



# **Cynulliad Cenedlaethol Cymru** **The National Assembly for Wales**

## **Y Pwyllgor Cyllid** **The Finance Committee**

**Dydd Mercher, 25 Chwefror 2015**  
**Wednesday, 25 February 2015**

### **Cynnwys** **Contents**

Cyflwyniadau, Ymddiheuriadau a Dirprwyon  
Introductions, Apologies and Substitutions

Papurau i'w Nodi  
Papers to Note

Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod  
Motion under Standing Order 17.42 to Resolve to Exclude the Public from the Meeting

Ail Gyllideb Atodol Llywodraeth Cymru ar gyfer 2014-15  
Welsh Government Second Supplementary Budget for 2014-15

Ystyried Pwerau—Ombwdsmon Gwasanaethau Cyhoeddus Cymru: Sesiwn Dystiolaeth 4  
Consideration of Powers—Public Services Ombudsman for Wales: Evidence Session 4

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur Labour
Jocelyn Davies	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Mike Hedges	Llafur Labour
Alun Ffred Jones	Plaid Cymru The Party of Wales
Ann Jones	Llafur Labour
Julie Morgan	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives
Kirsty Williams	Democratiaid Rhyddfrydol Cymru (yn dirprwyo ar ran Peter Black) Welsh Liberal Democrats (substitute for Peter Black)

**Eraill yn bresennol**  
**Others in attendance**

Lyn Cadwallader	Prif Weithredwr Un Llais Cymru Chief Executive, One Voice Wales
Matt Denham-Jones	Pennaeth Rheoli a Chofnodi Cyllidebau, Llywodraeth Cymru Head of Budgetary Control and Reporting, Welsh Government
Gawain Evans	Dirprwy Gyfarwyddwr Rheoli Ariannol, Llywodraeth Cymru Deputy Director Financial Controls, Welsh Government
Daniel Hurford	Cymdeithas Llywodraeth Leol Cymru Welsh Local Government Association
Jane Hutt	Aelod Cynulliad, Llafur (y Gweinidog Cyllid a Busnes y Llywodraeth) Assembly Member, Labour (the Minister for Finance and Government Business)

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Bethan Davies	Clerc Clerk
Martin Jennings	Gwasanaeth Ymchwil Research Service
Leanne Hatcher	Ail Glerc Second Clerk
Tanwen Summers	Dirprwy Glerc Deputy Clerk
Gareth David Thomas	Gwasanaeth Ymchwil Research Service
Joanest Varney-Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

*Dechreuodd y cyfarfod am 09:00.*  
*The meeting began at 09:00.*

**Cyflwyniadau, Ymddiheuriadau a Dirprwyon  
Introductions, Apologies and Substitutions**

[1] **Jocelyn Davies:** Can I just remind you, if you've got electronic devices, if they're put on silent, I'd be very grateful? Nick Ramsay is joining us shortly. For some sections of this meeting, Kirsty Williams will be substituting for Peter Black.

**Papurau i'w Nodi  
Papers to Note**

[2] **Jocelyn Davies:** We've got a number of papers to note. Some of them are relating to the ombudsman powers inquiry that we are undertaking. Perhaps we can discuss those later. We do have hard copies of paper 7 for you because we did have a problem with the digital formatting, so there may very well be some gaps in those documents. So, we're going to give you hard copies later. Is everybody happy to note those?

[3] **Ann Jones:** Fine.

[4] **Jocelyn Davies:** Lovely.

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod  
Motion under Standing Order 17.42 to Resolve to Exclude the Public from the  
Meeting**

*Cynnig:*

*Motion:*

*bod y pwyllgor yn penderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer eitemau 4, 5, 6, 7, 8, 10 a 12, ac eitemau 1 a 2 Ddydd Iau 5 Mawrth, yn unol â Rheol Sefydlog 17.42(vi) a (ix).*

*that the committee resolves to exclude the public from the meeting for items 4, 5, 6, 7, 8, 10 and 12, and items 1 and 2 on Thursday 5 March, in accordance with Standing Order 17.42(vi) and (ix).*

*Cynigiwyd y cynnig.  
Motion moved.*

[5] **Jocelyn Davies:** Perhaps we can move to a private session under 17.42, if everybody's content, for items 4, 5, 6, 7, 8, 10 and 12, and items 1 and 2 on Thursday, 5 March. Is everybody happy with that? Lovely. Thanks.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 09:01.  
The public part of the meeting ended at 09:01.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 10:00.  
The committee reconvened in public at 10:00.*

**Ail Gyllideb Atodol Llywodraeth Cymru ar gyfer 2014-15  
Welsh Government Second Supplementary Budget for 2014-15**

[6] **Jocelyn Davies:** Welcome back to a meeting of the Finance Committee. We're now

on item 9, which is the Welsh Government second supplementary budget for 2014-15. We have with us the Minister. If you would like to introduce yourself and your officials for the record, and then we'll go straight into questions, if that's okay.

[7] **The Minister for Finance and Government Business (Jane Hutt):** Thank you very much, Chair. Can I introduce Gawain Evans, who's the deputy director for financial control, and Matt Denham-Jones, who's the head of budgetary control and reporting?

[8] **Jocelyn Davies:** Right, thank you. Do you mind telling us how you balanced the need for additional NHS funding with the competing needs from other portfolios, such as local government, when making allocations in this supplementary budget?

[9] **Jane Hutt:** Well, clearly, this has been the most difficult budget in terms of our fiscal position—the most challenging, I'd say, since the creation of our National Assembly. So, allocating additional funds at such a difficult time is very challenging, but quite clearly it was indicated in the Nuffield Trust report, 'A Decade of Austerity in Wales', that we did need to put additional funding into the NHS to enable it to be sustainable, given that it also called for clear and far-reaching reforms in terms of the NHS. So, we had full evidence, but of course that was in June, in the first quarter of our financial year of this supplementary budget. So, the need to find that funding had to be a decision that we made as a Cabinet and, as finance Minister, I then had to make sure that I could work with all Ministers to see ways in which we could identify savings and even make reallocations if that was appropriate, but recognising that it would be very challenging for them. But we had this imperative that we had to meet the needs of the health service. So, clearly, that is what we were faced with and that's what I had to get on with.

[10] **Jocelyn Davies:** The Nuffield Trust report you mentioned, how was that commissioned? It wasn't commissioned by yourselves, was it?

[11] **Jane Hutt:** I think I'd have to clarify exactly with the Minister for Health and Social Services. I mean, there was a Nuffield Trust report in England, and I think it was felt that there needed to be a report of that kind undertaken in Wales, but I think it was commissioned by the public sector. It wasn't commissioned by the Welsh Government, but the Welsh Government wanted to—. I mean that's the health service, local government, public services 2025—. I think it was felt outside the Welsh Government, but welcomed by the Welsh Government, that we needed that overview, which would very much fall alongside a Nuffield overview in England in terms of finances.

[12] **Jocelyn Davies:** Nick, shall we come to your questions?

[13] **Nick Ramsay:** Thanks, Chair. Minister, how have the priorities set out in the programme for government, and progress against achieving these, influenced the allocations in the supplementary budget?

[14] **Jane Hutt:** Well, the programme for government of course has to guide and steer all our budgetary decisions and then is thoroughly monitored throughout the financial year by Ministers, and indeed by the First Minister, and of course then there is the opportunity for a debate on the programme for government in June/July. So, we've had to be very clear, in terms of looking for savings and looking for reallocations within the budget. We've had to be very clear about the programme for government, focusing not just on the programme for government, but what the outcomes are, what our commitments are and recognising that they have to be at the forefront of any Minister's consideration of savings. I think it may also be important to say at this point, of course, that we had a reserve to draw on as well. And, in fact, as a result of the supplementary budget, we have drawn on the reserve substantially to meet the extra funding that we made to the health service as a result. I'm sure there will be more

discussion about that during the scrutiny. But I think it vital that Ministers had to look to the programme for government, they had to look to value for money and they had to look at whether there were ways in which they could release some funding to meet the needs of the health service. As I said, the most difficult time, I think, for certainly this Welsh Government that we've ever had, but the commitment was made to the health service. The programme for government, clearly in terms of all the other policy deliveries of this Assembly, and of course other pressures that could and would emerge, particularly to, perhaps, have a call on our reserve, had to be taken into account. However, I think the supplementary budget is always an opportunity, and, you know, even when we had growing funds, supplementary budgets were where you allocated growing funds that might have come in through budget and autumn statements. This is about how you in-year manage reducing funds.

[15] **Nick Ramsay:** The reserve that you mentioned, that obviously can be used only once. How much of the reserve has been utilised for this?

[16] **Jane Hutt:** So, we found, ultimately, £60 million from departmental reductions and £140 million from reserves, making up the £200 million. So, I think it's very important that we recognise that the majority of the allocation to the NHS came from the reserves.

[17] **Nick Ramsay:** Just to finish from me, Chair, on the subject of the NHS and the Welsh Government's priorities that have been set out in the programme for government: are you confident that the additional allocations are going to fulfil your objectives for the NHS in that programme?

[18] **Jane Hutt:** Obviously, the need was to find the money. The Nuffield report identified how much we should find in this financial year and the next financial year, of course. The 2015-16 allocations that we've made make up the total sum that Nuffield said that we needed in order to put the NHS on a sound footing in terms of sustainability. If we look back at the Nuffield report, it is very clear that there has to be new models of delivery that strengthen care and support provided in local communities, and I think the report in itself does show that there are many ways in which we have met some of the challenges, particularly significant challenges relating to an ageing population and growth in the number of people experiencing chronic conditions. I think Nuffield said that every healthcare system in the world is facing these issues, particularly in the age of austerity. It also does say that the NHS was responding in Wales, and has responded to challenges in places. The health Minister would answer fully on how he is going to take this forward, and, obviously, does account to the Assembly on that basis, but it was a challenge to reform and reshape services, based on his approach to prudent healthcare, the funding that he's found and the way we found that together for integrating health and social care and primary care.

[19] **Christine Chapman:** Ffred, did you have a supplementary to this?

[20] **Alun Ffred Jones:** Yes. There were two Nuffield reports, but the fact is that the auditor general had already flagged up that there were huge overspends in all the health boards, hadn't he, before the Nuffield report? So, you were already aware that there was going to be a huge black hole in practically all of the health boards before the Nuffield report.

[21] **Jane Hutt:** It has been the case, I think, probably even in better times in terms of public finances, that we have had challenges in terms of health boards coming into balance at the end of the financial year. Clearly, yes, I recall the letter from the auditor general and I recall the sums of money that were identified, but, of course, that is also part of the health service's in-year financial management, and the expectations that we would have of them bringing them into line, bringing the finances into line as expected. Because, basically, I mean, they present us with their plans and we've moved forward now, fortunately, with the support of the whole Assembly, into the three-year planning regimes, which, of course, have

been very helpful to the health service, alongside this injection of funding. But I think this is about ongoing and in-year management of the health service. At least the Nuffield report was an independent account and review of the health service in Wales. ‘A decade of austerity in Wales?’, the report that was published in June, was the report that steered us in the direction of putting that extra £200 million in for this financial year.

[22] **Jocelyn Davies:** Kirsty, did you have a supplementary question?

[23] **Kirsty Williams:** Thank you very much, Chair. Minister, are you in a position to tell us whether all the three-year plans submitted by the health boards have been signed off, or are there any outstanding?

[24] **Jane Hutt:** I think I’d have to write to the Chair on this. In my regular bilaterals with the health Minister, I think we were near to having them all signed off, but I’m not up to date on that, so perhaps I could give you a note on that.

[25] **Jocelyn Davies:** Yes, if you don’t mind. Obviously, the report exists, the health Minister then comes to you and says to you, ‘I’d like to make a bid’, or whatever—I mean, you’re not micromanaging his portfolio—but what assurances do you then get from the health Minister that this is then putting the health service on a sustainable footing?

[26] **Jane Hutt:** Well, I think in terms of the Nuffield report, it was a defining report for the whole of the Welsh Government, really, in terms of acknowledging what was needed in terms of financial support to make sure the health service could move into a more sustainable place in terms of its management and efficiency. In terms of not micromanaging—indeed, of course, I’m not micromanaging—and how that is then implemented by health boards—indeed, even the health Minister isn’t micromanaging—the health boards have to be responsible for implementing the findings of the Nuffield report, but the health Minister, of course, with my support, has then identified ways in which he can deliver on this report. I’m thinking here particularly of the focus on primary care and the fact that, during this year, we have had an announcement and funding for primary care, to boost primary care and also to look at the ways in which—which we’ve been able to do with the funding from the autumn statement—we can continue to support the integrated health and social care programme, which was initially only for one year, as a result of the budget agreement. I, obviously, regularly meet with and discuss with the health Minister how he is delivering on our expectations, because basically it was very clear from the Nuffield report: this is the money that they said we needed, we’ve delivered it and now the health service has got to sustain itself based on that input of funding.

[27] **Jocelyn Davies:** Mike, shall we come to your question?

[28] **Mike Hedges:** I will just ask the question: why do we believe that every report written by everybody is always correct?

[29] **Jocelyn Davies:** You don’t need to answer that. [*Laughter.*]

[30] **Mike Hedges:** It’s invest-to-save that I’d like to ask a question on. There’s additional money being made available for invest-to-save—some of which has been given to Natural Resources Wales. When do you expect that money to start to be paid back? As a quick reminder, Natural Resources Wales has been given a year off paying back the last money they had under invest-to-save, so they will not pay it back next year, they’ll start paying it back the year after. When is this money expected to be paid back, and over how many years?

[31] **Jane Hutt:** Well, of course, there have been a number of invest-to-save projects for voluntary and early release, and I think it is important to recognise that, for the different

early-release schemes, you can't—. I mean, invest-to-save, of course, doesn't fund 100% of any project and repayment profiles do have to take account of that. But I think, in terms of the particular invest-to-save scheme that you're talking about, in terms of Natural Resources Wales, they did receive £2.5 million for their latest scheme. It's different from the first scheme, which we supported through invest-to-save, because the first scheme was about the transition in terms of funding voluntary early release for staff as a result of the merger, going into NRW. I think it's important to put on the record that that scheme achieved savings of £4 million a year from the investment.

10:15

[32] So, I think that proved that NRW can deliver in terms of generating those savings. But the latest scheme is about reducing costs within NRW, so that those funds can be used for the service in different ways—in improving front-line services. So, just in terms of your particular question, the expectation is that there will be £3.2 million savings in 2015-16 onwards and £29 million by 2024. So, I think every scheme is different. It's important that this is actually relatively small in the context of the whole of invest-to-save, because, you know, we've got £100 million going out in terms of invest-to-save.

[33] **Mike Hedges:** It is 2.5% of it. The question is: what year do you expect them to start paying back?

[34] **Jane Hutt:** Well, 2015-16, as I said.

[35] **Jocelyn Davies:** Okay. Shall we move on to yours, Chris?

[36] **Christine Chapman:** Minister, you made the decision, in this budget, to reprioritise funding from the other six MEGs to health and social services. I just wonder how you determined the relative contribution of each of the MEGs towards health funding.

[37] **Jane Hutt:** Well, this, again, was a very difficult decision. When we received the Nuffield report in June, we realised the magnitude of what we could have expected to find and we then had to start work immediately. Of course, that's work that I undertake with Ministers to identify ways in which savings could be achieved. So, it's not an expectation where we say, you know, 'You're going to have to produce this or else', it's actually working with Ministers, making it an expectation that we needed to seek funding from them. Obviously, you can't turn to the reserve for all of the funding, particularly at that time of the financial year. It was very important in terms of the £200 million that we didn't wait until December, for example, for the final budget. We needed to get the message out as soon as possible that this funding would be made available. I mean, I think I've made the points about why we felt we had to find this funding, and the Cabinet and Ministers, then, obviously, had to very carefully scrutinise their budgets and their in-year spend to see what they could contribute to this.

[38] **Christine Chapman:** Obviously, we are in very challenging times and there are very difficult decisions to be made. What was your role in all of this, strategically, in co-ordinating this to ensure that you demonstrate value for money to the Welsh taxpayer and that there is no negative impact on the priorities set out in the programme for government?

[39] **Jane Hutt:** Well, it was very clear and, of course, this has been expressed in the Assembly, in the Senedd, through scrutiny that we were going to have to make in-year reductions in order to meet this priority in terms of health and social services. So, anyone in Government is going to have to handle that very carefully and responsibly. I think it does go back to the point that Ministers were asked, comparatively early on following the Nuffield report, to start looking for savings and ways in which we could reprioritise funding within the

budget, so that they could make a contribution. But, clearly—and this goes back to the first point that was made by the Chair—they had to be looking at their programme for government commitments. They had to also be clearly responsible for value for money.

[40] I think one of the important points I'd also make is that, whilst I bilaterally work with Ministers to support them through this process, clearly, that is an ongoing process where they are identifying possible reductions, but there is obviously some bilateral negotiation about, 'What does this mean in terms of our programme for government, what does this mean in terms of our commitment to jobs and growth and tackling poverty, as well as health and wellbeing?' It is very much an iterative process between the finance Minister and Ministers to support and engage, but also to challenge the Ministers to find any savings that they can. Value for money is ultimately both their responsibility and the responsibility of the whole Government.

[41] **Jocelyn Davies:** Okay. Julie.

[42] **Julie Morgan:** I wanted to ask about the effect of the budget on young people and, in particular, the in-year reductions of £35.5 million to the post-16 education and youth engagement and employment actions, in the education and skills MEG. What consideration has been given to the effect of that cut on young people in Wales?

[43] **Jane Hutt:** These are the very difficult challenges that we have to consider in terms of—back to—our programme for government, our priorities as a Welsh Government. What we are doing, and what has happened—and it happened very early on—was to have close working, not just with the Ministers, but also with the sector as well, to look at options and opportunities to minimise the impact of reductions on learning.

[44] I think, to a certain extent, if we look, particularly perhaps, at further education, that's an area where we knew that they had such an important role in driving down the numbers of young people who are not in education, employment or training, so, looking at opportunities where we could reprioritise funding within programmes. It has meant intensive in-year work with Ministers and within the sector. We've also been able to use, for example, European social fund programmes to help manage issues around support for youth engagement schemes, like Jobs Growth Wales, and I think it's been very important that we see—. For that, for example, we had extra activity at a higher intervention rate, so that enabled us to support the Jobs Growth Wales programme.

[45] Also, just on every level—youth engagement, Careers Wales—we've had to work through, with them, ways in which we can support them and recognise that these have been very difficult issues, but also recognising that there are many things that don't appear as savings that might have been considered as savings, because of the importance of—particularly in terms of—our commitment to children and young people. I do think it's important for young people that we recognise that we've maintained funding for traineeships, we continue to fund apprenticeships for 16 to 24-year-olds and higher level apprentices, and exceeded our targets for the Young Recruits programme. As I said, there are other things: we have to be much more imaginative and have more interventions in terms of accessing the European social fund. It has to be a dynamic process to try and protect our young people's funding streams.

[46] **Julie Morgan:** So, basically, you're saying you've done all you can to minimise the effect on young people, but nevertheless it's tough times.

[47] **Jane Hutt:** Yes, very tough times. Also, as you can appreciate, this is not—. I think, perhaps, during the summer and early autumn months, it became evident that we were having these discussions, and it was more in the public domain, because of concerns and, I think,



questions. As soon as we got back into the Assembly and prior to my announcement of the draft budget, questions were being raised about, ‘Are there challenges to this budget, or this sector?’ That’s what we’ve got to take responsibility for, and also listen to concerns that are raised, and consider whether there is something we can do to ameliorate that or mitigate, or then consider, ‘Well, we just can’t make this cut’. I’m sure, if you were all in my shoes, you’d be in the same position, as other Ministers, of having to look at every single expenditure line and say, ‘Well, can we protect; is there anything we can do to release some funds?’ And, of course, all of that doesn’t come out into the public domain because, in the end, we have to make decisions and those are the ones that you’re aware of.

[48] **Jocelyn Davies:** Okay. Kirsty is next.

[49] **Kirsty Williams:** Minister, given the reduced allocations to local authorities through the local government settlement in recent years, for what reason was the funding support for local government action able to contribute £2.5 million towards managing your in-year pressures?

[50] **Jane Hutt:** Yes, local government had to—. Also, all Ministers, apart from health and social services, had to look for possible savings. I think it is important to recognise, in terms of the local government settlement, that, over the past three years, Welsh Government support for local government has increased in cash terms compared with England, where it’s on a like-for-like basis and has decreased. Local government has been protected by the Welsh Government over the period of the spending review. But, if you look specifically at the amount of money that was forthcoming from local government—just to give you some examples of that—there was an underspend on the community support officer budget, remembering that the local government main expenditure group includes police and some other specific budget lines. So, the community support officer budget was underspent. That was apparently based on cost estimates provided by the police forces within their grant applications. These things happen, and, obviously, anything like that does provide us with an opportunity. I think that was £2.49 million.

[51] Also, there was, for example, reduced cost of audit services, which provided another £265,000. There were savings of building local democracy action—£500,000 that resulted in underspend incurred by the Local Democracy and Boundary Commission for Wales because, as of course you know, the programme was suspended in terms of local authority electoral reviews. So, there are these things happening within budgets.

[52] **Kirsty Williams:** Thank you. Could you provide the committee with the reasons for the in-year reduction of £1 million for the supporting collaboration and reform action in the local government MEG, given that collaboration and reform of local government have been watchwords for this administration? What does that reduction tell us about your commitment to collaboration and reform?

[53] **Jane Hutt:** Well, certainly, there is no implication in terms of our commitment to collaboration and reform. Again, that funding was identified from a specific project that wasn’t proceeding at that time, relating to a data solution scheme. So, again, in no way did it detract the savings that were found from the commitment to the agenda.

[54] **Jocelyn Davies:** Nick, did you want to come in on this point?

[55] **Nick Ramsay:** Yes, just for clarification on something that the Minister just said. You said that the local government budget has been protected in cash terms. I therefore assume, Minister, that you recognise that it hasn’t been protected in real terms, taking into account inflation.

[56] **Jane Hutt:** I think if you take into account the fact that—. It is on a like-for-like basis and I will give you one example. Social services expenditure in Wales, for example, grew by 0.9% in real terms in Wales between 2009-10 and 2013-14, compared with a 4.7% real-terms reduction in expenditure in England over the same period. So, you know, within our allocations, in real terms, we have particularly focused on social services. I think that's been recognised recently, where we are 5% ahead according to the public expenditure statistical analyses figures in terms of spend on health and social services. That 5% overall increase, I think, Matt, shows an indication of the different policy approach, in terms of spend. But, clearly, on a cash basis, it's a considerable difference between England and Wales, and I'm happy to give you the full outcome of that in writing, in terms of real terms in cash.

10:30

[57] **Jocelyn Davies:** Nick?

[58] **Nick Ramsay:** Yes, I appreciate, Minister, that there might well be a difference with England. I just want a clarification on that point, that, in real terms, the local government budget has not been protected.

[59] **Jane Hutt:** I think, probably, we need to write to the Chair to clarify under the different heads how it has, or hasn't, been protected, in terms of cash and real terms.

[60] **Jocelyn Davies:** Okay. So, in terms of spending decisions in England, how much consideration do you take of that when you're making spending and allocation decisions here?

[61] **Jane Hutt:** Well, I think, you know, we decide our own programme of government and our own priorities, and social services is one example where we have, in real terms, invested more, and treated this as a priority. I think it's important that we do take stock in terms of where we sit in relation to England, but we're not following England—we're taking stock of where we sit in terms of our spend to meet our priorities.

[62] **Jocelyn Davies:** Okay, Nick? Ffred, shall we come to your questions?

[63] **Alun Ffred Jones:** A gaf fi gyfeirio yn ôl at y cwestiynau blaenorol yna? Gan edrych ar wasanaethau cymdeithasol, mae yna benderfyniad llys diweddar ynglŷn â chyflogau gweithwyr gofal sydd yn aros dros nos, a hefyd ynglŷn ag amser teithio, wedi golygu bod yna ergyd ariannol go sylweddol wedi digwydd i gyllidebau gwasanaethau cymdeithasol. Mae un o'r cwmnïau gofal yn y trydydd sector yng Ngwynedd, er enghraifft, wedi gorfod darganfod £350,000 allan o'u harian wrth gefn dim ond i setlo y gofyniad ariannol ychwanegol yna o ddyddiad y penderfyniad llys. Gan eich bod wedi ymateb i adroddiad Nuffield yn y sector iechyd, a fyddwch chi'n ymateb i'r gofyniad arbennig yma ym maes gwasanaethau cymdeithasol?

**Alun Ffred Jones:** May I refer back to those previous questions? Looking at social services, a recent court judgment on the salaries of care workers who stay overnight, and also with regard to travelling time, has meant quite significant financial blow to the budgets of social services. One of the care companies in the third sector in Gwynedd, for example, has had to find £350,000 out of its reserves only to settle that additional financial requirement from the date of the court judgment. As you have responded to the Nuffield report in the health sector, will you be responding to this specific requirement in the social services field?

[64] **Jane Hutt:** I think I've indicated through the figures I've given that we have already treated social services as a priority in terms of local government spend, because, obviously,

it's reflected in the revenue support grant the extra funding that we've put into social services. And, indeed, for 2015-16, we've put in an extra £10 million, as you know, into the RSG specifically for social services. So, as a Government, we have been particularly committed to supporting social services. I'm aware of the court judgment and I'm aware, of course, that this is another pressure on local government, as you identify, in terms of impacts on social care. But, I do believe, as a Government, as I said, in terms of a real-terms uplift, considering a £1.5 billion cut to our budget, that we have demonstrated a commitment to social services, which, of course, the Minister for Health and Social Services is taking forward, but, I think, also recognising that this has to be reflected in the ways in which we are moving forward with more of a health and social care funding arrangement, particularly learning from the health and social care intermediate care fund.

[65] **Alun Ffred Jones:** Ie, ond y pwynt rwy'n ei wneud ydy eich bod wedi ymateb i bwysau penodol ym maes iechyd, drwy ddarganfod arian ychwanegol. Beth rydw i'n ei ddweud ydy bod yr achos llys yma yn dod â gofyniad penodol trwm iawn, iawn ar y gwasanaethau eu hun, ac ar y cwmnïau gofal yma—amryw ohonynt yn y trydydd sector—nad oeddent yn ei ddisgwyl; mae o'n hollol annisgwyl. A gofyn ydw i a ydy'r Llywodraeth yn bwriadu ymateb i'r galw hwnnw.

**Alun Ffred Jones:** Yes, but the point I'm making is that you have responded to specific pressures in the health field, by finding additional money. What I'm saying is that this court case places an extremely onerous requirement on the services themselves, and on these care companies—many of them in the third sector—that they weren't expecting; it's completely unexpected. And what I'm asking is whether the Government intends to respond to this requirement.

[66] **Jane Hutt:** I think I've said that we are responding to local authorities, local government, by giving them more money, by identifying more money, protecting social services in that way in terms of the £10 million we're putting in. Obviously, if we're also supporting other areas of social care through the health and social care intermediate care fund, that also helps offset other costs and pressures on local authorities in terms of their social services spend, but this particular court case—and I'm sure the Minister for Health and Social Services will respond to the impact of that.

[67] **Alun Ffred Jones:** A gaf fi droi at arian cyfalaf yn y gyllideb atodol? Rydych chi wedi dyrannu tua £15 miliwn o arian cyfalaf i'r grŵp gwariant iechyd a gwasanaethau cymdeithasol yn y gyllideb atodol. Ond nid yw'n ymddangos eich bod yn gwneud hynny yn unol â blaenoriaethau'r cynllun buddsoddi yn seilwaith Cymru. A allwch chi esbonio felly fwriad y buddsoddiad penodol yma—y £15 miliwn yma—a beth ydych chi'n gobeithio fydd y deilliannau?

**Alun Ffred Jones:** I will now turn to capital funding in the supplementary budget. You've allocated about £15 million of capital funding to the health and social services MEG in this supplementary budget, but it doesn't appear that you've done that along the same lines as the Wales infrastructure investment plan priorities. Can you explain, therefore, the intention of this specific investment of £15 million, and what do you hope the outcomes will be?

[68] **Jane Hutt:** I think, just in terms of the explanatory memorandum, in terms of the supplementary budget, I do identify Wales infrastructure investment plan allocations, but I felt it was very important that all of the spending—increased spending in health—was all drawn together so that the extra capital spend in health in this supplementary budget is reflected alongside the extra funding for revenue as well. It is only a presentational issue in terms of the explanatory memorandum and the supplementary budget because, clearly, the investment that we're making in the health service is in line with WIIP priorities—it is going to improve public services, so it is actually just a presentation distinction in terms of the explanatory memorandum. Looking at it now, I can see that I could perhaps put in another

paragraph saying, of course, that this Welsh extra capital investment in health is part of WIIP, but I wanted to put all of the health spend, because it's such a priority, together in one place.

[69] **Alun Ffred Jones:** A fyddech chi'n gallu rhoi nodyn i ni jest yn esbonio beth yn union ydy bwriad y £15 miliwn yma? Hynny ydy, rwy'n cymryd bod yna ryw alw arbennig sydd wedi eich arwain at wneud y penderfyniad hwn.

**Alun Ffred Jones:** Could you provide us with a note just explaining the exact intention of the £15 million? I take it that there's some sort of specific demand that's led you to make this decision.

[70] **Jane Hutt:** I think, again, in terms of health and the reforms, particularly as the Nuffield Trust are saying, you have to invest not just in revenue but in capital. I'm happy to do a note, but, if you look in the explanatory memorandum under the capital DEL, it is about MRI diagnostics—more CT and MRI diagnostics; it's more ambulances; it's the first phase of the roll-out of the community care information system. It's crucial capital investment to get the reform that Nuffield was calling for. It's on page 14 of the explanatory memorandum.

[71] **Jocelyn Davies:** So, these are capital investments, but it's not easy, from the documentation, to demonstrate that it's part of your Wales infrastructure investment plan and that these are capital investments that you would have been making as a priority within health. It's just the way it's been presented to us—that it's not an easy read across. Is that it?

[72] **Jane Hutt:** Yes.

[73] **Jocelyn Davies:** Not quite like that, I guess. I guess that the sort of things you're talking about—. We're not talking about roads here, are we? We're talking about pieces of equipment.

[74] **Jane Hutt:** Yes. If we look at the Wales infrastructure investment plan, it isn't just about roads and housing; it is investment in public services. Matt?

[75] **Mr Denham-Jones:** No, I mean, the vast majority of our capital allocations are made in line with the Wales infrastructure investment plan. That guides many decisions. This is simply presentation. The budget is for wider public consumption and we felt that it was important to brigade all of our investment into the health service in one. We should have perhaps footnoted the WIIP section, just to say that the capital allocations to the NHS were also made in line with those priorities.

[76] **Jocelyn Davies:** Right, so, really it's our misinterpretation or—

[77] **Mr Denham-Jones:** I wouldn't say that, Minister—sorry, Chair; it's unclear.

[78] **Jocelyn Davies:** You could have been clearer and then we wouldn't have misinterpreted what was there. I guess that that's it.

[79] **Jane Hutt:** Yes, I think I'll recognise that.

[80] **Jocelyn Davies:** Yes, okay. Well, that's on the record now. Ffred, did you want to—? Ann. Oh, Kirsty, did you want to come on this?

[81] **Kirsty Williams:** Don't tempt me to talk about the health service. [*Laughter.*]

[82] **Jocelyn Davies:** Ann.

[83] **Ann Jones:** On reserves, if I may, Minister, are you confident that the level of

reserves held by the Government, particularly for traditional capital financial transactions, are sufficient to deal with any unforeseen pressures during the remainder of this financial year?

[84] **Jane Hutt:** We are constrained by our budget exchange mechanism. So, although we've obviously had reductions in our capital budget, we've got to make sure that we're, or I'm, using every pound of our capital budget towards the end of the financial year. You'll notice that I allocated £5.8 million just a few weeks ago to social housing, because that's the best way to get the money out of the door, because you know it's going to go to social housing. So, we can only actually carry forward about £20 million in our budget exchange mechanism. I think I've spent to the hilt, but I may be even able to spend a bit more. I certainly feel that, at this time of the financial year and for the supplementary budget, we have got the flexibility if we had any unforeseen pressures.

[85] **Ann Jones:** Okay, thanks. On the budget exchange system that's been agreed for this spending review, would you like to see it carried forward in the future or do you want to see something different?

[86] **Jane Hutt:** We did lose the end-of-year flexibility system that we had before, which was much more flexible, but we did negotiate for as much flexibility as possible in terms of budget exchange. I mean, it's interesting, just on the reserve, to note, if it would be helpful, that we're currently holding £1.93 million of the total MEG capital budget for 2014-15 in reserve. So, it's very tight, but we are managing it.

[87] What we've done is we've tried to negotiate. Although we've got this budget exchange system constraint, I've negotiated flexibilities year on year. For example, we've got flexibilities relating to our financial transactions funding, so that's been carried forward, our allocation, because we couldn't allocate all the money. We didn't have enough time to develop proposals sufficiently. This is something that's been afforded to Scotland and Northern Ireland, I believe, as well. We also negotiated money for flood protection last year, which we were allocated, but, as far as I'm concerned, we need more flexibilities.

[88] It is still the position that we are so constrained by Treasury rules. One of the things I think the Finance Committee will be, I'm sure, aware of is that we are so constrained by Treasury rules. In times past, we've been able to bring forward capital, for example, for fiscal stimulus, which we certainly did to good advantage back in 2008-09. The Treasury enabled us to do that. We have none of that kind of flexibility. We can't move, or we haven't got the flexibilities to enable us to use our money. We're still very much bound like a Whitehall department, I believe. I think that we should have the full flexibilities that Northern Ireland got in the Stormont House agreement, which might be something you'd be interested in. I don't think it would do too much damage to the UK budget if we had those flexibilities.

[89] **Jocelyn Davies:** Nick, did you want to come in on a supplementary to this?

[90] **Nick Ramsay:** Yes, just on that final point. This committee has been trying to get its head around reformed end-year flexibility for as long as I and probably the Minister can remember. That's ongoing. On the subject of reserve, Minister, you said about the current depletion of the reserves. Do you have any plans or embryonic plans to re-inflate those reserves over the years to come, or are you happy to stick with the current level of reserve that you've got and then look towards borrowing powers and tax powers in future years as an alternative?

10:45

[91] **Jane Hutt:** I think we should stick to the current level of reserves. As you can see, I spend the reserves down. What's a reserve for? We have used the reserve for a whole range,

not just the health service, obviously, in terms of that extra important injection of funding. Basically, I think we need more flexibilities in terms of the handling of our finances. Certainly, we need those borrowing powers, which we will get in 2018, in order to enable us to invest in the infrastructure, as we, as a Welsh Government, would wish, and not be bound by Treasury rules.

[92] **Nick Ramsay:** I don't disagree at all with your view on reserves. I think that if you need the cash at a certain time, then that's what it's for, as you say. I'm just interested to know whether you now see the current level of reserve as the level going forward, because, given that reserves can only be used once, I would've thought that there might be a view that we should seek to replenish them, so that if we're at a similar point where we are now, economically, in the future, then they would be there again. So, I'm just interested to know whether, with the current level of reserve that you now have, having spent a large chunk of it, you are happy with that, going into the future, or would you want to replenish it?

[93] **Jane Hutt:** It would be replenished from 1 April, obviously, with our new reserve for the next financial year. So, we start again. I think you have to be very careful that this has to be part of the whole budget process. It's not a matter of deciding whether you replenish reserves. As far as I'm concerned, reserve is there for a purpose and it's for pressures and contingencies. I think that, as we take on—and we already have some—debt repayment revenue commitments, there's very little in terms of PFI, but in terms of innovative finance, we have to start budgeting for that in terms of revenue implications during the financial year. As we move into borrowing powers and as we also move into the point where we will have to be responsible for our taxes, land disposals and land transaction tax, then we would have to consider what the impact of this would be on the budget, for reserves, but I think that's for the future. We must regard the reserve as part of the budget process.

[94] **Jocelyn Davies:** Mike, did you want to come in on this point?

[95] **Mike Hedges:** On reserves, a lot of public sector bodies—local authorities, et cetera—hold reserves against potential problems, so they hold an insurance reserve in case of a school burning down. Have you considered the Welsh Government holding a reserve to cover all of that? Every local authority has a reserve for flooding, and it has a reserve for if a school gets burned down or gets severely damaged. Each authority has to store its own bit. It's a bit like every department having its own printer cartridges for when they run out. Now, most or some of them won't even run out during the year. Has the Welsh Government considered holding a central reserve to look after that, and therefore that would allow local authorities and others to be able to spend the reserves they've got?

[96] **Jane Hutt:** Local authorities have responsibility for, you know, delivering those services, the estate that comes with them, and the responsibilities that come with them directly. Obviously, our budget and our resource and capital allocations do reflect directly on some issues, for example flooding. It's just interesting to look at, in response to winter flooding, the amounts we've carried forward in reserve allocations from 2013-14 into this financial year. It's in the supplementary budget, for revenue and capital, for example in the economy, science and transport MEG to support tourism-related infrastructure, and in natural resources to support flood-prevention schemes delayed as a result of emergency flood repairs over the winter period. So, you know, flooding, I think, is an area where we have seen the need to be able to maintain and carry forward reserve allocations. I was interested that the Minister for Public Services produced a statement on reserves held by local authorities this week. It's interesting to see the differences in the way in which, and the reasons why, they do accrue those reserves, of which there are always questions as well. I don't think this would be something that I would see was our responsibility, but we do have to, as I've suggested in terms of winter flooding, bear this in mind. I can't think at the moment of other areas, except, for example, the fear of pandemic flu. I think, in the past, we had to keep a reserve for that,

but maybe the committee would like a note on this. No?

[97] **Jocelyn Davies:** No. Minister, I think the answer's 'no'. [*Laughter.*] And the reason is outlined by the Minister there.

[98] **Jane Hutt:** I don't know what he wants it for, but—

[99] **Jocelyn Davies:** Yes, thank you. Thank you for that. We'll send you a transcript as usual, if you don't mind checking that before we publish it. I think you did say you were going to send one or two notes of clarification on certain things. Thank you very much.

[100] **Jane Hutt:** Thank you very much.

[101] **Jocelyn Davies:** Right, we go into private session now to discuss the evidence.

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:51.  
The public part of the meeting ended at 10:51.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 11:17.  
The committee reconvened in public at 11:17.*

**Ystyried Pwerau—Ombwdsmon Gwasanaethau Cyhoeddus Cymru: Sesiwn  
Dystiolaeth 4  
Consideration of Powers—Public Services Ombudsman for Wales: Evidence  
Session 4**

[102] **Jocelyn Davies:** Welcome to a meeting of the Finance Committee. We're on item No. 11, which is the consideration of the powers of the Public Services Ombudsman for Wales. This is evidence session 4. We have with us One Voice Wales and the Welsh Local Government Association. You've submitted written evidence and, obviously, the Members would have looked at that. Would you like to introduce yourselves for the record, and then I'll go straight to the first question?

[103] **Mr Cadwallader:** I'm Lyn Cadwallader, the chief executive of One Voice Wales.

[104] **Jocelyn Davies:** Thank you.

[105] **Mr Hurford:** I'm Daniel Hurford, head of policy at the Welsh Local Government Association. Steve Thomas sends his apologies, which I've passed on.

[106] **Jocelyn Davies:** Yes; thank you. Thanks very much. I'll just start with you, then, Daniel, because we noticed that, in your consultation response, you highlighted the potential for reduced consultation and engagement on proposals emanating from a committee-led inquiry, such as this. Would you like to expand on your concerns there?

[107] **Mr Hurford:** Yes. It's not so much from a committee-led inquiry, because, obviously, committees undertake many inquiries and go through extensive consultation and engagement, and bring in partners like ourselves. It is around the potential move from the inquiry to a potential Bill in future. I don't want to try and second-guess what you might conclude or otherwise at the end of this process, but we're not experienced with committee-led Bills, for example, and it's just how the process of that would be handled. Of course, in a normal Welsh Government-introduced Bill setting, there would be consultation and engagement, research, evaluation of the current policy framework in a particular area, a White Paper with definitive proposals, which would be consulted on for a statutory 12 weeks, then a

Bill would be published, and scrutinised in committee extensively, and then Stage 2, and so on. It's just that our understanding is that a committee Bill would be entered at Stage 2, but I seek your views on that.

[108] **Jocelyn Davies:** And you've just got some concerns that it might not have the scrutiny in the same way as a Government Bill, because of the White Paper that leads to a Bill and so on?

[109] **Mr Hurford:** Absolutely, and not just the scrutiny, but the engagement and consultation with sectors and partners and the public, as well.

[110] **Jocelyn Davies:** Okay. Nick, shall we come to your question?

[111] **Nick Ramsay:** Thanks, yes. Good morning. Data from the Public Services Ombudsman for Wales show that he receives more complaints about local authorities and their services than about any other sector. Do you believe there are any particular issues in the sector that explain this?

[112] **Mr Hurford:** Not specifically, and it's a case of how data are interpreted. I think, with regard to local government, first and foremost, we would argue that members of the public encounter local authority services on a daily basis—every day of their lives, pretty much—and so, as result of that coming into contact with those varied services, there may be more issues that require complaints to be made, whereas, obviously, people engage with the health service possibly on a weekly, monthly or a more infrequent basis, so they would have less interaction with those services, and likewise housing associations—not everybody is involved with a housing association. So, I think it reflects the breadth and reach of all of those services, but I think it's important to stress as well that, although the complaints are high, and higher than anywhere else, the number of complaints that actually lead to quick fixes, as they're called, or where complaints are upheld, is proportionally quite low. I think that 73% of complaints are actually closed without further full investigation. So, I think, whilst complaints are produced and submitted, it doesn't necessarily mean that those complaints are substantiated or that there are significant service issues.

[113] Another thing around the data as well is: is the number of complaints actually a bad thing or is it an indication that the complaints processes are actually quite accessible and good? There are arguments to be said either way on that.

[114] **Nick Ramsay:** If we have a period of local government reorganisation—a hypothetical question, obviously, at the moment—do you believe that the number of complaints may increase?

[115] **Mr Hurford:** Hypothetically—

[116] **Nick Ramsay:** As I asked that question, I thought that's perhaps how you'd answer. *[Laughter.]*

[117] **Mr Hurford:** Potentially, inevitably. We're experiencing it at the moment with the general financial picture for local authorities and service pressures and reduction in services—complaints are on the increase generally. Potentially, if reorganisation does occur and managers' and members' time is spent focusing on new structures rather than—. The risk is that, if you take you take your eyes off the ball in terms of the day job, there is potentially that scope. Potentially, complaints around the process for reorganisation may come out in terms of the boundary commission's work and the definition of council boundaries, et cetera. There may be complaints from communities arising from that.



[118] **Nick Ramsay:** Do you think that local government is doing enough already to ensure that the complaints are dealt with without the ombudsman having to be involved?

[119] **Mr Hurford:** From the local authorities' point of view, yes. I think all—I think in our evidence we said 21 out of the 22, but, actually, on further reflection, I think all—authorities have got an approach around complaints handling that is in line with the model that's proposed by the ombudsman, which is a two-stage process, which starts off with informal resolution if possible and then a more formal investigation. So, I think most authorities do try to handle complaints as they are supposed to—service improvement issues as well as dealing with legitimate concerns of individual members of the public.

[120] **Nick Ramsay:** So, if that's the case, is the involvement of the ombudsman in a complaint—. Should that be regarded as a failure in the complaint process, or will there always be a place where the ombudsman will be the only person capable of dealing with it?

[121] **Mr Cadwallader:** I think there will always be a place for the ombudsman as a backstop position. You know, from our perspective, in terms of the community and town council setting, if we can quickly go back a couple of questions, some of the issues, I think, are around role definition in terms of the public's understanding of what a community and town council is about. So, complaints can go in and, actually, maybe, with respect to unitary authorities, the unitary authorities have a responsibility. So, there is an issue of understanding and clarity of purpose, and, you know, potentially, the White Paper on reforming local government gives some clarity for the future role of community councils and that may certainly help that.

[122] In terms of the sorts of complaints coming in and how well that's managed, within our sector, as a representative body, we provide advisory services. I think our concern, really, is that complaints come in, or queries come in, and it's really around a lack of knowledge within community councils by community councillors of their role and perhaps the legality relating to the sector. So, on what we do as a national body to manage this process, we've worked very closely with the WLGA, we've worked very closely with the chief legal officers across Wales and produced specific training on a code of conduct for community and town councillors. I think that has been beneficial. We've worked with six unitary authorities on that to date. So, I think we're putting in place practices that will help the situation. Our view as well is that the complaints model needs to be mandatory, a bit like the Information Commissioner's Office have got a scheme around freedom of information, but you would introduce it sectorally, and that is then managed through PSOW.

[123] **Mr Hurford:** Just to pick up on Lyn's point, in terms of the ombudsman being a critical backstop power, I think there is a right, anyway, for members of the public that, if they are unhappy with the way an authority or a health board has dealt with a complaint, they can refer it on to the ombudsman anyway, so it may just be that they're not happy or not content with the response as it was dealt with initially.

[124] **Nick Ramsay:** Is there an individual in local government who takes overall responsibility for complaints handling, or is it dependent on the complaint which department responds?

[125] **Mr Hurford:** It is. There is a specific social services complaints process that we manage specifically within social services. But, generally, there would be a lead responsible officer for complaints within an authority, and, inevitably, within local government, it does vary depending on the role. In terms of senior management, it may be that the monitoring officer is the chief legal officer, maybe a head of policy, director of performance, or even chief exec, but there does tend to be a corporate complaints manager or complaints managers within each relevant service area as well. But I think it's critical—. The ombudsman's model

policy and guidance around complaints is key in this. The idea is that responsibility for complaints is devolved down to the front line anyway, so that front-line workers can respond proactively to any complaints that are presented and try to be remedied at initial point of contact. There is a link throughout the organisation and it is important that, certainly around the senior management table in particular, there is an overall responsibility for complaints around demonstrating leadership and commitment to those, but also in terms of analysing the data and the types of complaints that are coming in from different parts of the organisation.

[126] **Nick Ramsay:** In your opinion, is there a real focus on recognising what the complaint is about, dealing with the complaint, or, as too often can happen in some bodies, is it seen as, 'Right, this is a management issue, let's get rid of the complaint as quickly as possible so that it can be ticked off as "We've done that, it's one of the statistics"'?

[127] **Mr Cadwallader:** We're slightly different in terms of our sector, because, in terms of staffing within community councils, it's generally the clerk who will be the first point of contact for a member of the public, or, indeed, if the complaint is relating to a code of conduct between members, the clerk is the person that will deal with it there. I think our sector's got a journey to go through in terms of managing the complaints process more effectively. Unitary authorities are better resourced and I suppose have been service deliverers for much longer. I think, as time goes by, one of the issues for our sector will be, if we take on services or assets, there is a likelihood that we're going to have to up our game in terms of dealing with complaints processes.

[128] **Mr Hurford:** I think culture is critical. As you say, is it about dealing with a member of the public's concern, or is it about a management issue and trying to sort of get rid of the problem? I think authorities have improved significantly, particularly around complaints processes over the recent period, through the work of the previous ombudsman and the current ombudsman. The WLGA, the monitoring officers group, has worked closely with the ombudsman around guidance, models, et cetera. I think the model was introduced in 2011 and since then there's been more consistency and a better approach. Models and processes are part of it, and a two-stage process is optimum, but it is about culture; it is around whether the organisation actually receives complaints in a constructive way and says, 'Well, actually, we've got an issue here: a) we need to ensure that the individual or individuals have appropriate redress and remedy and apology, if necessary, and b) if it points to a wider systemic issue within the organisation, whether it is an issue around training of managers or front-line staff, or whether actually it's exposed a problem in one of our service areas in terms of systems'—. I think it's important that it's both, so it's actually dealing with the member of the public and making sure that they feel as though their voice has been heard and actioned, but also, if there is an organisational improvement issue, that that is then dealt with properly through the appropriate management and political channels.

[129] **Jocelyn Davies:** Peter, did you want to come in on this point, and then we will go back to Nick?

[130] **Peter Black:** Yes, on this particular point, principal authorities are very complex organisations and often operate in silos in many departments. Those issues are there even though attempts are made to break down those silos. Do you have evidence to support the contention that local authorities have improved their complaints processes, that the process is actually quite important in overcoming those silos and that they are learning from those complaints? Is there actually evidence out there to demonstrate that?

11:30

[131] **Mr Hurford:** Yes, I think there is, because all authorities, as I say, have got the model approach. I think, in terms of the ombudsman's annual report and his annual letters to

each individual authority, there's evidence there that says processes are improving and the authorities' response to those issues is improving. The number of quick fixes, for example, where informal resolutions are managed much more quickly without recourse to dragging it through the ombudsman's process, have improved in number. I think the vast majority, if not all of the public interest issues and quick-fix resolutions and where complaints are upheld have not been challenged by authorities subsequently. So, there is work to be done and I don't want it to appear that local authorities are complacent around this, and you are right in terms of different silos—and different authorities might have different approaches—but, generally, I think the trend is improvement.

[132] **Jocelyn Davies:** Nick, you wanted to expand on that?

[133] **Nick Ramsay:** Yes. I think Peter Black's just covered it actually. I was just going to ask how the complaints, once they're resolved, get factored back into the overall process of local government so that local government learns from it, but I think you've pretty much just answered that.

[134] **Mr Hurford:** Yes. Also, it's not just the managerial issue that you mentioned before. It does go into the elected member domain. So, reports do go to scrutiny; they do go to full council and to cabinet as well.

[135] **Mr Cadwallader:** From our sector, I meet with the public services ombudsman on a regular basis. Feedback from those discussions is fed into our training programmes. So, if specific issues have been raised through a complaint, we then address it through our training.

[136] **Peter Black:** Can I just say that, in 13 years as a councillor, I've never seen a report to council about complaints?

[137] **Ann Jones:** That was the point I was going to make.

[138] **Jocelyn Davies:** Yes.

[139] **Mr Hurford:** Well, an authority I was talking to yesterday certainly does that—

[140] **Ann Jones:** That's one authority [*Inaudible.*]

[141] **Mr Hurford:** Well, as I say, it's part of the guidance that it should be reported to members, so—

[142] **Ann Jones:** That's guidance, so it doesn't have to happen. How confident are you that it happens in all 22 authorities?

[143] **Mr Hurford:** All—

[144] **Ann Jones:** I mean, you were very clear weren't you? You made a very bold statement there that this is what happens. Are you confident that it happens in all 22?

[145] **Mr Hurford:** The annual letters from the ombudsman, I understand, are presented to the cabinets, detailing the complaints that have come forward, and—

[146] **Ann Jones:** Well, that's different to the council, isn't it—to elected members?

[147] **Mr Hurford:** It may go—. It should go to scrutiny, certainly, as I say, through guidance. I can—

- [148] **Ann Jones:** So it should. ‘Should’ is different to saying ‘It does’, isn’t it?
- [149] **Mr Hurford:** It is, absolutely.
- [150] **Ann Jones:** So, you’re not sure, then, that that practice happens across Wales?
- [151] **Mr Hurford:** Across the 22, no I can’t guarantee that.
- [152] **Ann Jones:** So, that’s a bit different to what you were saying previously about how complaints are handled and that everybody knows what’s happening. Because if they don’t know what’s happening, how do they then correct it?
- [153] **Mr Hurford:** That’s a fair point, and members, if they do have concerns around this either through scrutiny or council or—
- [154] **Ann Jones:** Yes, but if they don’t know they’re happening—.
- [155] **Mr Hurford:** I know, but there are clear complaints policies and processes—
- [156] **Ann Jones:** Okay, we’ll agree to differ.
- [157] **Mr Hurford:** If they were concerned, they should raise those as an issue and request that these reports are presented to committee.
- [158] **Jocelyn Davies:** How do you become aware of complaints in relation to community councils? You say that you do this strategic piece of work where you—. I think that you said you’ve worked with six local authorities on this. How are you aware of those, because they are not routinely published, are they, complaints about community councils?
- [159] **Mr Cadwallader:** No, and, actually, one of the things I’ve said in a recent meeting with the public services ombudsman—. There’s guidance coming out now around good administration, and there’s not a case study in there about community councils, so I’m actually encouraging the ombudsman to make a couple of case studies on the community council sector. We’re perhaps slightly different from the WLGA in terms of our advisory position, so we get to hear about complaints either from an individual council, council chair or through a clerk. So, they come to us for advice on matters. We like to think that we can stop complaints escalating by providing advice and that matters are dealt with appropriately at that stage. However, obviously, it can escalate, and, as I say, the backstop then is to work directly with the public services ombudsman, and, when he’s carried out his work, we then work with the content of his findings to feed that back into training.
- [160] **Jocelyn Davies:** So, in your case, it would normally be complaints about councillors rather than the delivery of a service, which, in your case, is probably complaints about services or about the authority, rather than complaints about—
- [161] **Mr Hurford:** Yes, the WLGA obviously doesn’t get involved in the day-to-day handling of complaints. But, yes, there are clearly code of conduct complaints about councillors, which is more apt for One Voice Wales and their services.
- [162] **Jocelyn Davies:** So, in your case, it’s more because they would come to you about advice in terms of complaints about councillors’—
- [163] **Mr Cadwallader:** About councillors’—
- [164] **Jocelyn Davies:** —code of conduct. Right, okay. Mike, shall we come to your

questions?

[165] **Mike Hedges:** On the ombudsman, do you believe that the ombudsman should have the power to collect complaints data from public bodies to help identify trends and, perhaps more importantly, to identify exactly where some authorities are not getting complaints because they could not be getting complaints, because people just don't complain about a bad service, or because they've already identified a way of not having that bad service?

[166] **Mr Hurford:** The data do exist and they are collected and collated and compared. There is a group, a network of officers, called Customer Focus Wales, which is essentially the customer service managers for local authorities, and they get together and meet. They've got a working group that is around corporate complaints. They do this already across Wales and also on a north Wales-south Wales basis, comparing and contrasting. So, I can't see too big an issue if the ombudsman wanted that information and that data as well to do a wider analysis, and crucially, probably, a pan-public sector analysis as well, rather than just within the local government community.

[167] **My Hedges:** The next question is: we listened to the Scottish ombudsman, who said, when he went to investigate local authorities, although they all had ostensibly the same two-tier system, as you've identified there, when he actually went underneath that two-tier system, they all dealt with complaints substantially differently. Do you think it would be beneficial if this ombudsman had statutory powers to ensure all public bodies had consistent complaints procedures, and not just a two-tier system, but how they deal with it within the two-tier system?

[168] **Mr Hurford:** I think there will be some variation, and we've touched on how often reports are published to committees, for example. But, I'm not sure what the level of variation at the moment is, so it may well be after an ombudsman's investigation compares and contrasts authorities and health boards and so on, and their different approaches, that it might be appropriate, and there might be some more standardisation around it. But, at the moment, I've not seen the evidence to suggest that. It may be there, but I've not yet seen that.

[169] **My Hedges:** I was trying to say that we actually know more about Scotland than Wales in terms of that at the moment. The other question I was going to—

[170] **Jocelyn Davies:** Can I ask why would Wales be any different to Scotland in this respect? Can you say, or can you give any—?

[171] **Mr Hurford:** No. It may not be.

[172] **Jocelyn Davies:** Did you see the session that we had with the Scottish ombudsman or read the transcript?

[173] **Mr Hurford:** No, sorry, not the Scottish ombudsman.

[174] **Mike Hedges:** Can I just carry on from that? Would it be helpful if the ombudsman actually had a look at how it's dealt with in Wales, to see if there are any variations once he gets underneath it and whether we've got the Scottish situation or whether Wales has got it sorted out? I think that's something he could probably do if local authorities allowed him to now without any need for any legislation at all.

[175] **Mr Hurford:** I think, yes, further work, and I'm sure that authorities would welcome a wider review of processes. As I say, I don't wish to be complacent. There is always room for improvement and no doubt there are lessons being shared across Customer Focus Wales, for example, and the ombudsman convenes seminars with pan-public service bodies, which

get together to compare notes. But, it may be worth while the ombudsman undertaking some work around that.

[176] **Mike Hedges:** The other thing, leading on from the discussion you've had with Ann Jones, I think the ability to make things available and make things easily available—. I'm sure that most authorities will have something somewhere on their website, and, if you go through seven different areas and, eventually, down the bottom, on page 6, there'll be mention of what's happening there. It may tick the box in terms of making it available, but on making it easily and readily available—. I've looked at lots of local authority websites and at health websites, and their ability to hide things and make things very difficult to find, even things not necessarily something that they would like to make difficult—. I mean, finding by-election results in some local authorities is incredibly difficult, and I would assume that they are something that they would want to be in the public domain.

[177] **Mr Hurford:** I haven't looked to see how many have complaints policies on their front page. I've seen a couple of examples of complaints policies that are very clear, in plain English and *Cymraeg clir*, and are very clear to follow. Caerphilly's, for example, is very good. But, I'm not sure how wide and prominent they are on the websites.

[178] **Jocelyn Davies:** Okay. Julie, shall we come to your questions?

[179] **Julie Morgan:** Yes, thanks. I wanted to ask about the code of conduct in local authorities and community councils. So, how well does the code of conduct for elected members operate? What is your view on that?

[180] **Jocelyn Davies:** Shall we start with you, Lyn, because this is your main focus, and we'll give Daniel a little bit of time to think about what he might say?

[181] **Mr Cadwallader:** Yes. I think, in general, it works reasonably well. As I say, our big concern, I suppose, is that code of conduct training isn't actually mandatory, so, there's the opportunity to opt out. We would like to see code of conduct training mandatory. We've just released and are consulting on the national training strategy for the local councils sector in Wales. What we would like to see is a mandatory set of training courses attended by community councillors, including, obviously, the code of conduct, so that they have a sound, basic knowledge and understanding of their responsibilities in terms of public service. I think that will go a long way to enhance and, perhaps, reduce some of the code of conduct queries that have occurred.

[182] We have had experience with the former public services ombudsman in one year where 67 out of 200-odd complaints received by the public services ombudsman were about the code of conduct relating to one community council. You know, that sort of situation has got to be avoided, and I'm sure we'll get questioned on it, but, in terms of the ability of the public services ombudsman to carry out investigations, that would be the sort of situation where we would envisage that the public services ombudsman could intervene. If it starts to escalate around the code of conduct in one specific place, then the ability to come in and curtail that is important.

[183] **Julie Morgan:** So, are you saying that training is offered? Is training offered at the moment, except it is not mandatory?

[184] **Mr Cadwallader:** Training is offered and it's offered through the unitary authorities. One Voice Wales has worked with the unitary authorities, the chief legal officers and we've got the access forum in Wales, and they've endorsed a bespoke training course that we have designed around code of conduct, and we've been commissioned by, I think, to date, six unitary authorities. We also offer up code of conduct training as part of our national training

programme anyway. So, that's there; we run those on a regular basis. Obviously, there's a turnover of members during the course of a term of office. So, they're refreshed and, as I say, as information comes through from the public services ombudsman around complaints, and I think, any lessons that are learned, we are then updating our training on an annual basis. So, we review the content of our training modules around code of conduct on an annual basis and refresh as appropriate.

[185] **Julie Morgan:** Thank you. That's fine.

[186] **Mr Hurford:** In terms of unitary authorities, I agree with Lyn; the code works pretty well, and I think it's important to stress it's quite a strict and quite a robust high standard of code, which it should, of course, be. There have been improvements about how the code has been managed and the complaints process has been managed, through the development of local resolution processes in authorities over the recent period, which basically deal with the lower level complaints to avoid them being referred to the ombudsman. Training is an issue and all authorities do provide training at the beginning of terms, through induction, and when new members are elected, and some councils have agreed, as a council, that it should be mandatory along with things like planning, for example, but it's not actually mandatory across the 22.

[187] There are some issues for interpretation within the code itself; you know, the age-old grey areas around the issues of predetermination or predisposition. It's a bit of a grey area. There's an area—paragraph 10(2)(b), it's called—that relates to whether members can participate in decisions that affect their areas. There's been some discussion with the ombudsman and Welsh Government around that, and the whole issue around vexatious complaints, as well. That is an issue, and Lyn has just alluded to particular issues, and, unfortunately, for whatever reason, the number of complaints, whether they are vexatious or not, do tend to increase in the months running up to an election. So, I'll leave it to you to think about that—but, yes.

[188] **Julie Morgan:** Thank you.

[189] **Jocelyn Davies:** No doubt, people are sensitive souls.

[190] One of our concerns, of course, is the waste of public resources investigating a vexatious complaint. So, I guess that what you're saying then, Lyn, is that you'd like to see mandatory training—

[191] **Mr Cadwallader:** Yes we would.

[192] **Jocelyn Davies:** —of new councillors. And do I get from what you said there that you actually deliver the training course yourself? You say you've been commissioned. Does that mean that you've designed it as a bespoke thing and your organisation delivers it?

11:45

[193] **Mr Cadwallader:** Yes. One Voice Wales administers the national training advisory group, and it's staff of One Voice Wales and associates to One Voice Wales. I've got 12 associate trainers, who deliver the training across Wales, and we run 21 courses on a range of topics, one of which is the code of conduct.

[194] **Jocelyn Davies:** And the individual councillor wouldn't be expected to pay for that themselves. That would be funded via—how is that funded?

[195] **Mr Cadwallader:** The community council would usually pay for attendance.

[196] **Jocelyn Davies:** The authority themselves would—

[197] **Mr Cadwallader:** Or in the case of unitary authorities, unitary authorities actually commissioned One Voice Wales to deliver the bespoke training that we've devised around code of conduct. So, it is provided, then, free of charge, effectively, to those community councils.

[198] **Jocelyn Davies:** What time commitment would that take from an individual undergoing that code of conduct?

[199] **Mr Cadwallader:** Two and a half hours.

[200] **Jocelyn Davies:** Two and a half hours?

[201] **Mr Cadwallader:** Two and a half hours for the training course on code of conduct.

[202] **Jocelyn Davies:** Right, okay. Ann, shall we come to your question?

[203] **Ann Jones:** Yes, it was just to ask you whether you think that too many unnecessary complaints are being made under the code of conduct.

[204] **Mr Hurford:** Yes. I think Lyn's given an example. Vexatious complaints are a concern. As the Chair rightly says, they're a waste of public resources—both ombudsman and officer time, locally—and also there is reputational damage to individuals who have complaints made against them unnecessarily and also to the sector. It brings the reputation of everybody down. The ombudsman does take vexatious complaints seriously, particularly where there's an individual who's a repeat offender, as it were, in terms of making vexatious complaints. Unfortunately, our hands are tied in terms of stopping them. The local resolution processes that councils have undertaken around some of the lower-level complaints help to deal with some of those escalating, getting into the media, and clogging up the ombudsman's mailbox as well.

[205] **Ann Jones:** All right, thanks.

[206] **Jocelyn Davies:** Are you happy, Ann?

[207] **Ann Jones:** Yes, fine.

[208] **Jocelyn Davies:** Peter, shall we come to yours?

[209] **Peter Black:** Yes, what can local government do differently to help prevent code-of-conduct complaints being made to or escalating to the ombudsman?

[210] **Mr Hurford:** Partly, I think it's around training, and members do have training, but there is scope for interpretation within the code, it's fair to say. There may be vexatious complaints for whatever reasons, but there are some grey areas, as I've alluded to, around interpretation and one around bringing the role into disrepute, for example. One member's robust debate in chamber may be interpreted by another as bullying, harassment, thoroughly inappropriate and should be referred. So, there is that scope, but, as I say, training's a key part, but also some of the resolution processes. Some are managed around, you know, just bringing the two members, if it's two members, who've got a particular issue together with the ombudsman, and maybe group leaders, if that's appropriate, and saying, 'Look, folks, can we sort this out before things escalate any further?' So, there are ways and means of trying to mitigate that, and certainly, that's been over the last few years that that's been developed, and



formal code-of-conduct complaints have reduced as a result of that.

[211] **Peter Black:** Okay. Your consultation response notes there is a risk that the ombudsman's role in the code of conduct may diminish. Can you expand on that?

[212] **Mr Hurford:** Yes. I think it was only because it was a particular question in the committee's questionnaire, which suggested that he would prefer to focus on public service issues, rather than dealing with code-of-conduct complaints, which we can certainly sympathise with, and in terms of use of public resources. So, we wouldn't want him to think he wouldn't have a role in code-of-conduct issues, because it's important, whilst more are being dealt with locally, to have this independent arbitrator for some of the more significant and serious breaches.

[213] **Peter Black:** So, he'd have an overview.

[214] **Mr Hurford:** Yes, certainly.

[215] **Peter Black:** Moving on to own-initiative investigations—I'm sorry, Mike.

[216] **Jocelyn Davies:** Just on this point, Mike, please.

[217] **Mike Hedges:** With councillor-on-councillor complaints, I think that action can be taken to deal with that, and I think some action has been taken. It's the defeated-candidate-who-ain't-very-happy complaints, and I think that Swansea's had a number of those over the years, where people have lost an election and then spent a large period of time after that complaining about their victor.

[218] **Jocelyn Davies:** That's not a question.

[219] **Mike Hedges:** It's not. The question is—

[220] **Jocelyn Davies:** No, no. It might not be a councillor; it could be another candidate, I suppose is the point that's being made. But they're still personal vendettas I suppose is how we would describe them.

[221] **Mike Hedges:** How can the ombudsman deal with that, apart from treating that person as a vexatious complainer?

[222] **Mr Hurford:** It's a difficult one, certainly, for the ombudsman. The ombudsman's office has to take account of the allegation, the evidence and whether it's likely to lead to any formal sanction or whether there is no evidence. I think that's probably why, in the figures in his latest annual report, it shows that, actually, a significant proportion of complaints to him don't proceed to a formal sanction or complaint being upheld. For whatever reason, complaints are either rejected or not followed because there's not enough evidence. So, I think that's all he can do, perhaps writing back to the more obvious individuals or members of the public to say, 'Well, actually, the complaint wasn't a legitimate one'.

[223] **Jocelyn Davies:** Peter, shall we come back to the rest of your questions?

[224] **Peter Black:** Yes, on the own-initiative investigations, it has been proposed that the ombudsman should conduct investigations across public services, even when no specific complaint has been made. What are the types of investigation a local authority's subject to that may achieve the same aim?

[225] **Mr Hurford:** Well, authorities are subject to a range of inspections from external

bodies such as the Wales Audit Office, the Auditor General for Wales, the Care and Social Services Inspectorate for Wales, and Estyn, for example, and the proposed new commissioner under the Well-being of Future Generations (Wales) Bill will be able to undertake similar investigations. For example, the Wales Audit Office this year, on top of their local activities, will be undertaking national studies on a range of services. The auditor general hasn't confirmed his work programme, but was consulting on a range of issues such as planning, waste, transport, fees and charges, et cetera. So, a lot of the work can be picked up through that. Authorities do their own investigations, either as a result of a specific complaint that has revealed systemic issues or improvements, or through normal service reviews, or through scrutiny reviews, or cabinet work, as well. So, there's a range of activities around service improvements that obviously go on on a yearly basis.

[226] **Peter Black:** So, is local government over-inspected? Is this going to add to that burden?

[227] **Mr Hurford:** Potentially, it could add to the burden. In our written evidence, we were more cautious about this suggestion—not on a point of principle, because I think the ombudsman argues his case well; I think it's just about how any new power like that would work in a complementary way with all this other range of other investigatory organisations that are around. It may well be through joint work planning, or it may be through some joint activities or joint inspections that some of the other bodies do that that can be managed. So, our concern really was around managing the burden and avoiding duplication, really, in the system.

[228] **Peter Black:** Okay, thank you.

[229] **Mr Cadwallader:** In terms of the community council sector, I suppose it's the Wales Audit Office, really, who carry out the majority of regulatory checks in terms of the sector. We welcomed the ability of the public service ombudsman to carry out investigations, similar to the WLGA, but I think our issue was around effective management arrangements between public services ombudsmen and other bodies, to ensure that there isn't this overlap occurring. I think there are examples in other sectors where there are protocols in place between bodies just to have clearly defined roles over who is responsible for what, how far they can take it, and at which point it passes to another regulatory body.

[230] **Peter Black:** Is there the potential that these own-initiative investigations could improve public services? How could local government get the best out of that, to actually make sure that happens?

[231] **Mr Hurford:** Yes, I think the ombudsman's own evidence—and you've cited a couple of examples—show how such powers might be beneficial, and clearly in practice it could well lead to service improvements. From our point of view, it just needs to be managed with other partners and bodies that have similar functions as well.

[232] **Peter Black:** Okay, thank you.

[233] **Jocelyn Davies:** Okay. Chris.

[234] **Christine Chapman:** I just want to ask you some questions about the ways that complaints are received. I know in the Act it does say that all complaints must be made, or referred, in writing. Could you outline whether local government bodies accept complaints orally or in other forms as well as in writing, first of all?

[235] **Mr Hurford:** Yes, I think most of them do accept them orally, via telephone or face to face through contact centres, via e-mail, via web forms—which I appreciate is written, but

there are alternative means, rather than just writing a formal letter. So, telephone calls are accepted, as are face-to-face complaints.

[236] **Jocelyn Davies:** Is that right across—

[237] **Christine Chapman:** Yes. Is it consistent, then?

[238] **Mr Hurford:** Some of the policies I've checked online do say that. Via the two-stage process, it encourages a more informal approach at stage 1 anyway. So, I can double-check and provide you with the actual figures on that.

[239] **Mr Cadwallader:** In terms of the local council sector, we encourage local councils to ask for complaints to come in writing at this point in time. I think it really is about managing resources. That's the issue for the local council sector. If we went to receiving complaints in a variety of media, I think that would stretch the resources, particularly of small councils, where they've perhaps got a clerk who's only working a few hours a week, part time.

[240] **Christine Chapman:** Obviously, some people may find it difficult to put complaints in writing, so are there any ways around that, from your point of view?

[241] **Mr Cadwallader:** I think the ombudsman had a fairly compelling argument about being able to accept complaints other than in writing, and we would actually concur with that. We think that that's actually a good thing. Our issue with the ombudsman receiving perhaps complaints orally goes back to the issue of vexatious complaints. Would this open the floodgates to people just picking the phone up? I think there needs to be some sort of managed process around dealing with oral complaints and perhaps that, if it's an oral complaint, the oral complaint is recorded in a specific way so that that process is managed effectively.

[242] **Jocelyn Davies:** I think that's the intention. Okay, if you're happy, Ann, we'll come to you.

[243] **Ann Jones:** Just on healthcare, currently the ombudsman can only consider complaints against private healthcare providers where that service has been commissioned by a public body. So, would there be any difficulties for local government if the ombudsman could consider complaints against private sector healthcare providers when that service is paid for by an individual?

[244] **Mr Hurford:** I think, when I viewed the ombudsman's evidence, there was quite a compelling case. I'm not sure, with private healthcare, what the impact on local authorities might be. There may be some relationship with social care as well—

[245] **Ann Jones:** Down payments.

[246] **Mr Hurford:** Yes, but I'm not too sure about the direct impact on authorities of that.

[247] **Mr Cadwallader:** I think, from our perspective, again, we felt that the ombudsman made a fairly compelling case. If it was part of a continuum and if it was related to public services—perhaps part of the treatment is carried out in a private centre and then they come back into public service—on that inability to deal with the private sector element, we felt that the ombudsman's case was well made, and actually he should have that power to go in and inspect that.

[248] **Ann Jones:** Okay, so you don't see any problems with extending the powers.

[249] **Mr Cadwallader:** No.

[250] **Jocelyn Davies:** Okay. Ffred.

[251] **Alun Ffred Jones:** Diolch yn fawr. Cwestiwn sydd gen i ynglŷn â pherthynas yr ombwdsmon a'r llysoedd. Fel y gwyddoch chi, nid yw'r ombwdsmon yn gallu ystyried cwynion y gellir hefyd eu hystyried gan y llysoedd. A fyddai yna unrhyw effaith ar lywodraeth leol pe byddai hynny'n newid fel y gallai unigolion droi at yr ombwdsmon yn hytrach na'r llysoedd?

**Alun Ffred Jones:** Thank you very much. I have a question about the relationship between the ombudsman and the courts. As you know, the ombudsman can't consider complaints that can also be considered by the courts. Would there be any impact on local government if that changed so that individuals could turn to the ombudsman rather than turning to the courts?

[252] **Mr Hurford:** I think our evidence suggested that there were some potential legal complications around this—competence issues and territorial issues, maybe—but I think generally the preferred option would probably be via the ombudsman, just in terms of the relationship with public services in Wales and in terms of giving the individual complainant the opportunity for more informal and quicker, speedier resolution to their complaint, where a court process may take longer. Granted, more severe complaints may be more appropriate for a court, but then again the ombudsman has quite significant powers in terms of public interest reports to investigate the more serious complaints, as well. Generally, I think the ombudsman provides a more informal and a quicker approach to managing complaints.

[253] **Mr Cadwallader:** Similarly for us, we felt that it allowed the complainant an element of choice and that going through the court route could be a barrier to actually taking forward a complaint in terms of costs.

[254] **Jocelyn Davies:** Okay. I noticed in your evidence you mentioned that you didn't think that the findings of the ombudsman should be binding on public bodies. I think it was in yours, yes?

[255] **Mr Hurford:** Yes.

[256] **Jocelyn Davies:** Would you like to put on the public record why you think that's the case, although it's binding on private organisations?

12:00

[257] **Mr Hurford:** Yes, I think in terms of local authorities particularly, there's a local democratic mandate and local democratic accountability, and I think it's important that members are given the opportunity to determine whether or not they accept the recommendations but also the appropriateness of any redress that is given to an individual complainant. In reality, I'm not sure of the evidence around how many referrals back from the ombudsman have been rejected, either wholly or in part, by authorities. Generally, the recommendations are accepted. But I think it's important as well in terms of changing the dynamic with the ombudsman from an independent adjudicator who provides challenge to more of a regulatory role. I think it's important that authorities are particularly aware that there is an ownership of the complaints process as an improvement process. I think the risk is if everything was binding and the ombudsman role changed to more of a regulatory role, then there could be a more compliance-based approach without actually looking at the significant impact that these decisions have on our policies and processes. So, we'll use it as an improvement opportunity, rather than just ticking the box and saying 'Yes, we've accepted that; move on'.

[258] **Jocelyn Davies:** I see. And Lyn, for you, you thought that the title of ‘ombudsman’ should be protected.

[259] **Mr Cadwallader:** Yes.

[260] **Jocelyn Davies:** From private sector bodies calling themselves ‘ombudsman’, I guess, isn’t it? That’s plainly, as you say, because you don’t think the public should be misled. Are you aware of any organisations that might use the title ‘ombudsman’—the directive in Wales at the moment—or is this just a general caution that you’ve got?

[261] **Mr Cadwallader:** It’s just cautionary.

[262] **Jocelyn Davies:** And you’re seeing this as an opportunity for putting that on a statutory basis. I see. Right, okay. Is there anything that you wanted to add before we bring this session to an end? No? Okay. All right, thank you. We’ll send you a transcript, if you wouldn’t mind reading over it just to check it is factually accurate, and then we’ll be able to publish it. Thank you.

[263] **Jocelyn Davies:** So, I now suggest we go into private session.

*Daeth rhan gyhoeddus y cyfarfod i ben am 12:01.  
The public part of the meeting ended at 12:01.*