people can access information and services via non-digital means, alongside producing a widely distributed information leaflet to help older people better understand the rights they have when accessing services.

My work on ageism has included delivering training to older people and professionals to help them recognise and challenge ageism and age discrimination more effectively, as well as publishing guides for journalists and other professionals on how to avoid ageism when writing and communicating about older people and ageing. I also delivered my #EverydayAgeism campaign to raise awareness about the scale and impact of ageism, and to challenge myths and stereotypes about older people that lead to discrimination.

My work to stop the abuse of older people highlighted significant gaps in evidence and data relating to older people's experiences of abuse, which has led to two significant research projects – the first examining the availability of support services for older people affected by abuse and the second focused on the experiences of older men, where research is particularly limited. Alongside this, I have also developed an online directory to connect older people to help and support services, and work with an action group of over 30 organisations I established to raise awareness, disseminate key information and resources, and influence policy and practice.

My work to enable everyone to age well has included becoming an Affiliate of the World Health Organisation's Global Network of Age-friendly Cities and Communities, which not only helps to ensure the good practice being delivered in Wales is recognised at a global level, but also enables me to provide expert guidance and support to local authorities throughout Wales as they develop their strategies and plans to make their communities age-friendly to support their own applications to join the WHO Network.

Alongside the work delivered against my four priorities, I also continue to scrutinise and influence the action and decisions of the Welsh Government and other public bodies with the aim of ensuring that the right policy and practice is in place so that older people can

access the support and services they may need, are able to participate in our communities and that no-one is left behind.

This includes meetings with Ministers, officials, Chief Executives and other key individuals to raise issues of concern and set out the action needed to deliver improvements for older people, as well as providing evidence through briefing papers, consultation responses and Senedd Committee inquiries.

Engagement with older people is a crucial part of my work, and I hold regular engagement sessions, as well as meeting older people in communities throughout Wales, to hear directly about their concerns, any issues or challenges they are facing and their views on the action needed to deliver improvements. This engagement has included sessions looking at specific issues such as the cost-of-living crisis, access to services and mental health.

As Commissioner, I also provide information and support directly to older people and their families through my Advice and Assistance Team. The enquiries received by the team cover a wide range of issues – including rights, health and social care, abuse and safeguarding, finances, housing, communities, transport – and many of the cases they deal with are highly complex in nature.

The extensive work I deliver as Commissioner, some of which is highlighted above, is supported by a small team working on my behalf who have a broad range of knowledge, skills, expertise and experiences, together with a unique understanding of the issues that affect older people, how they relate to the policy and practice landscape in Wales, and the action needed to deliver the improvements older people want and need to see.

The Act

My role and statutory powers as Commissioner are defined by the [Commissioner for Older People \(Wales\) Act 2006](#) and accompanying Regulations.

The Act provides me with a number of legal powers and outlines the action that I am able to take to ensure that the interests of older people (defined as people over the age of 60) are safeguarded and promoted when public bodies discharge their functions and the assistance that I may provide directly to older people in certain situations.

I have **four statutory functions**:

- Promote awareness of the interests of older people in Wales and of the need to safeguard those interests
- Promote the provision of opportunities for, and the elimination of discrimination against, older people in Wales
- Encourage best practice in the treatment of older people in Wales
- Keep under review the adequacy and effectiveness of law affecting the interests of older people in Wales

Legal Powers

I have a number of legal powers, set out in the Act, to support my work to improve the lives of older people in Wales. In summary these are:

Review of discharge of functions (Section 3 Review)

I may review the way in which the interests of older people are safeguarded and promoted when public bodies discharge their functions, propose to discharge their functions or fail to discharge their functions. This includes those who are discharging functions on behalf of public bodies.

Where I choose to issue a report and recommendations following a Section 3 Review, I may request that the recommendations are responded to by the bodies reviewed. The 2007 Regulations specify the legal timetable and reporting requirements for this type of follow up work.

Review of advocacy, whistleblowing or complaints arrangements (Section 5 Review)

Similar to a Section 3 Review, but focused on whether, and to what extent, the arrangements of certain bodies' advocacy, whistle-blowing and complaints arrangements are effective in safeguarding and promoting the interests of relevant older people in Wales.

Following such a review, I may issue a report and recommendations and may require that bodies provide information outlining how they will comply with the recommendations or explaining why they will not. Any failure to provide such information may be referred, by certificate, to the High Court.

Assistance (Section 8)

I may assist a person who is, or has been, an older person in Wales in making a complaint about, or representation to, public bodies. Assistance includes financial assistance or arranging for a person to advise, represent or assist an older person.

Examination (Section 10)

I may examine the case of an older person in relation to a matter which affects the interests of a wider group of older people and not just the individual concerned. Following an examination, I must produce a report and may make recommendations.

Issuing Guidance (Section 12)

I may produce guidance on best practice in connection with any matter relating to the interests of older people in Wales. I must consult with such persons as I think is appropriate when producing the guidance.

Once the guidance is produced, public bodies and those providing regulated services must have regard to the guidance when discharging their functions.

Amendments made to the Act and their impact

Since the Commissioner for Older People (Wales) Act 2006 and supporting regulations were laid before Parliament, there have been four amendments made by the Welsh Government to either amend the Act or the accompanying Regulations. These amendments were either accompanied by Explanatory Memorandums or implemented via Statutory Instruments.

- Amendment of the Commissioner for Older People in Wales Regulations 2007 as considered appropriate in consequence of the Government of Wales Act 2006.

This amendment was made to ensure that the Older People in Wales Regulations 2007 provided clarity as to specify whether it applies to the Assembly as constituted by the Government of Wales Act 1998; to the Welsh Assembly Government; the Assembly as constituted by the Government of Wales Act 2006; the Welsh Ministers; the First Minister or the Counsel General.

This amendment has not impacted upon the roles and responsibilities of my office.

- The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2016

I am a 'prescribed person' for matters relating to the rights and wellbeing of older people in Wales. This means that a worker may gain protection as a Whistleblower under PIDA where the disclosure is made to myself.

PIDA does not require me to investigate every disclosure received. I can only investigate disclosures which fall within the scope of my statutory functions and within the parameters of my statutory powers.

To date, I have not received any disclosures under PIDA and it is not possible to accurately estimate how much an investigation would cost. I therefore do not include a budget for any potential investigations within my financial Estimate. Depending upon the resource required to investigate a disclosure, it may be necessary to submit a request for additional funding from the Welsh Government.

- The Commissioner for Older People in Wales (Appointment) (Amendment) Regulations 2016

These Regulations allow the First Minister to extend the term of the Commissioner, who is in the first term of appointment, for a period of up to two years.

The Act states that the term of office for the Older People's Commissioner for Wales is four years. The updated Regulations provide the First Minister and the incumbent Commissioner with an option to extend the post for a further two years.

Whilst this extension provides the post holder an opportunity to remain in post for a maximum of six years, the role is still not aligned with the seven-year terms of office for the Children's Commissioner for Wales, Future Generations Commissioner for Wales and the Welsh Language Commissioner.

- **The Government of Wales Act 2006 (Budget Motions and Designated Bodies) (Amendment) Order 2021**

As a result of this designation, the Older People's Commissioner for Wales has transitioned to resource budgeting to ensure compliance with the UK Public Expenditure Framework. The purpose of designation is to align the budget that HM Treasury uses to control public expenditure, with the budget approved by the Senedd. This ensures that the resources of the designated body are included within the Budget Motion and the Supplementary budgets that are approved by the Senedd.

The impact of this transition on my organisation has been significant as I can no longer independently utilise my reserves without the Welsh Government providing the corresponding resource budget. I have provided further information on the impact of this Order in section 5.

2. Cost of delivering functions compared to cost estimates

Question: How the actual cost of delivering your functions compares with any cost estimates that may have been made at the time your role was established (such as any estimates set out in the Explanatory Memorandum/Regulatory Impact Assessment to support the legislation), with reasons to explain any variances (where appropriate).

The Welsh Government's Regulatory Appraisal – The Commissioner for Older People in Wales (Appointment) Regulations 2007¹ states the following regarding the establishment of the Commissioner's office:

“The cost of setting up the office of the Commissioner for Older People in Wales is estimated at £500,000, with running costs of £1.5m in the first full year of operation. This will be funded from the Older People's Strategy Budget Expenditure Line in the Older People's Services Spending Programme Allocation in the Health and Social Services Main Expenditure Group. These figures are based on the knowledge and experience of establishing and running the office of the Children's Commissioner for Wales, which has a similar size client group.”

In 2008 there were 674,300 younger people, defined by those younger than 18. Comparatively, there were 736,000 older people, defined by those older than 60.

The latest estimate shows that there are now 866,006 people over the age of 60 living in Wales, which is an increase of 17%. This number is estimated to rise to 956,000 by 2026 (30% of the population).

In 2008, the Commissioner was presented with a three-year funding envelope of £5,000,000, which was allocated across 2008/09 (£1,500,000), 2009/10 (£1,700,000) and 2010/11 (£1,800,000). This provided an opportunity to align budgets to the delivery of the strategic plan and recognised that some pieces of work would be more resource intensive than others to deliver, which could also span multiple years.

The £1,800,000 that was provided in 2010/11 was steadily reduced by the Welsh Government to £1,715,000 by 2015/16. Over the same period the organisation's reserves were utilised and therefore decreased from £741,000 to £104,000.

Reserves play an important role within an organisation's overall financial management approach. They were integral to risk management as they ensured business continuity and the ability to deliver against statutory duties when faced with unforeseen and unforeseeable issues.

After the previous Commissioner's 2016/17 Estimate had been submitted, she was notified that due to the impact of austerity on Central Government's budgets and the subsequent adjustment to the Welsh Government budget allocation, the organisation would receive a substantial 10% budget cut, which led to a reduction in funding from £1,715,000 to £1,543,000. This budget cut led to a major review of structures and operational systems, which had a significant impact on the organisation, ultimately reducing the number of staff from 30 to 23 - the associated staff costs dropped from £1,201,000 to £1,017,000.

From 2016/17, the Commissioner's baseline budget remained at £1,543,000, until the Cabinet Office's quinquennial Scheme Valuation in 2018. This revaluation led to an increase in the average employer's pension contributions of 7.9% (from an average of 21.1% to 28.0%). In recognition of the significant impact that this revaluation had on the public sector due to the additional employer pension costs, Treasury provided additional funding to the Welsh Government. Consequently, I was provided an additional £46,000 in response to this funding pressure and my baseline budget became £1,589,000.

Between 2016 and 2021, a flat-line budget has been carefully managed. I have ensured that I have been able to absorb increasing costs over these years through prudent financial management and decision making, optimising value for money through effective procurement and maximising the use of the National Procurement Service.

In 2021, I made my sponsored division and Minister aware of significant cost pressures, stating that it was no longer possible for my budget not to be reviewed and increased. These pressures included staff cost increases due to cost-of-living awards and incremental band rises rather than an increase in number of employees (since 2017 WTE has averaged 20.45 and is currently 20.86) or an increase in the median salary costs of the organisation. My audited annual reports evidence that the organisation's median salary has primarily increased due to cost-of-living awards.

Other cost increases have been more specific such as maintaining and improving the organisation's cyber resilience. Over the past three years, I have been expected to invest and, along with all other public bodies, improve my organisation's cyber resilience. Expenditure in this area has therefore increased from £20,000 in 2010/11 to £87,000 in 2022/23. IT Expenditure includes system support and maintenance (which is outsourced at a cost of £12,000 per annum), IT compliance e.g. Cyber Essential Plus Certification, testing the organisation's cyber resilience, training, IT licences and associated support, and hardware. This level of expenditure will be on-going to ensure that the organisation remains cyber resilient.

Over the past year, the Welsh Government has recognised that the funding provided to my office was insufficient and provided me with additional extraordinary funding in 2022/23 of £67,000 and have increased my baseline budget from 2023/24 to £1,684,000.

If the cost estimate that the Welsh Government utilised in 2008 for effectively operating my office had tracked inflation, my 2023/24 baseline funding would now be £2,238,000, which is

£554,000 or 38% more than my 2023/24 baseline budget.

3. Budget approval process

Question: Views on the budget process, including timescales and engagement with Welsh Ministers and officials, such as those in Partnership Teams (sponsors) within Welsh Government departments. Is any information provided by Welsh Government officials ahead of the submission of your estimate for the forthcoming year, such as the Welsh Government's best assessment of the level of funding available in future years and factors to take into account when preparing the estimate.

As Commissioner, I am the Accounting Officer, and I am therefore required to submit an annual revenue budget (the Estimate) to Welsh Ministers under paragraph 9(2) of Schedule 1 of the Commissioner for Older People (Wales) Act 2006 (the Act) by the 31 October prior to the year end. The Estimate sets out the estimated expenditure on a resource basis, highlighting non-cash budgets such as depreciation, and the cash financing that will be needed from the Welsh Government for me to discharge my statutory functions.

Between 2019 and 2021 the Welsh Government provided notice that I should submit my Estimates on the basis of the continuation of a flat line budget i.e., £1,589,000. Initially, the management of a flat line budget, although challenging, was possible partly due to prudent financial management, which involved identifying where cost savings could be made. However, the pandemic significantly impacted on the budget that I dedicated to my work programme as my organisation's work needed to evolve, to be more reactive due to the unprecedented circumstances. Expenditure has returned to pre-pandemic levels as my team and I focus on delivering the priorities within my refreshed strategic plan and dealing with the new challenges facing older people.

During the latter part of 2021, Welsh Government officials were informed that it would no longer be sustainable for my 2022/23 budget to not be increased. Therefore, due to significant on-going cost pressures, my 2022/23 Estimate submission requested that my baseline budget be increased by £74,000 to £1,674,000 and detailed that unless I was provided with the additional funding I would be forced to review and decrease the number of staff that I employ, which would have had a significant impact on my ability to deliver vital work for older people. An organisational restructure, accompanied by job losses, would have been an extremely disruptive and time-consuming process. It would have destabilised the organisation, resulted in committed and expert staff being made redundant, and caused anxiety and uncertainty to the whole staff team.

In December 2021, I was notified that I would not be awarded the additional funding requested. The response to my Estimate was not accompanied by a detailed explanation that reflected on my Estimate submission nor provided an explanation on the decision-making process. In January 2022, I wrote to the Minister for Social Justice, reiterating that without the funding requested I would have to either restructure the organisation and/or re-assess my work priorities and commitments. For example, my team would not have been able to commit time to the number of Welsh Government working groups that we are asked to contribute to and would have had to withdraw from certain areas of work that would make a difference to the lives of older people in Wales.

Although Welsh Government officials had provided assurances that I would be able to request funding for specific pieces of work, the continuation of a flat budget would have directly impacted my independence. This was due to the entirety of my budget being contractually committed (including staff costs) or committed to regulatory and compliance standards and other overheads. There was therefore insufficient budget available for my work programme.

The continuation of a flat line budget would have resulted in additional funding requests to the Welsh Government to enable me to fund every piece of work. These requests would involve me seeking initial approval from my sponsored division before ultimate Ministerial approval, which would not be an appropriate or sustainable way of working, as the process would take a significant amount of time.

The Minister responded to my concerns in February 2022 and agreed to provide an additional £67,000 of funding for 2022/23.

I believe that in recognition of the difficulties faced during the 2022/23 Estimate submission process, in May 2022, the Minister for Social Justice proposed a change to the budgeting process and requested that Commissioners submitted a draft of the following years budget in order to align our budgeting process with the Welsh Government's financial planning process. This would allow the Welsh Government to reflect on Commissioner cost pressures and be better equipped to make quicker and better-informed decisions regarding Commissioner budgets.

I welcomed the Minister's proposal for a collaborative approach and the opportunity to have timely discussions regarding future budget allocations with the Minister and officials in my sponsored division.

I was invited to submit my 2023/24 draft budget in August 2022. Although the Welsh Government did not constrain my budget request and provide an indicative budget, I was advised "the public sector will continue to face significant financial pressures over the next few years as recovery from the pandemic continues and it responds to the cost-of-living crisis as well as the crisis in Ukraine. It will, therefore, continue to be important public funding is directed where it is needed most, and we obtain the best value for that funding ensuing we meet our common cause of making taxpayers money go further."

My funding request therefore reflected on the macro-economic pressures on the Welsh Government's overall budget and in August 2022, as requested, I submitted a draft budget evidencing a need for my baseline budget to be increased to £1,690,000 and the Welsh Government provided £1,684,000.

In addition to the submission of a draft budget, I also submitted my formal Estimate in October 2022. Unfortunately, it was not until December 2022 that the Welsh Government were in a position to confirm that they had recognised my on-going budget pressures and were proposing to increase my baseline budget.

As I submitted my initial budget in August 2022, I would have anticipated that the Welsh Government would have been in a position to provide notification of an indicative budget earlier than December. I accept, however, that this early notification would have been caveated by the Welsh Government still awaiting confirmation of their budget allocation from

Central Government. The significant risk with this late notification is that if, in future, I were to receive a cut to my baseline budget, I would be forced to restructure my organisation in the final months of the financial year, as my staff costs account for 79% of my overall costs.

To be able to realise in-year savings from an organisational restructure it is imperative that any savings crystallise as early as possible. There is a significant risk that if notification of a budget cut is not received until the December, it may not be until the following July that the new organisational structure is finalised, and associated savings are realised. It is therefore imperative that I am provided with as much advance notice of this as possible.

Following the consultation phase of the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2021, financial communication with the Welsh Government has improved as my Head of Finance and Resources has developed working relationships with my Sponsored Division and the Welsh Government's Finance teams. This engagement throughout the year enables me to manage any anticipated budgetary variations and provides the opportunity to discuss potential operational risks, such as employment cover for long term periods of absence of key members of staff. Previously, my reserves would have been utilised to cover the management of operational risks on an on-going basis.

The current financial planning process between my sponsored division and myself is still a relatively new way of working, which I anticipate will continue to develop as we encounter new challenges.

Modifications to the Estimate

Question: What process is in place to agree any modifications to the estimate. How are these communicated and agreed. How significant have they been and what impact have they had on the work of, and plans for, your office.

There have been three instances whereby the funding requested within the Estimate has not been received:

- The 2011/12 Estimate, whereby a 3% cut was received to the budget. The Welsh Government requested that a new Estimate was submitted in January 2011. The Commissioner reviewed planned areas of expenditure and identified 3% of savings.
- The 2016/17 Estimate, whereby a 10% cut was received to the budget. The Welsh Government requested that a new Estimate was submitted in January 2016 reflecting the reduced budget. This had a substantial impact on the organisation, which is detailed in section 2.
- The 2022/23 Estimate, whereby I was able to roll forward an additional £67,000 of cash to be utilised in 2022/23. On this occasion I was not required to resubmit my Estimate.

I have not been made aware of a formal requirement / process in relation to modifications of Estimate submissions.

Modifications to the in-year budget

From 2008 to March 2022, reserves were able to be retained and independently managed. These reserves played an essential role within my overall financial management approach and were integral to maintaining my independence from the Welsh Government and the successful delivery of my Strategic Plan. They enabled me to manage risk effectively, ensured business continuity and the ability to deliver against my statutory duties when faced with unforeseen and unforeseeable issues.

During 2021-22, in line with other public bodies including the other Commissioner bodies, the Welsh Government transitioned my office to resource budgeting, which removed my ability to independently manage and utilise my reserves. This means that I can no longer independently manage medium-term financial risks and I rely on the Welsh Government to provide additional funding as required.

This transition has led to much stricter controls being imposed by the Welsh Government in relation to budgeting and it is now necessary for the Welsh Government to match my expenditure with budget. Historically, if I utilised more than the budget provided by the Welsh Government, I could use my reserves to absorb this expenditure.

As part of the implementation of the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2021, I was informed by Welsh Government officials that it is recognised that an organisation's initial resource budget assumptions can change during the year. I was informed that there are usually two formal opportunities to revise budgets in-year – the first and second supplementary budgets. However, Ministers also have flexibilities within their Main Expenditure Grants (MEG) to agree changes to spending plans throughout the financial year, subject to underspends occurring elsewhere in their MEG.

If the Minister with responsibility for the Commissioner's budget cannot agree to the additional resources because there is insufficient capacity within the MEG, the Minister can request additional support from the Welsh Government reserve from the Minister for Finance and Local Government. Allocations from the reserve are formalised in the supplementary budgets, however depending on the nature and urgency of the requirement, requests can be made at any time during the year.

To date, I have managed the resource budget provided by the Welsh Government and I have not undertaken unplanned work that has required significant additional financial input. I have therefore not requested an in-year modification to my resource budget. However, in 2021/22 I did request and receive extraordinary capital funding of £45,000 from the Welsh Government for the development of a new website. Whilst this request for funding was processed and awarded within a month, the funding was not related to a potentially contentious issue. I am concerned that if I were to request funding for a Review into the actions of the Welsh Government there could be significant delays due to the Welsh Government's processes, which could negatively impact on a time sensitive piece of work.

In addition to resource budget requests, I am also required to justify the necessity of each capital purchase to the Welsh Government via a business case, which must be approved by the Minister. The Welsh Government have control over all my capital expenditure. This in practice means that I must seek approval and provide justification as to why I may want to, for example, make amendments to the website or casework management system or

purchase low-value IT hardware. I believe that this provides my sponsored division with an inappropriate level of control over operational aspects of my work.

I recognise that it would not be an effective use of Government resources to provide an organisation of my size with a significant recurring capital budget as there is a risk that it would not be utilised. However, it would improve operational efficiency if the Welsh Government would provide me with a recurring capital budget of £10,000 when I submit my Estimate for 2024/25.

Submission of Estimate

Question: In December 2021, the Welsh Government published its Draft Budget 2022-23 and its first multi-year Welsh Budget since 2017. To what extent are you and the Welsh Government moving to a 'Term of Government' approach, while complying with the statutory requirement to submit an estimate to Welsh Ministers at least five months before the financial year to which it relates. What are the main benefits to doing this.

The organisation's Estimate submissions include a three-year financial plan, which are intended to facilitate the Welsh Government planning process. I recognise the importance of a multi-year approach and welcomed the inclusion of indicative future budgets within the Welsh Government's draft 2022/23 budget. The provision of a Term of Government budget provides me with the opportunity to plan effectively from one year to another, with a degree of assurance regarding the future funding levels. This enables me to ensure that activities linked to the delivery of my statutory functions can be sustained from one year to the next, including the follow up of recommendations made and guidance issued in prior years.

I have budgeted £80,000 for the delivery of my annual work programme. However, I recognise the importance of being able to flex this work programme budget and would welcome the opportunity, when my work dictates, to work with the Welsh Government to identify in-year underspends and be able to allocate the budget, via the budgetary exchange mechanism, to future financial years.

4. Collaboration

Question: an update about how Commissioners collaborate and the benefits that arise from any joint working, as well as any sharing of backroom functions and staff. Any learning from these experiences: what worked well; how did you mitigate any risks with accountability; what savings did you make; and why you may not have continued with such arrangements. Details of any sharing of functions or staff with other public bodies/regulators in Wales.

In 2014-15, the Public Accounts Committee considered the accounts of a selection of taxpayer funded organisations in Wales, which included the Older People's Commissioner for Wales along with the other Commissioners and the Public Services Ombudsman for Wales (PSOW).

In its report of March 2015, the Committee made a number of recommendations that they believed would improve governance, make reporting more transparent and deliver better value for money for taxpayers in the future. The main recommendation that is relevant for this evidence was that 'efforts to achieve efficiencies and greater productivity through collaboration, including integration of back-office functions, continue between the Commissioner's and the Ombudsman.'

The Commissioner's and Ombudsman's evidence to the Committee identified the limits of such activity, stating that the levels of potential savings were marginal and that there is a statutory requirement to maintain the accountability of each of the Corporation Soles. It was stated that any approach to sharing services could not undermine the existing strengths of internal financial and governance control processes and that greater collaboration could increase productivity and add value rather than release cash savings. The three Commissioners and the Ombudsman committed to identifying opportunities for undertaking joint scrutiny to demonstrate value for money, share skills and knowledge and avoid duplication of effort. The Committee welcomed the evidence of collaboration as well as future potential collaboration. In particular, the Committee recommended that the organisations learn from each other in the administration of their office and the exercise of their functions e.g., use of National Procurement Service (NPS).

In December 2014, Dr Mike Shooter on behalf of the Welsh Government produced a report that reviewed the role and functions of the Children's Commissioner for Wales. His recommendations led to the Welsh Government formally undertaking a review of back-office functions of the independent Welsh Commissioners for older people, children, and future generations.

The Welsh Government's report '*Review of independent Welsh Commissioners for Children, Older People and Future Generations of their support services with a view to improving efficiency and delivering economies of scale*' recognised that 'whilst the savings generated from the review have been relatively modest, the task has been useful in reinforcing the benefits of collaborative working, not just amongst the Commissioners but also across the wider public sector in Wales. Although the Commissioners already worked together, and with other public sector organisations across Wales, this review has afforded them the opportunity for them to critically examine their support services, with the benefit of independent input from officials supporting their review'.

Over the years there has been a strong spirit of collaboration amongst Commissioners and the Ombudsman. Our working relationships enable us to identify opportunities to collaborate across different areas of work. The commitment to a collaborative approach is demonstrated in the following ways:

- the Commissioners, Public Services Ombudsman and the Auditor General for Wales formally meeting regularly to share planned work programmes, identify opportunities for joint working and share knowledge, skills and experiences;
- a joint Memorandum of Understanding between the Commissioners;
- shared joint procurement between the Commissioners and Ombudsman such as internal audit service in both 2016 and 2021;
- policy meetings at officer level to share work plans, identify areas of collaboration and share best practice;
- the sharing of organisational policies and procedures;
- the use of my office accommodation for the Children's Commissioner and staff to be able to hot desk;
- joint work with the Children's Commissioner creating an intergenerational resource hub to encourage and support schools and groups of older people to establish intergenerational groups; and
- joint statements with the Children's Commissioner and Future Generations Commissioner on intergenerational solidarity.

This collaborative approach has enabled my staff to develop effective working relationships with colleagues in the other Commissioner and Ombudsman's offices, through which they share information and provide support to each other on areas of Policy, Governance and Compliance (which include Finance, HR and IT). This collaboration is invaluable as it provides opportunities to engage and learn from each other.

Alongside collaboration between Commissioners, there are shared networks within Welsh Government Sponsored Bodies which continue to provide an opportunity to share information across the Welsh public sector and allows my staff to benefit from informal peer support mechanisms.

Much of what has been achieved since I became Commissioner in 2018 has been through working closely in partnership with many different organisations and individuals across Wales. This way of working is embedded in my approach as Commissioner, and particularly in these challenging times, it is only by working together and drawing on each other's skills and experiences that we will make sustainable progress and impact. In recognition of the need for us to work in partnership I have established the following working groups:

- An Abuse Action Group and Steering Group, bringing together older people and over 30 organisations
- Black, Asian and Minority Ethnic Advisory Group to provide expert advice and guidance on the gathering of lived experiences from Black, Asian and Minority Ethnic older people;
- Care Home Rights Group including experts from Wales and across the UK to work together to improve the rights of older people living in care homes;
- In addition to these working Groups my office is now an affiliate member of the WHO Network of Age-friendly Communities, encouraging and supporting local authorities in Wales to commit to becoming age-friendly. To support this, I have established a Partnership Group to develop, champion and influence age friendly policy and practice across Wales, and a Community of Practice to enable the sharing of learning and ideas.

I work closely with a range of public bodies and regulators in Wales, taking a complementary approach and carrying out joint work where this can increase impact. For example, I worked with Care Inspectorate Wales in our work on the rights of older people in care homes and I have produced joint resources with other public bodies and charities, such as advice on Lasting Power of Attorney with the Office of the Public Guardian.

Whilst I recognise the importance of collaboration and the real benefits that this way of working brings, there are minimal cost-savings that can be realised for my organisation, as was recognised by the Public Accounts Committee in 2015 and the Welsh Government in 2016.

I operate a 'one team' approach and avoid any one person working in silo. In small organisations, flexibility is an essential requirement of all employees. As such, I do not have a hard distinction between 'backroom functions' and other areas. For example, all members of staff are involved in contributing to developing the work programme, taking part in learning and development sessions, and engaging with older people. This helps to ensure a common understanding of what we are trying to achieve for older people and how each member of staff contributes to this, as well as shared organisational values.

I continuously assess the viability of each post within my organisational structure and when employees resign, rather than immediately advertise the vacant post, my Business Management Team and I assess the organisational need and medium-term affordability of filling that post to ensure that each post continues to provide value for money to the organisation.

I would welcome any opportunity to consider shared service options being considered by the wider public sector in Wales. However, these options would need to ensure that changes and cost savings do not jeopardise my operational effectiveness and independence.

5. Current financial position and future challenges

Question: An assessment of the current financial position of the organisation and an assessment of future needs in the context of the pressures on public funds.

In December 2022, I welcomed the Welsh Government's recognition of the severe funding pressures that I faced and the subsequent increase to my 2023/24 baseline budget to £1,684,000. The increase in funding ensured, in the short-term, that I did not have to consider restructuring the organisation and that I could allocate £80,000 to my programme of work. Within the Welsh Government's draft budget, I also welcomed the provision of an indicative budget for 2024/25, as it enables me to plan over the medium term.

The increase to my baseline budget was in recognition of budgetary pressures caused by recent inflationary pressures and more complex governance requirements. I have indicated to the Welsh Government that I should be able to manage this budget over the short term. Even though the Welsh Government have provided me with additional funds for 2023/24, I am still forecasting a budgetary deficit of £12,000. As the next financial year progresses, through effective financial management, I anticipate that I will be able to identify areas of expenditure where I will make savings against forecast budget to ensure that I do not breach the resource budget control total.

My Estimate submission was developed based on awarding a 3% cost of living award to my staff in 2023/24. If the Welsh government awards a greater percentage, I will be expected to match this. As staff costs equate to 77% of my expenditure, a 1% point difference equates to £15,000. I currently cannot foresee where I will be able to make savings in order to match this pay award. It is evident that if inflation continues to have the same impact in 2023/24 as it has over the course of the past year, then there is not sufficient flexibility within my budget that will allow me to absorb these cost pressures; I will therefore again be forced to request additional funds from the Welsh Government to manage inflationary pressures.

The recent increase to my baseline budget was in recognition of budgetary pressures caused by inflation and more complex governance requirements, rather than in recognition of the increase in the number of older people in Wales and the increased complexity of issues that need addressing.

In 2008, the Older People's Commissioner for Wales' funding was provided on 18% of the population being over the age of 60. The 2021 census shows that 23.5% of the population was over 60, a growth of 30%. If my funding had followed a similar trajectory and was also

adjusted for inflation, my baseline 2023/24 budget would be £2,910,000.

My powers under the Commissioner for Older People (Wales) Act 2006 allow me to provide assistance and support directly to older people, which is delivered through my expert advice and assistance team. The team provides information, assistance and guidance to empower older people and their families and help them to understand and claim their rights. This is a core part of my role as Commissioner and is an area that provides significant impact for individual older people and their families, as well as providing a vast amount of evidence that underpins recommendations regarding policy and practice.

The support provided enables older people and their families to challenge the decision-making and practice of public bodies and services and the team are able to navigate what are often complex systems, policies and processes, often in the most difficult and distressing of circumstances. In some cases, the team intervenes on behalf of an older person (subject to their consent).

Whilst the team effectively deal with the volume and complexity of enquiries received, resources continue to be extremely stretched. With greater resource I would be able to increase the capacity in my advice and assistance team to better meet demand and assist more older people who are in need of support.

Impact of changes to the Government of Wales Act 2006 (Budget Motions and Designated Bodies)

Question: The impact of the designation of your office under the changes to the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2018 on your current and future financial position. What were the main challenges in moving to the new arrangements and what do you see at the most significant change(s) as a result of them.

There have been several challenges arising from the implementation of the changes to the Government of Wales Act 2006 (Budget Motions and Designated Bodies) Order 2021, which have been addressed throughout this paper, all of which have originated from the requirement for me not to breach budgetary control totals. This has been a significant change in practice as historically I have been able to utilise my reserves without seeking additional resource budget from the Welsh Government.

It is imperative that I do not breach budgetary control totals. In line with my statutory duties, I may need to undertake an urgent and unplanned piece of work, for example a legal review that will require significant resource. On this occasion I may be required to request additional funding from the Welsh Government. The Welsh Government have provided assurances that if the legal review covers the actions of the Minister who is responsible for the annual allocation of the Commissioner's core funding, advice will be sought from the First Minister to ensure no conflict of interest arises. In this circumstance, it may be appropriate for the First Minister (or another Minister) to make the decision regarding any award of funding for this specific purpose. I will be advised where decisions have been referred to another Minister, and of the outcome as soon as possible.

I have been informed that within the existing legal framework, only Welsh Ministers have the powers to approve the level of public sector funding for Commissioners and that Welsh Ministers will take all necessary steps to ensure any conflict of interest is avoided when

considering requests for funding, especially where requests relate to funding for reviews into areas on which Ministers are responsible. However, it is my belief that a risk still remains that a potential conflict of interest could exist, but I recognise that the Welsh Government have put in place mitigating actions designed to minimise this risk.

1 WG Regulatory Appraisal – The Commissioner for Older People in Wales (Appointment) Regulations 2007

2 ONS, 2008, Estimates of the population for the UK, England, Wales, Scotland and Northern Ireland, [Estimates of the population for the UK, England, Wales, Scotland and Northern Ireland - Office for National Statistics \(ons.gov.uk\)](#)

3 ONS, 2022, Estimates of the population for the UK, England, Wales, Scotland and Northern Ireland, [Estimates of the population for the UK, England, Wales, Scotland and Northern Ireland - Office for National Statistics \(ons.gov.uk\)](#)

4 ONS, 2022, Principal projection - Wales population in age groups, [Principal projection - Wales population in age groups - Office for National Statistics \(ons.gov.uk\)](#)

The Older People's Commissioner for Wales

The Older People's Commissioner for Wales is an independent voice and champion for older people throughout Wales.

The Commissioner is taking action to protect older people's rights, end ageism and age discrimination, stop the abuse of older people and enable everyone to age well.

The Commissioner is working for a Wales where older people are valued, rights are upheld and no-one is left behind.

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