

National Assembly for Wales
Finance Committee

Scrutiny of Public Service Ombudsman for
Wales Draft Budget Estimates 2012–2013

October 2011



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National Assembly for Wales
Finance Committee

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Wales Draft Budget Estimates 2012–2013

October 2011



Finance Committee

The Finance Committee's functions include:

- considering and reporting on any report or other document laid before the Assembly by Welsh Ministers or the Commission containing proposals for the use of resources;
- considering and reporting on any other matter relating to or affecting expenditure out of the Welsh Consolidated Fund.

A reference to the use of resources is a reference to their expenditure, consumption or reduction in value and includes expenditure payable out of the Welsh Consolidated Fund and any other expenditure met out of taxes, charges and other sources of revenue.

Powers

The Committee was established on 22 June 2011. Its powers are set out in the National Assembly for Wales's Standing Orders, particularly SO 16. These are available at www.assemblywales.org

Committee Membership



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South Wales East
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Peter Black
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Chair's foreword

On behalf of the Finance Committee I would like to welcome the Public Service Ombudsman's estimates for 2012-2013.

The estimates have been presented to us with reasonable clarity, enabling transparency for us to scrutinise them.

In the current economic climate, public sector organisations have an even greater duty to maximise value from the resources provided to them from the public purse. In line with this responsibility, we consider that the Public Service Ombudsman for Wales has shown dedication in modernising and streamlining his service to deliver maximum value to the public.

We recognise the pressures on the Ombudsman's budget and the importance of maintaining a high quality public service. We consider the Ombudsman's estimates for the 2012-2013 financial year to be both reasonable and acceptable. We intend to lay the Ombudsman's estimates for the 2012-2013 financial year without any modification.

I would like to thank both our witnesses, and my fellow Committee Members, for their contributions throughout our scrutiny of the Public Service Ombudsman for Wales' estimates for 2012-2013.

Introduction

Who are we?

1. The Finance Committee is a cross party committee of the National Assembly for Wales, made up of Members from all 4 political parties represented at the Assembly.
2. The Committee is not part of the Welsh Government. Rather, the Committee is responsible for reporting on proposals laid before the Assembly by Welsh Ministers relating to the use of resources. The committee can also consider and report on any other matter related to, or affecting, expenditure out of the Welsh Consolidated Fund.

What is the Public Service Ombudsman for Wales?

3. The Public Service Ombudsman for Wales (PSOW) described his role to us as:

“the final point of complaint for people who believe that they have received a poor service from a public body in Wales or who believe that they have not received a service that they should have received. As well as that, I consider complaints that members of local authorities have broken their code of conduct. Members will be well aware that the reports from my office, particularly in the health field, are hard-hitting and have received considerable publicity. As an office, we aim to provide a remedy for individuals who have suffered an injustice, but we also try to ensure that we are driving improvement across the devolved public service in Wales.”¹

4. The PSOW also noted that:

“In the current year, we have taken on two new responsibilities. First, all independent reviews of health complaints are now concentrated in my office, and that has led to significant increases in workloads. I am happy to discuss that and I am sure there will be questions to that effect when we look at the budget in detail, as it has had a major impact. Secondly, we have introduced the Complaints Wales signposting service.

¹ National Assembly for Wales Record of Proceedings (RoP), Finance Committee, 6 October 2011, Paragraph (Para) 148

Many members of the public do not know how to complain about public services—some people do not know, for instance, that utilities are no longer part of the public service. We are trying to provide a clear and straightforward way of not only of telling them where to go, but helping them to put their complaint to the relevant body or ombudsman because some of the complaints are not for my office, but for other ombudsman services.”²

What are the Public Service Ombudsman for Wales estimates?

5. The Public Services Ombudsman for Wales (PSOW) produces estimates for each financial year in accordance with the *Public Services Ombudsman (Wales) Act 2005*, as amended by the *Government of Wales Act 2006*. The estimates are required to set out the resources required for the Ombudsman to carry out his statutory functions, with the exception of the Ombudsman’s own salary (and associated costs) which are directly charged on the Welsh Consolidated Fund.

6. Standing Order 20.23 sets out that:

“The Ombudsman must submit the estimate of income and expenses required under paragraph 15 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005 to the responsible committee as soon as practicable but in any event no later than 1 November in each financial year.”³

7. The Ombudsman’s estimates for 2012-13 were actually provided to the Finance Committee on 28 September.

8. The Finance Committee is responsible for reporting on this draft budget, with Standing Order 20.24 setting out that:

“The responsible committee must consider and lay before the Assembly, no later than 22 November, the estimate, with any modifications which the Committee, having consulted and taken into account any representations made by the Ombudsman, considers appropriate.”⁴

² RoP, Finance Committee, 6 October 2011, Para 149

³ National Assembly for Wales, Standing Orders of the National Assembly for Wales, Standing Order 20.23

⁴ National Assembly for Wales, Standing Orders of the National Assembly for Wales, Standing Order 20.24

How did we scrutinise this draft budget?

9. We considered the National Assembly for Wales Commission Draft Budget for 2012-13 at our meeting of 6 October 2011.

10. At this meeting we took evidence from:

- Peter Tyndall, Public Service Ombudsman for Wales
- Susan Hudson, Policy & Communications Manager
- Malcolm MacDonald, Financial Adviser.

11. Following the meeting the Chair of the Finance Committee wrote to the Public Service Ombudsman for Wales with some further questions which arose from the oral evidence given in the meeting. The Public Service Ombudsman for Wales responded to these on 20 October 2011.

1. The sufficiency of the Ombudsman's overall estimates for 2012-2013

The Ombudsman's overall estimates for 2012-2013

12. The Ombudsman's paper detailed that he was estimating for 2012-2013:

- no change in cash terms for revenue (equating to a 2.4% real terms reduction in 2012-13);
- a 6.7% reduction in cash terms for capital, (equating to a 8.9% real terms reduction in 2012-13);⁵

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

13. The Ombudsman's original estimates for 2011-12⁶ were considered by our predecessor, the 3rd Assembly's Finance Committee in November 2010.⁷ The original estimates included an overall revenue increase of 4.9 per cent (in cash terms).

14. The 3rd Assembly's Finance Committee expressed concern at this request for additional resource in a time of public sector cuts,⁸ and asked the Ombudsman to reconsider his estimates accordingly. The Ombudsman's reconsidered estimates included:

- a reduction of 2.7 per cent (cash terms) in overall revenue as compared with the original 2011-12 estimate;
- an increase in overall revenue of 2 per cent (cash terms) as compared with the likely outturn for 2010-11.

15. However, the Ombudsman stated with regard to the revised estimates that he had:

⁵ Figures calculated from the Appendix of the Public Services Ombudsman for Wales: *Estimate for the Financial Year 2012-13 and Supplementary Estimate for 2011-12*, September 2011.

⁶ National Assembly for Wales, Finance Committee, [FIN\(3\)-19-10 : Paper 1 : Public Services Ombudsman for Wales Draft Budget 2011-12](#), November 2010 [accessed 29 September 2011]

⁷ National Assembly for Wales, Finance Committee, [RoP \[para2-87\]](#), 18 November 2010 [accessed 29 September 2011]

⁸ National Assembly for Wales, Finance Committee, [FIN\(3\)-11-RO3 : Report on the Public Service Ombudsman for Wales' Estimates for the Financial Year 2011-12](#), January 2011 (para 5) [accessed 29 September 2011]

“considerable reservations as to whether it will prove possible to meet my statutory obligations with such a reduction... There is not a broad range of other activity that I can cease doing, so I have to be as efficient as possible.”⁹

16. We therefore asked the Ombudsman whether he now foresaw any problems with meeting his obligations, with the resources detailed in his estimate of December 2010. We were pleased to hear that the Ombudsman considered that:

“on the current projected increase in levels of complaints, because we eliminated the backlog of cases before the year-end and because we are achieving the expected increased efficiencies through the streamlining process, I anticipate that I will be able to meet my statutory requirements for the remainder of this financial year.”¹⁰

17. We also asked the Ombudsman whether he considered his estimates for 2012-2013 to be sufficient to meet his statutory obligations. On this issue, the Ombudsman acknowledged to us that:

“Complaint numbers continue to grow... There has been an inexorable rise in health complaints, which now stand at 31 per cent of all complaints considered by my office.”¹¹

18. Additionally, in his current estimates, the Ombudsman stated that on the basis of the estimate for 2012-13, should the upward trend in the number of complaints continue, he might have to “review the criteria used for deciding whether or not to take a complaint forward to investigation.”¹²

19. We expressed concern at the possibility that these criteria might be reviewed, with one of our Members commenting that:

“people see you as part of the justice system in the sense of delivering justice... Members would have concerns that there could be a failure in the delivery of justice for the public should you need to change your criteria. That would create a situation

⁹ National Assembly for Wales, Finance Committee, [RoP \[para 14-16\]](#), 12 January 2011 [accessed 29 September 2011]

¹⁰ RoP, Finance Committee, 6 October 2011, Para 155

¹¹ RoP, Finance Committee, 6 October 2011, Para 152

¹² Public Services Ombudsman for Wales: *Estimate for the Financial Year 2012-13 and Supplementary Estimate for 2011-12*, September 2011.

where, in a good year, someone's case would be considered, but, in a bad year, the same case would not be because it did not meet the threshold."¹³

20. The Ombudsman assured us that he would "come back to the committee if that situation arose."¹⁴ The Ombudsman emphasised to us that he would only need to consider revising his criteria for accepting complaints if there was a very substantial rise in such, commenting that to date:

"I have not had to say that there is a complaint that ought to be investigated that I cannot afford to. We have not been in that position. We are not in that position now, and these figures will not put us in that position, unless there is a major surge in demand. If that happens, because I am required to put before you a budget that enables me to fulfil my statutory obligations, I would have to come back to you if there were a substantial—and I mean substantial—increase. If there were a smaller increase, my concern would be that we would drift back to the situation of having backlogs. Then, things would build up over time. We have very tight performance management measures in place to stop cases drifting, but if you have too many cases, you eventually reach that point—people can only do so much work."¹⁵

21. We consider that the Public Service Ombudsman for Wales has a critical role, and it is imperative that his statutory obligations are fulfilled. We therefore welcome the Ombudsman's commitment to come back to the Finance Committee were he ever in a situation where financial constraints were necessitating that he consider revising his criteria for deciding which complaints to deal with- and which complaints he would not deal with.¹⁶

¹³ RoP, Finance Committee, 6 October 2011, Para 216

¹⁴ RoP, Finance Committee, 6 October 2011, Para 217

¹⁵ RoP, Finance Committee, 6 October 2011, Para 213

¹⁶ Standing Order 20.36 details that a supplementary budget motion may propose a variation to the budget for the Ombudsman, under condition that the Ombudsman provides an explanatory memorandum to the responsible committee (Finance Committee) explaining why the variation is required. The responsible committee would then report on the proposed variation of the Ombudsman's budget within three weeks of the supplementary budget being tabled, including proposals of any modifications to the proposed variation of the Ombudsman's budget.

Complaints Wales Signposting Service

22. In his revised estimates for 2011-12,¹⁷ the Ombudsman stated that a feasibility study concluded that four full time staff members would be required to run the call centre aspect of the Signposting Service and the budget provision for the 2011-12 financial year in relation to this service was £227,000. The Ombudsman went on to report that there had already been a substantial increase in the number of enquiries and that he expected enquiries in 2011-12 to be twice that reported in 2010-11.

23. In his 2010-11 annual report, the Ombudsman stated that:

“in respect of the budget round for 2011/12, there was a period of uncertainty surrounding the level of funding that my office would receive... As a result of this uncertainty, I decided to put the launch of the signposting project on hold until I was certain that the financial resources required to enable me to provide this service were available to me. Whilst this has now been resolved, I have not been able to introduce this service as early as I originally intended. However, a small scale pilot project began operating at the end of March and I now expect to be able to fully launch the Complaints Wales service in the early part of the forthcoming operational year.”¹⁸

24. We therefore asked the Ombudsman whether the Complaints Wales signposting service had been launched. The Ombudsman advised us that:

“We have launched the Complaints Wales service. The telephone lines went live from the beginning of April, and we also now have the website live. I will say a little about the website in a moment. Just to give the numbers, 566 people have been signposted since the beginning of the year, which, for a soft launch, we think is reasonable.”¹⁹

25. We welcome the launch of the Complaints Wales signposting service.

¹⁷ National Assembly for Wales, Finance Committee, [FIN\(3\)-02-11 : Paper 1 : Public Services Ombudsman for Wales Draft Budget 2011-12](#), December 2011 [accessed 29 September 2011]

¹⁸ National Assembly for Wales, [GEN-LD8576 - The Annual Report 2010/11 of the Public Services Ombudsman for Wales](#), 25 July 2011 [accessed 29 September 2011]

¹⁹ RoP, Finance Committee, 6 October 2011, Para 186

Independent Review as result of NHS redress arrangements

26. In his estimates for 2012-2013, the Ombudsman stated that:

“health complaints currently account for 30% of the caseload of public body complaints, compared with the overall position of 25% for 2010/11. It appears, therefore, that the additional health complaints expected as a result of changes in health redress arrangements, where all independent reviews were concentrated in my office, are now beginning to make their way to me.”²⁰

27. We asked the Ombudsman how this increase in health complaints compared with the original estimates of complaints his office would receive as a result of the NHS Redress Measure. The Ombudsman advised us that:

“The report to the Assembly in January 2008, which was when the estimate was carried out, estimated that the number of health complaints being received by my office would grow by 173. So, I would have 173 more health cases. That would have been a new total of 364. My current projections are that we will have 480, which is 116 more complaints than the original projection... On the basis of the original calculations, that would have required another four members of staff—three and a half investigators and half a member of support staff. On current figures, that would have cost £225,000, which is more than, in the event, we had. In practice, because of the improvements to our processes, we are currently managing that increased volume within the existing resources.”²¹

28. As noted in the following chapter, we welcome the Ombudsman’s efforts to streamline and improve his processes, enabling his office to manage the increased volume of health cases without additional resources.

²⁰ Public Services Ombudsman for Wales: *Estimate for the Financial Year 2012-13 and Supplementary Estimate for 2011-12*, September 2011.

²¹ RoP, Finance Committee, 6 October 2011, Para 197 and 199

2. Maximising use of resources within the Ombudsman's 2012-2013 estimates

Backlog of cases

29. The Ombudsman advised us that there had been significant achievements throughout 2010-11 in relation to reducing his office's backlog of cases, commenting that:

“Thanks to a huge effort by my staff, we eliminated a considerable backlog in complaints in the last financial year. There will always be complaints in the system—some of which will come in the day before the end of the financial year, so that is not an issue—however, we started this year in much healthier shape as regards performance than any previous year.”²²

30. We welcome and applaud the efforts made by the Ombudsman and his team in addressing this issue. We believe that this effort will have already delivered an improved service to members of the public, and will enable better use to be made of resources from the 2012-2013 estimates.

Staff reorganisation

31. The Ombudsman detailed to us that he had made an 8.5% reduction in staff, equating to five posts. He had reorganised his team structure to deal with this impact of this, reducing the number of investigation teams from three to two.

32. He also stated to us that it was his current policy not to fill vacancies unless a sound business case can be made for doing so.

33. The Ombudsman detailed to us that after our predecessor committee expressed concerns about his initial estimates for 2011-2012 he had:

“had to find more savings... My organisation is small—we have one office with very limited travel costs. The rent is the rent, the heating bills are the same as everyone else's heating bill, no matter what we do, and, in reality, staff costs are the only major element of my budget which I control directly. The changes that we made to try to bring the revised budget into

²² RoP, Finance Committee, 6 October 2011, Para 151

balance related to reducing managerial posts. We took advantage of retirements and of people leaving, we did not fill posts and we restructured to reduce the management overhead. I must pay tribute to my managers, because it essentially means that a smaller number of people has taken on the work; it is a small management team in any case, so it has taken on a considerable additional burden. However, thus far, things are functioning well and the performance improvements that we have secured have been secured with that reduced management team.”²³

34. The Ombudsman also detailed the savings to the public purse that this reorganisation had realised, noting that:

“the biggest saving on staffing equates to £278,000. That is equivalent to a reduction of 7 per cent across the overall budget. There are smaller additional figures that I can provide. For example, we have saved £9,000 by recruiting directly rather than using a recruitment agency on the occasions we have needed to. We saved £6,500 by not using temporary staff, but recruiting our own pool of people and paying them at the ordinary rate rather than paying the agency rate. Those are minor things. The fundamental saving is the sum of £278,000 on the staffing budget.”²⁴

35. We note that our predecessor Finance Committee has in previous years emphasised the importance of seeking to improve the efficiency and effectiveness with which services are delivered.

36. In the current economic climate the need for efficient public service delivery continues to be critical. We therefore welcome the Ombudsman’s efforts to reorganise his staff in such a fashion that a smaller team of people have effectively handled the continuously increasing number of complaints received by his office.

Streamlined processes

37. The Ombudsman also detailed that he had sought to streamline his office’s processes for considering and handling complaints, commenting that:

²³ RoP, Finance Committee, 6 October 2011, Para 205

²⁴ RoP, Finance Committee, 6 October 2011, Para 210

“We have made some major changes to the service and those have had their full impact in the current financial year. We have gone to a streamlined process, which is far more efficient and effective... We not only provide a call-handling service that passes complaints on to an individual who can look at them, but we have put investigators on the front line who take calls from individuals, so we are able to provide a much prompter service. We have taken a whole stage out of the process: we do not receive a complaint, assess it, then investigate it; we receive and assess it and aim to do so within 28 days, and generally we are doing that. That has led to major improvements to the throughput of my office in two ways. One of them is that we are not taking in complaints to be investigated that are inappropriate for the office—for example, if the body concerned has not yet had an opportunity to put things right—and the other difference is that when a complaint is due to be investigated, the investigation commences much sooner, when the events are fresher in the mind of the body that is being complained about and the individual who is making the complaint, so we are better able to turn that around.”²⁵

38. The Ombudsman commented that it was as a result of these streamlined processes that he believed he would be able to meet his statutory obligations despite the challenging financial constraints of his estimate for 2012-2013. The Ombudsman stated that:

“In the course of preparing the budget last year, I gave a commitment that we would hold the budget level for this financial year. I do not pretend that that is not going to be challenging—it will be very challenging. However, we believe that we can do that with the measures that we have taken, particularly to streamline the service and the reductions in staffing levels.”²⁶

39. We welcome the Ombudsman’s efforts to streamline his office’s processes, to enable an improved public service at a reduced cost to the public purse. We note with interest that his office is now:

²⁵ RoP, Finance Committee, 6 October 2011, Para 150

²⁶ RoP, Finance Committee, 6 October 2011, Para 153

“getting a lot of interest from elsewhere—we have had many visits to the office to look at how we are doing things.”²⁷

Reducing the number of vexatious or trivial complaints considered by the Ombudsman

40. Bearing in mind the forthcoming council elections in May 2012, we asked the Ombudsman how often he dealt with “councillor-on-councillor complaints and council-candidate-on-councillor complaints”²⁸

41. In responses, the Ombudsman advised us that:

“in the last financial year, we produced 27 reports into investigations that were referred on either to the Adjudication Panel for Wales or to standards committees. Of those, in all 11 cases that went to the adjudication panel, there was found to have been a breach and, in 14 of the 16 that were referred to standards committees, there was found to be a breach. So, we think that we are now quite good at sieving out the kind of low-level nuisance complaints that would otherwise take up a lot of time.”²⁹

42. However, the Ombudsman also stated that he believed fundamentally there was “a need for a change to the system,”³⁰ to reduce the number of such complaints considered by his office. He noted that he was already “aware that, in the governing party’s manifesto, there was a commitment to reviewing the system and, potentially, new legislation.”³¹ Moreover, in the short term, the Ombudsman was also:

“moving forward in discussions with the Government and the Welsh Local Government Association on a proposal that will introduce local mechanisms for dealing with member-on-member complaints. That can be done within the existing legislation, provided that my office issues new guidance... We spend a lot less time and money on councillor complaints in my office than on maladministration, but, where they are vexatious

²⁷ RoP, Finance Committee, 6 October 2011, Para 150

²⁸ RoP, Finance Committee, 6 October 2011, Para 157

²⁹ RoP, Finance Committee, 6 October 2011, Para 159

³⁰ Ibid.

³¹ RoP, Finance Committee, 6 October 2011, Para 160

or trivial, it is important that we are not wasting any time on them.”³²

43. We support the Ombudsman’s efforts to minimise the number of vexatious or trivial councillor-related complaints dealt with by his office, which can potentially represent a waste of public resources. We believe that local mechanisms could more appropriately handle many such complaints in the first instance.

³² RoP, Finance Committee, 6 October 2011, Para 161

3. Supplementary Estimate for 2011-12

44. The Ombudsman's estimates presented to Committee also incorporated a Supplementary Estimate for the current financial year. The Ombudsman explained to us that the need for this had arisen as a result of pension deficits.

45. Upon the creation of the Ombudsman's office in 2006, a small number of staff transferred from the Commission for Local Administration in Wales. These staff members were entitled to remain within the Local Government Pension Scheme (LGPS). Since this time the LGPS has incurred a significant deficit affecting all member organisations. Therefore, the Ombudsman was obliged to contribute to the cost of recovering the deficit.

46. As the Ombudsman was expecting that by the financial year 2017-18 he will have no active members contributing to the LGPS, his contributions to the deficit have to be made prior to this time. Therefore, the Ombudsman had made arrangements for his contribution, stated to be £1.565 million, to be paid in six instalments from 2012-13 to 2017-18. The Ombudsman clarified to us that:

“Aon Hewitt... concluded that our element of the scheme, if we were to pay off the deficit in a staged way, which is what we are proposing here, would equate to that sum of £1.565 million... I do not doubt the basis of its calculations, but, nonetheless, on the advice of my audit committee, which works closely with Aon Hewitt, we have engaged the Government actuary to provide a second opinion.”³³

47. In accordance with accepted financial management practices, the Ombudsman had brought this forward in a Supplementary Estimate in recognition of the future provision for the full amount of this liability, even though it did not impact on the 2011-12 financial year itself.

48. The Ombudsman stated in his paper that he had been advised that this provision would score as annually managed expenditure

³³ RoP, Finance Committee, 6 October 2011, Para 166

(AME),³⁴ and therefore would have no overall impact on the Welsh block. The Ombudsman advised us that:

“The Welsh Government is aware of the issues and of the need to conduct discussions with the Treasury, which we cannot do independently.”³⁵

49. The Ombudsman also advised us that there would be no change to the overall cash requirement from the Welsh Consolidated Fund in the 2011-12 financial year, as he would not begin making payments against this liability until the 2012-13 financial year.

50. The Ombudsman noted that he was:

“very anxious to gain the committee’s support for the additional sums involved, to ensure that the service is not threatened.”

51. We support the Ombudsman in seeking to obtain this additional funding as AME.

³⁴ Annually managed expenditure (AME) – is unpredictable and so cannot be subject to firm multi-year limits. AME is reviewed and set twice a year by HM Treasury. AME within the Welsh block must be used for the purpose to which it is assigned, therefore the Welsh Ministers have no discretion over its allocation. Agreed AME is provided by Treasury, and any unspent portion must be returned.

³⁵ RoP, Finance Committee, 6 October 2011, Para 168

Witnesses

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at

<http://www.senedd.assemblywales.org/mgCommitteeDetails.aspx?ID=229>

6 October 2011

| | |
|-------------------|--|
| Peter Tyndall | Public Service Ombudsman for Wales |
| Susan Hudson | Policy and Communications Manager for the Public Service Ombudsman for Wales |
| Malcolm MacDonald | Financial Adviser for the Public Service Ombudsman for Wales |

List of written evidence

The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at <http://www.senedd.assemblywales.org/mgCommitteeDetails.aspx?ID=229>

Organisation

Peter Tyndall
Public Service Ombudsman for Wales

Reference

FIN(4)-4-11 Paper 2