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Dear Chair

Draft Public Services Ombudsman (Wales) Bill

Thank you for your letter dated 16 March 2017. I very much enjoyed giving evidence at the recent Finance Committee meeting and am delighted that the Committee are minded to move forward with the legislation.

Please find enclosed best estimates of indirect costs as requested. My office has enjoyed working with Assembly officials on the explanatory memorandum and the regulatory impact assessment and I hope that we are now in a satisfactory position to allow you and your colleagues to enact the draft PSOW legislation shortly.

With best wishes.

Yours sincerely

Nick Bennett
Ombudsman



April 2017

Regulatory Impact Assessment (RIA) for the Draft Public Services Ombudsman (Wales) Bill

Supplementary Memorandum



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Supplementary Memorandum

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1. Context

The office of the Public Service Ombudsman for Wales (PSOW) commissioned OB3 Research in October 2016 to produce a Regulatory Impact Assessment (RIA).

The RIA is needed to assist the National Assembly for Wales in its consideration of a draft Public Services Ombudsman (Wales) Bill. The intention of the Bill is to update existing legislation, the Public Services Ombudsman (Wales) Act 2005, which currently governs the PSOW's role.

The RIA report was submitted to the National Assembly for Wales on 14th December 2016¹. The PSOW and OB3 Research gave oral evidence regarding the RIA to the Finance Committee at its meeting on 9th March 2017.

Following the 9th March meeting, the Committee Chair² wrote to the PSOW (on 16th March 2017) stating that the Committee is 'minded to proceed with the introduction of the draft Bill'.

However, the letter from the Committee Chair requested 'further information specifically on the indirect costs of the Bill in order to comply with the Assembly's Standing Orders'. The RIA submitted in December 2016 highlighted (in Section 5) a number of key limitations in terms of the availability of appropriate data to estimate the indirect costs of new measures being proposed within the Bill. In his letter, the Committee Chair recognised 'the challenges and limitations in terms of quantifying the costs due to a lack of evidence and data available'. Nevertheless, **'a best estimate of the costs to those affected by the Bill's proposals based on the work already undertaken'** was requested. The Committee Chair requested this additional information by the end of April 2017.

The full RIA report has already provided estimates of the direct costs associated with the proposed new powers set out in the draft Bill.

2. Purpose of this Supplementary Memorandum

The purpose of this brief supplementary memorandum is to provide some further information regarding likely indirect costs to bodies within the PSOW's jurisdiction in response to the Finance Committee Chair's request. This memorandum should therefore be read in conjunction with the full RIA report.

In order to provide best estimate information relating to the indirect costs of the Bill, the following additional work has been undertaken:

- Discussions and e-mail exchanges to explore data sources and generate best estimates with the Head of Policy (Improvement and Governance) at the Welsh Local Government Association, the Head of Healthcare Quality Division at the Welsh Government, the Chair of the Welsh Corporate Complaints Group and the Acting Assistant Director of Patient Experience at Cardiff and Vale University Health Board.
- Distributing an information request to the 22 local authority Complaints Officers in Wales via the Chair of the Welsh Corporate Complaints Group.
- Distributing an information request to NHS Wales organisations via the NHS Wales Listening and Learning from Feedback Group.

¹ The RIA produced by OB3 for the draft PSOW Bill is available on the National Assembly for Wales' website at <http://senedd.assembly.wales/ieListDocuments.aspx?CId=440&MId=3882&Ver=4>

² Simon Thomas AM

- Attending a meeting of the Welsh Corporate Complaints Group on Wednesday 26th April 2017 to discuss best estimates of the likely indirect costs arising from the provisions within the draft Bill³.

Between them, local authorities and NHS bodies in Wales represented 86 percent of all complaints made to the PSOW's office in 2015/16⁴.

This memorandum is based on the **best estimates** of the individuals and organisations that provided information. It draws mainly on the discussion with the Welsh Corporate Complaints Group on 26th April 2017.

A number of key assumptions and generalisations (outlined in this memorandum) have had to be made in order to arrive at estimates of indirect costs and these should be borne clearly in mind when considering the findings of this work.

The time available to prepare this additional information has been very limited. Due to the Easter break, a number of colleagues representing bodies within the PSOW's jurisdiction have been on annual leave and this has restricted the response to our call for additional information. We expect to receive further information from colleagues in both local government and health organisations before Friday 12th May 2017. Should this additional information highlight any significant or material changes to the findings presented in this supplementary memorandum, the PSOW will, if necessary provide a further update to the Committee during the week commencing Monday 15th May 2017.

3. Indirect Cost Estimates – Oral Complaints

In order to arrive at a best estimate of the indirect costs associated with the proposed new oral complaints power (preferred option 2 as set out on pages 23 and 24 of the RIA), we sought to identify a 'unit cost' for a typical complaint brought forward by the PSOW that does not proceed to full investigation.

A number of key issues, assumptions and generalisations need to be understood in arriving at a 'typical unit cost' for a body within the PSOW's jurisdiction in handling/responding to a complaint. These are:

- No two complaints are ever identical.
- Complaints relating to different service areas vary greatly in the amount of time involved in handling them. For instance, complaints in relation to health, social services, education and planning typically take much more time to process and handle than other services.
- The figures presented here are best estimates of the 'typical' or 'average' time involved in handling a complaint.
- Job titles vary between bodies within the PSOW's jurisdiction. The job titles used are intended to be broadly representative of the level of officer involved in dealing with complaints.
- The salaries are best estimate full time equivalents based on working a 5 day week and 260 paid days per year. The headline salary costs estimated are basic i.e. they do not reflect additional costs such as National Insurance and pension contributions or reflect additional overhead costs (e.g. office accommodation or travel costs). NI and pension costs have been

³ Representatives of 12 of Wales' 22 local authorities were present in the meeting.

⁴ 1,704 of 1,992 complaints. PSOW Annual Report 2015/16. Page 17.

added (assumed at 35 percent of salary costs) to the best estimate unit costs in each of the tables outlined in this memorandum.

- A working week is assumed to mean 42 hours a week less 1 hour per day for meal breaks. Thus a 37 hour working week has been assumed.
- A working day is assumed to be 7.4 hours.
- The amount of time estimated per complaint is based on a 'typical' complaint recognising the wide ranging diversity in the nature of all complaints. Some complaints will take less time. This time estimate does not include any follow-up action once the complaint has been resolved/closed.
- All figures are rounded up to the nearest £1.

Our additional work to prepare this memorandum suggests that officials at different levels are involved in handling PSOW complaints. These officials spend different amounts of time on each complaint and are on different salary levels.

Figures 1 and 2 set out our best estimates of which officials would typically be involved in handling a complaint brought forward via the PSOW, how much of their time would be involved and what their 'typical' annual full time equivalent (FTE) salary would be.

Based on the information received and the assumptions outlined above, Figure 1 provides a lower end estimate (a typical complaint) and Figure 2 provides a higher end estimate (a more complex complaint) of the unit cost of dealing with/responding to a PSOW complaint.

Figure 1: Best estimate of staff, time and salary costs of those involved in dealing with a complaint before full investigation. Lower end unit cost estimate

Staff involved	Estimated number of hours involved per typical complaint	Typical gross basic annual salary (FTE)	Estimated hourly cost	Estimated lower end unit cost per 'typical' complaint
Senior Manager	1	£50k	£26	£26
Team Manager	2	£30k	£16	£32
Team Officer	2.5	£25k	£13	£33
Complaints Team Manager	5	£30k	£16	£80
Total	10.5			£171
Total unit cost including NI and pension contributions (assumed at 35 percent)				£231

Figure 2: Best estimate of staff, time and salary costs of those involved in dealing with a complaint before full investigation. Higher end unit cost estimate

Staff involved	Estimated number of hours involved per typical complaint	Typical gross basic annual salary	Estimated hourly cost	Estimated higher end unit cost per 'typical' complaint
Senior Manager	2	£50k	£26	£52
Team Manager	3	£30k	£16	£48
Team Officer	4	£25k	£13	£52
Complaints Team Manager	7	£30k	£16	£112
Total	16			£264
Total unit cost including NI and pension contributions (assumed at 35 percent)				£356

The PSOW has provided us with a best estimate that this new power to progress oral complaints could result in **a net additional 25 complaints being generated per annum** (i.e. complaints across all bodies in jurisdiction that would otherwise not have materialised).

Based on this information, Figure 3 sets out the overall best estimate of total additional indirect costs incurred across all bodies within jurisdiction based on the lower and higher end unit cost estimates.

Figure 3: Total estimated indirect costs based on lower end and higher end estimates. Assumed additional 25 complaints generated via oral route per annum

	Lower end best estimate	Higher end best estimate
Additional complaints per annum	25	25
Best estimate unit cost per complaint	£231	£356
Total indirect cost (best estimate) across all bodies within jurisdiction	£5,775	£8,900

Thus, the best estimate in terms of total additional indirect costs across all bodies within the PSOW's jurisdiction as a result of the oral complaints power is between **£5,775 and £8,900 per annum**. Moreover, a proportion of these additional complaints will progress to investigation. Using the analysis in section 4 (below) and on the basis that 25 percent of complaints progress to investigation, (in this context an estimated six investigations per annum) the additional indirect cost across all bodies within the PSOW's jurisdiction is estimated to be between £10,386 and £12,942 per annum.

Taken together the estimated additional 25 complaints and six investigations would amount to indirect costs of between **£16,161 and £21,842 per annum across all bodies within jurisdiction**. It should be noted that these costs would, in effect be absorbed by public bodies within jurisdiction i.e. the additional work generated would generally be carried out by existing staff and within existing budgets rather than generating a net additional monetary cost.

4. Indirect Cost Estimates - Own Initiative Investigations

In order to arrive at a best estimate of the indirect costs associated with the new own initiative investigation power being sought (preferred option 2 as outlined on page 27 of the RIA), we sought to identify a 'unit cost' for a typical full investigation brought forward by the PSOW.

A number of key issues, assumptions and generalisations need to be understood in arriving at a 'typical unit cost' for a body within the PSOW's jurisdiction in handling/responding to a full investigation. These are:

- No two investigations are ever identical.
- Investigations relating to different service areas vary greatly in the amount of time involved in handling them. For instance, complaints in relation to health, social services, education and planning typically take much more time to process and handle than other services.
- The figures presented here are best estimates at the 'typical' or 'average' time involved in handling a complaint.
- Job titles vary between bodies within the PSOW's jurisdiction. The job titles used are intended to be broadly representative of the level of officer involved in dealing with investigations.
- The salaries are best estimate full time equivalents based on working a 5 day week and 260 paid days per year. The headline salary costs estimated are basic i.e. they do not reflect additional costs such as National Insurance and pension contributions or reflect additional overhead costs (e.g. office accommodation or travel costs). NI and pension costs have been added to the best estimate costs (assumed at 35 percent of salary costs) in each of the tables outlined in this memorandum.
- A working week is assumed to mean 42 hours a week less 1 hour per day for meal breaks = 37 working hours per week.
- A working day is thus assumed to be 7.4 hours.
- The amount of time estimated per complaint is based on a 'typical' investigation recognising the wide ranging diversity in the nature of all investigations. Some investigations will take less time. This time estimate does not include any follow-up action once the complaint has been resolved/closed.
- All figures are rounded up to the nearest £1.

Our additional work suggests that officials at different levels are involved in handling full investigations. These officials spend different amounts of time on each investigation and are on different salary levels.

Figures 4 and 5 set out our best estimates of which officials would typically be involved in handling an investigation brought forward via the PSOW, how much of their time would be involved and what their 'typical' annual full time equivalent (FTE) salary would be using a best estimate range.

Based on the information received and the assumptions outlined above, Figure 4 provides a lower end estimate (a typical investigation) and Figure 5 provides a higher end estimate (a more complex investigation).

Figure 4: Best estimate of staff, time and salary costs of those involved in dealing with a full investigation. Lower end unit cost estimate

Staff involved	Estimated number of hours involved per typical complaint	Typical gross basic annual salary	Estimated hourly cost	Estimated lower end unit cost per 'typical' complaint
Director	1	£100k	£52	£52
Head of Service	7.5	£75k	£39	£293
Senior Manager	7.5	£50k	£26	£195
Team Manager	14	£30k	£16	£224
Team Officer	14	£25k	£13	£182
Complaints Team Manager	21	£30k	£16	£336
Total	65			£1,282
Total unit cost including NI and pension contributions (assumed at 35 percent)				£1,731

Figure 5: Best estimate of staff, time and salary costs of those involved in dealing with a full investigation. Higher end unit cost estimate

Staff involved	Estimated number of hours involved per typical complaint	Typical gross annual salary	Estimated hourly cost	Estimated higher end unit cost per 'typical' complaint
Director	2	£100k	£52	£104
Head of Service	9	£75k	£39	£351
Senior Manager	9	£50k	£26	£234
Team Manager	17	£30k	£16	£272
Team Officer	17	£25k	£13	£221
Complaints Team Manager	26	£30k	£16	£416
Total	80			£1,598
Total unit cost including NI and pension contributions (assumed at 35 percent)				£2,157

The RIA report set out four scenarios under which the own initiative powers might be deployed (Figure 1, Pages 12 and 13 of the RIA report). These are (summarised):

- Scenario A:** Extending a complaint investigation to include another public body without needing a new complaint from the complainant.
- Scenario B:** Findings from a complaint investigation prompt an investigation in other bodies to establish whether similar failings exist elsewhere.
- Scenario C:** Investigation of an anonymous complaint.
- Scenario D:** Investigation across all or part of a sector of service delivery in the light of concerns.

The RIA also explained that:

- Scenario D would only be used sparingly.
- Scenarios A, B and C are likely to be used somewhat more frequently.

Figure 6 sets out our best estimate of the possible total indirect costs across all public bodies within the PSOW's jurisdiction. Scenario A would not generate additional costs to public bodies – the change is intended only to remove the unwieldy requirement that a complainant makes a further complaint where a second body is found to be involved, so will not change the number of complaints investigated.

The figures below are therefore based on:

- A total of 10 own initiative investigations per annum being instigated (1 under Scenario D and 9 under Scenarios B and C combined).
- A total of 15 own initiative investigations per annum being instigated (2 under Scenario D and 13 under Scenarios B and C combined).

Figure 6: Total estimated indirect costs from own initiative investigations based on low and high end unit cost estimates

Own initiative investigations instigated per annum	Lower end indirect cost estimate Best estimate unit cost of £1,731	Higher end indirect cost estimate Best estimate unit cost of £2,157
10	£17,310	£21,570
15	£25,965	£32,355

This suggests that the estimated total indirect costs across all public bodies within jurisdiction would be in the **region of between £25,965 and £32,355 per annum** depending on how many own initiative investigations are instigated and need to be responded to.

It should be noted that these costs would, in effect be absorbed by public bodies within jurisdiction i.e. the additional work generated would generally be carried out by existing staff and within existing budgets rather than generating a net additional monetary cost.

It should also be remembered that the Ombudsman estimated that the proposed own initiative power would help avoid a five percent increase in direct complaint handling costs to the PSOW's office (in the region of £150,000 by 2020) which would otherwise arise from the current projected increase in complaints⁵.

5. Indirect Cost Estimates – Private Healthcare

The PSOW has been clear that the nature of the requested power to investigate private healthcare providers would only apply in circumstances where the patient has received a private healthcare element as part of their health care pathway. As such this power would not result in any additional indirect costs on public bodies within jurisdiction.

6. Indirect Costs Estimates – Complaints Standards Role

Our discussions with representatives of local authorities and NHS bodies have revealed the following key points with regards to complaints standards and complaints handling systems:

- There is currently a variance (particularly across local government) as to how complaints are monitored and data is collected and analysed. Different systems (including software) and varied approaches are used.
- Discussions are already underway within the health service about procuring a 'once for Wales' complaints handling software platform which would facilitate greater consistency and comparability. This work is being taken forward regardless of whether the PSOW will receive the new power being sought.
- It is unlikely that all 22 local authorities will be in a position to move towards a standard/consistent software platform for complaints handling in the foreseeable future.
- The fact that different bodies within the PSOW's jurisdiction use different approaches and different software systems need not be an insurmountable barrier to achieving greater consistency and better quality data to enable more meaningful performance management and comparisons and to be made. This reflects the position in Scotland where the emphasis is on the data required rather than the system used to provide it, and public bodies there use a variety of different systems and approaches to collect the data required.
- Should the PSOW receive the new powers requested in respect of the Complaints Standards role, the focus of his work would be on requiring bodies within jurisdiction to collect consistent data fields which could then be combined for broader and more sophisticated analysis leading to dissemination of good practice.
- This means that the indirect costs for bodies within jurisdiction (as a result of the new power being sought) are likely to relate to officer time to make alterations to pre-existing database and CRM systems. The officers who contributed information to this exercise envisaged the time implications for undertaking such modifications to be very modest.

On the basis of the above, we have assumed that the indirect costs for each body within jurisdiction would typically amount to between 1 and 3 days of officer time in order to make alterations to relevant databases and CRM systems to capture complaints related data in a more consistent way.

⁵ See RIA document. Section 6.3.4, Page 27.

It is likely that (for local government in particular), the officers involved in undertaking such changes would be Complaints Team Managers (assumed typical salary of £30k p.a.) who oversee complaints management systems.

Thus (and on the basis of the assumptions used to calculate the unit costs in the other sections of this memorandum (i.e. 260 working days p.a.) the best estimate in terms of **one off additional indirect costs** to each body within the PSOW's jurisdiction would be **in the range of between £160 and £480** (including NI and pension contributions).

The PSOW has advised that this would affect an estimated 36 bodies within jurisdiction:

- 22 local authorities
- 3 national park authorities
- 7 health boards
- 3 NHS trusts
- The Welsh Government

At an all-Wales level this would amount to **one off indirect costs of between £5,760 and £17,280**. The requirement could be extended to the larger housing associations. It is anticipated that the cost per housing association would be similar and might apply to around 30 of the 90 housing associations in Wales. If this were to be the case, the estimated one off indirect cost would be between £4,800 and £14,400.

It should be noted that these costs would, in effect be absorbed by public bodies within jurisdiction i.e. the additional work generated would generally be carried out by existing staff and within existing budgets rather than generating a net additional monetary cost.

It should also be remembered that the Ombudsman estimated that the proposed complaints standards role would help avoid a ten percent increase in direct complaint handling costs to the PSOW's office (in the region of £300,000 by 2020) which would otherwise arise from the current projected increase in complaints⁶.

⁶ See RIA document. Section 7.4.4 Page 40.

7. Summary

In summary, the best estimates relating to the potential direct costs and indirect costs associated with the additional powers being sought under the Bill are set out below. As explained in this memorandum and in the main RIA, there would be no direct or indirect costs associated with the Private Healthcare power to the public sector in Wales. Information relating to estimated direct costs and savings has been taken directly from the main RIA report.

Figure 7: Oral Complaints Summary

Estimated direct costs (annual recurring)	£41,333
Estimated direct costs (one off)	£5,000
Estimated indirect costs (annual recurring)	£16,161 – £21,842
Estimated indirect costs (one off)	N/A

Figure 8: Own Initiative Investigations Summary

Estimated direct costs (annual recurring)	£137,666
Estimated direct costs (one off)	£10,000
Estimated indirect costs (annual recurring)	£25,965 - £32,355
Estimated indirect costs (one off)	N/A

Own initiative powers would help avoid an estimated £150,000 increase in PSOW complaint handling costs by 2020.

Figure 9: Complaints Standards Role Summary

Estimated direct costs (annual recurring)	£137,666
Estimated direct costs (one off)	£10,000
Estimated indirect costs (annual recurring)	N/A
Estimated indirect costs (one off)	£5,760 - £17,280
Possible additional estimated indirect costs (one off) for housing associations if included	£4,800 - £14,400

The complaints standards role would help avoid an estimated £300,000 increase in PSOW complaint handling costs by 2020.

As has been outlined in this memorandum, it should be noted that the indirect costs would, in effect be absorbed by public bodies within jurisdiction i.e. the additional work generated would generally be carried out by existing staff and within existing budgets rather than generating a net additional monetary cost.