



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a
Chymunedau](#)

[The Equality, Local Government and
Communities Committee](#)

23/11/2016

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Weddill y Cyfarfod
Motion under Standing Order 17.42 to Resolve to Exclude the Public
for the Remainder of the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi 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

Janet Finch–Saunders Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives
John Griffiths Bywgraffiad Biography	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Sian Gwenllian Bywgraffiad Biography	Plaid Cymru The Party of Wales
Bethan Jenkins Bywgraffiad Biography	Plaid Cymru The Party of Wales
Rhianon Passmore Bywgraffiad Biography	Llafur Labour
Jenny Rathbone Bywgraffiad Biography	Llafur Labour
Joyce Watson Bywgraffiad Biography	Llafur Labour

Eraill yn bresennol
Others in attendance

Nick Bennett	Ombwdsmon Gwasanaethau Cyhoeddus Cymru Public Services Ombudsman for Wales
Susan Hudson	Rheolwr Polisi a Chyfathrebu Policy and Communications Manager
Chris Vinestock	Prif Swyddog Gweithredol Chief Operating Officer

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

Osian Bowyer	Y Gwasanaeth Ymchwil Research Service
Chloe Davies	Dirprwy Glerc Deputy Clerk
Elizabeth Wilkinson	Ail Glerc Second Clerk

Dechreuodd y cyfarfod am 09:15.
The meeting began at 09:15.

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introductions, Apologies, Substitutions and Declarations of Interest**

[1] **John Griffiths:** Let me welcome everyone to this meeting of the Equality, Local Government and Communities Committee. We do not have any apologies or substitutions for this morning's meeting. Are there any declarations of interest? No. Members will be familiar with the translation facilities and, I'm sure, the emergency and fire alarm procedure as well.

**Craffu ar Adroddiad Blynyddol
Ombwdsmon Gwasanaethau Cyhoeddus Cymru 2015–16
Scrutiny of the Public Services Ombudsman for Wales Annual Report
2015–16**

[2] **John Griffiths:** So, we will move straight into item 2, scrutiny of the Public Services Ombudsman for Wales's annual report 2015–16. May I welcome Nick Bennett here, as the public services ombudsman, and Chris Vinestock? I believe Susan Hudson is delayed, Nick, but will join us—

[3] **Mr Bennett:** She sends her apologies, Chair. I'm sorry, she's stuck in traffic.

[4] **John Griffiths:** She may join us later on, hopefully.

[5] **Mr Bennett:** Perhaps, yes.

[6] **John Griffiths:** Okay. Chris, would you just like to tell the committee what your role is with the ombudsman's office?

[7] **Mr Vinestock:** Certainly. My title is chief operating officer and director of investigations. So, I'm responsible, as the title suggest, for the operation of the office, but I also oversee all of the casework and investigations across the office.

[8] **John Griffiths:** Okay, thank you very much for that. Would you like to make any preliminary remarks, Nick, or are you content for the committee to move straight to questions?

[9] **Mr Bennett:** I'm happy to move to questions, Chair.

[10] **John Griffiths:** Okay, well thanks very much for that. Well, I'll begin, if I may, by questioning the overall increase in workload and trying to explore what's beneath the increase in complaints with regard to the health service. What we've seen in general, Nick, is complaints against public bodies lower this year, which obviously is very welcome, but an increase of 4 per cent in your overall caseload. I know you've had concerns in the past in terms of the upward trend as far as that's concerned. Is that a concern that you still have?

[11] **Mr Bennett:** Yes, Chair, it is. I was pleased that we saw a small reduction in the overall number of complaints this past year. That's against a backdrop of a doubling of the level of complaints that we've received over the past decade—and the proportion of health complaints has more than doubled. So, 15 per cent of the complaints that we received back in 2006 were health related. It's now about 36 per cent of the overall number of complaints that come in and it takes up between 75 per cent and 80 per cent of our investigative resources—a lot of the work that Chris is managing, day to day. So, it's still a concern to me for a number of reasons.

[12] The selfish one is: how do we cope in terms of ongoing increases in terms of the level of complaints coming to the office? The broader issue around these complaints that gives me concern is, first of all: is there a higher level of dissatisfaction amongst the Welsh public? That's the bigger issue. That's why I'm very keen that we can pursue the improvement agenda and also look at issues such as additional powers so that we can take a more preventative approach there, but also, during a time of ongoing hardship in terms of pressures on public services, so that we can be more efficient and that we can make sure that we're spending less resource in dealing with complaints more generally.

[13] **John Griffiths:** So, do you believe that the increase in the overall workload is a result of greater dissatisfaction with public services, or is it more to do with the administrative procedures of the various public bodies and the way that they deal with dissatisfaction?

[14] **Mr Bennett:** It's a combination of factors, but what frustrates me is that we've seen this ongoing increase. Let's take health as an example, not just in terms of clinical treatments or indeed treatments outside the hospital, but in terms of complaints handling itself. People are not learning the cultures that are necessary to treat people properly, whatever their problem happens to be. That is happening across a range of different public sectors, and that's why we've gone down this improvement agenda—to try and get a

more preventative approach established.

[15] Twenty-five per cent to thirty per cent of the complaints that we receive come from five or six public bodies. They are overwhelmingly health related. What is the sense in us dealing with the same thing year on year if we're not trying to at least devote some resource—and it's a modest resource that we do devote to that right now—to try and make sure that health bodies, for example—maybe some local authorities as well—are learning the lessons from past mistakes? There's nothing wrong with making a mistake. I was at a session with the auditor general yesterday. Making a mistake in life is no big deal, but learn from it. We need to see the evidence there, that people are learning from their complaint and that this is having an impact on the culture of public bodies—our public bodies empowering their front-line staff so that they can deal with members of the public correctly, that they know when to escalate complaints when things get more serious, but, ideally, can deal with things fast so that they don't escalate and they don't become more expensive for the public purse. That's a critical issue. Then, in terms of governance of boards or the council cabinet members and so forth, challenging management and leadership to make sure that the voice of the service user is being heard.

[16] How else can you generate improvement in a non-market system? That's the question for me. I think it's a challenge. I think it's a challenge that's been put certainly to the NHS in terms of the recent Organisation for Economic Co-operation and Development report, which took a look at the four jurisdictions—you know, the four home health services in the UK. It pointed at room for improvement in all four, I have to say, but in terms of the Welsh context, it said, if you're not going to have a market-based system, if there's not going to be choice, then there must be voice. My point is that I'm hearing a lot of voices, and in terms of health they can be very, very serious. But, you know, when you're hearing 800 voices a year in terms of health complaints, and too many of them are very similar, or certain themes emerge, like out-of-hours, which is one of the thematic reports that we published this year, then there's this ongoing need to make sure that people are learning the lessons, that there will be an improvement, and hopefully we can turn this curve that we don't see an ever-increasing number of complaints year on year.

[17] So, I'm pleased that we saw a 1 per cent reduction in this past year. I was hoping that was evidence of a plateau or, you know, the plans that we had—that people were responding to the wonderful work we've done on

improvement. Unfortunately, that is not the case. So far this year, I think we're looking at another 10 per cent increase. So, there is an urgent need for us to carry on looking at improvement. So, I'm not at all complacent.

[18] **John Griffiths:** Okay. Well, in due course I know Members will have questions on a number of these matters, but before we move on I just wanted to ask you about resources, because with an upward trajectory in terms of your overall workload, it does call into question whether the resource that you have is adequate. I know that, in your previous annual report, you highlighted the need to look at issues around extra resource, given the upward trajectory at that stage. There is still, in terms of overall workload, and upward trajectory, but in this annual report you are not mentioning the potential need for more resource. Why is that?

[19] **Mr Bennett:** Well, I don't mention financial resources so much, but I do point to another area that I think is important, which is legislative resource—a resource that we know this committee and other Members could give me as well. In terms of our efficiency, I was very grateful to the work that Chris has done, and also to all of our staff. We are more efficient. We are dealing with this added workload without axing a significant increase in workforce. That means that, in terms of our efficiency, we're twice as efficient as we were 10 years ago. I have made a case for some additional financial resource this year to the Finance Committee. That would be sufficient for us to protect the current level of staffing and to have a modest increase in what we're doing in terms of the use of information technology, because I think the more that we can do around innovation and efficiency is certainly helpful. But I would really be grateful if the Finance Committee were to take forward the previous Finance Committee's draft Bill. That might involve a scrutiny role for this committee, and I think it would be entirely appropriate. It's not just about money; it's about doing things smarter.

[20] The type of powers that I'd like to see in terms of resources would be powers that would make my job, I hope, easier; it would empower my staff, but it would also empower committees, such as your own. So, one of the powers that I'm looking for is to have a complaints standards authority. It sounds very grand, but in Scotland, it's made up of two people working in Edinburgh, who've worked with each of the public sectors in Scotland. What impact has that had? Well, the best example I think is that, in Scotland, they have 33 local authorities with 33 different complaint systems, and no data at all in terms of the performance of those different 33 local authorities that could give you some comparisons. Currently, I can't tell you what the

performance is like amongst the 22 local authorities in Wales, whereas in Scotland, they now have the data. If you've got a complaint in Edinburgh, you've got a 95 per cent chance that it will be dealt with within five days. If you were to go to another part of Scotland, your chances might only be 40 per cent. Those are open, transparent data that help us to drive improvement, I think. It would help me to drive improvement and it would help you, in your scrutiny role, in terms of asking those questions of local government.

[21] I think, as well, more powers there would be useful, given where it looks like we're going in terms of the reform of local government. If we're going to stick with 22 local authorities and have, perhaps, arrangements for seven footprints of collaboration on social services, for example, that's fine. But where's the clarity for the citizen? That's the issue that I have here—that if somebody thinks that they're taking a service, be it social services, from Gwynedd, but the management happens to be perhaps located in Llandudno or somewhere, well, we've got to make sure that we've got arrangements in place so that things do not become more complicated for the citizen because they will not understand, and they probably won't care, about the back-office arrangements, but they still deserve an answer if they've got a complaint.

[22] **John Griffiths:** Okay, thanks for that. I know that the Finance Committee is considering the Bill at the moment and I know that you're due to provide some further information, I think, around the financial implications of that. Okay, Bethan—sorry, Sian.

[23] **Sian Gwenllian:** Roeddwn am fynd mwy ar ôl yr iechyd cyn inni fynd yn fwy cyffredinol am y gwasanaethau. A ydy hynny'n iawn? Mae gen i ddiddordeb mawr i glywed am y maes iechyd ac mae'r hyn rydych yn ei ddweud wrthyf fi yw'r hyn rwy'n ei glywed mewn cymorthfeydd hefyd. Rwy'n cynrychioli ardal lle mae'r bwrdd iechyd Betsi Cadwaladr yn gwasanaethu. Beth sydd i gyfrif am y cynnydd yn y cwynion iechyd yn benodol? Pa themâu sydd yn dod allan? Rydych wedi sôn am y

Sian Gwenllian: I wanted to pursue the health side of things before we turn to more general issues with regard to services. Is that okay? I have a great deal of interest in hearing about the issues of health and what you say to me is what I hear in surgeries as well. I represent an area where the Betsi Cadwaladr health board is serving that community. What has caused the increase in complaints with regard to the health service? What themes emerge? You talked about the out-of-hours service, for example, but

gwasanaeth y tu allan i oriau, er enghraifft, ond pa themâu eraill sydd yna? Buaswn i'n licio hefyd clywed ychydig bach am rôl y cynghorau iechyd cymuned, achos maen nhw i fod i gynnig yr adfocatiaeth yma a helpu pobl drwy'r proses. A ydy hynny'n gweithio? Mae yna fwy o gwestiynan hefyd, ond i ddechrau—.

[24] **Mr Bennett:** Océ, grêt. Yn gyntaf, roeddwn yn sôn am y ffaith bod y nifer y llynedd wedi dod i lawr rhywfaint gan 1 y cant, os ydym yn edrych ledled y sector cyhoeddus. Yn anffodus, roedd y nifer yn y sector iechyd wedi cynyddu 4 y cant. Ond roedd hynny oherwydd dau fwrdd iechyd, ac un ohonyn nhw ydy Betsi Cadwaladr a'r llall oedd Bwrdd Iechyd Lleol Prifysgol Abertawe Bro Morgannwg. Felly, mae yna elfen ddaearyddol i hyn ac roeddwn yn bles i weld bod nifer y cwynion iechyd mewn ardaloedd eraill o Gymru yn dod i lawr.

[25] Mae gennym ni swyddogion penodol sy'n gweithio gyda Betsi a hefyd efo ABMU i drio sicrhau bod eu diwylliant nhw yn gwella o ran y ffordd y maen nhw'n delio â chwynion. Mae'n anodd inni weithiau dynnu allan y themâu yma oherwydd y niferoedd—os ydych yn sôn am 800 y flwyddyn, mae dadansoddi hynny a sicrhau bod y data yn gwneud synnwyr yn anodd. Ond roedd yn glir iawn inni bod y gwasanaeth y tu allan i oriau yn un thema gref. Roeddem wedi gofyn i'r Llywodraeth adolygu

what other themes emerge? I'd also like to hear a little bit about the role of the community health councils, because they are meant to be offering this advocacy and helping people through the process. Is that working? I have more questions as well, but we'll start with those.

Mr Bennett: Okay, great. First of all, I was talking about the fact that the number last year had reduced by 1 per cent, if we look at the public sector as a whole. Unfortunately, the number in the health sector has increased by 4 per cent. But that was because of two health boards, and one of them is Betsi Cadwaladr and the other was Abertawe Bro Morgannwg University Local Health Board. So, there is a geographical element to this. I was pleased to see that the number of health complaints in other parts of Wales was reducing.

We do have specific officers who are working with Betsi and also with AMBU to try to ensure that their culture improves in terms of how they handle complaints. It's difficult for us sometimes to pull out these themes, because of the numbers—if you're talking about 800 a year, being able to analyse that and ensure that the data make sense can be difficult. However, it was clear to us that the out-of-hours service was one strong theme. We did ask the Government to review that and I'm

hynny ac rwy'n falch o ddweud, yn ystod y misoedd diwethaf, eu bod nhw wedi cytuno i wneud hynny ac rwy'n gobeithio y cawn ni weld mwy o weithredu ar ôl inni gyhoeddi'r adroddiad yna.

pleased to say that, in the recent few months, they have agreed to do so and I hope that we will be able to see further action being taken after we've published that report.

[26] **Sian Gwenllian:** A gaf fi jest gofyn: beth oedd yn bod efo'r gwasanaeth y tu allan i oriau? Beth ydy'r themâu?

Sian Gwenllian: Can I just ask: what was wrong with the out-of-hours service? What are the themes?

09:30

[27] **Mr Bennett:** Mae yna nifer o bethau. Mi wnaethom ni gyhoeddi'r adroddiad—nid wyf yn dweud am eiliad bod gennym ni'r atebion i gyd, ond yn sicr mae'n wahanol iawn i'r ddadl sy'n digwydd yn Lloegr ar hyn o bryd. Nid oeddem yn sôn am newid cytundeb meddygon iau, er enghraifft. Ond pan mae'n dod i arweinyddiaeth—sicrhau bod meddygon iau yn gwybod pa bryd i droi at ymgynghorydd, er enghraifft—nid wyf yn meddwl bod y diwylliant yna yn iawn. Yn sicr, mae'n bosibl gwella pethau. Rydym wedi cael un achos yn ddiweddar iawn yn Glan Clwyd lle nad oedd yna arweinyddiaeth yn ystod y penwythnos. A hefyd, i sicrhau bod yna fwy o gysondeb yn y ffordd maen nhw'n trin pobl trwy'r wythnos, mae'n bosibl gwneud pethau fel cael *electronic handover*, er enghraifft. Felly, mae yna nifer o bethau a fyddai'n gallu digwydd er mwyn gwella hynny.

Mr Bennett: There are a number of things. We did publish the report—I'm not saying for a second that we've got all the answers, but certainly it's very different to the debate that's raging in England at present. We weren't talking about changing the junior doctors' contract, for example. But when it comes to leadership—ensuring that junior doctors know when they should turn to a consultant, for example—I just don't believe that that culture is right. Certainly, it's possible to improve things. We've had one recent case in Glan Clwyd where there was a lack of leadership during the weekend. And also, to make sure that there's more consistency in terms of how they treat people throughout the week, it's possible to do things such as having electronic handovers, for example. So, there are a great deal of things that could take place that could lead to improvement.

[28] Wedyn, pan mae'n dod i weithio efo'r CHCs, mae ganddyn nhw rôl bwysig, ac rwy'n meddwl bod hynny yn rhan o beth roedd yr OECD yn ei ddweud hefyd—ei fod yn bwysig eu defnyddio nhw er mwyn sicrhau bod y llais yna yn cael ei glywed. Ond rydym ni'n ymwybodol hefyd bod rhaid inni ddelio â chwynion yn weddol gyflym, ac rydym yn trio gwneud hynny. Buaswn i ddim eisiau gweld adeg lle mae hynny yn cael ei slofi weithiau oherwydd bod y CHC yn rhan o'r gyfundrefn hefyd.

[29] **Sian Gwenllian:** Ie, dyna un o'r pryderon sydd yn dod drwodd yn y cymorthfeydd gen i, yn sicr—yr oedi mawr yma sydd yn digwydd rhwng cyflwyno'r gŵyn, a'r gŵyn weithiau'n mynd ar goll yn y system hyd yn oed, fel bod pobl wedi gorfod mynd yn ôl i chwilio lle mae'r bwrdd iechyd arni efo'r gŵyn, a ffeindio bod y broses ddim hyd yn oed wedi cychwyn, ac wedyn, pan mae'r cynghorau iechyd cymuned yn dod i mewn i bethau, gweld bod y broses adfocatiaeth yma ddim yn gweithio mor gyflym ag y dylai, neu nad yw pobl yn cael eu cyfeirio i'r cyngor iechyd cymuned—nad ydyn nhw'n sylweddoli bod y gwasanaeth yna ar gael iddyn nhw er mwyn eu helpu nhw drwy'r broses. Mae hynny yn rhywbeth sylfaenol, rwy'n meddwl—mae'n fater o ddiffyg cyfathrebu ar ran y bwrdd iechyd gyda'r bobl sydd yn dod atyn nhw efo'r cwynion. Rwyf hefyd yn cael yr argraff bod yna ddiwylliant o geisio peidio gwrando, mewn ffordd, ac i

Then, when it comes to working with the CHCs, they've got an important role, and I think that that was part of what the OECD was saying—that it was important to make use of them in order to ensure that that voice was being heard. However, we're also aware that we need to deal with complaints quite quickly, and we're seeking to do so. I wouldn't want to see that process being slowed down in sometimes because the CHCs were part of the process as well.

Sian Gwenllian: Yes, that's one of the concerns that comes through in the surgeries that I hold, certainly—this delay between making a complaint, and the complaint sometimes getting lost in the system even, so that people have had to go back to see where the health board is with the complaint and find that the process hasn't even started, and then, when the community health council come into things, seeing that this advocacy process doesn't happen as swiftly as it perhaps should, or that people aren't referred to the community health council—that they don't realise that that service is available to them to assist them through this process. That's a fundamental thing, I think—it's a matter of lack of communication on the part of the health board with those people who make complaints. I also get the impression that there is a culture of trying not to listen, in a way, and to try to push the issue aside, which is

geisio gwthio'r mater i'r naill ochr, sydd yn gondemniad, rwy'n credu, o'r diwylliant. Rwy'n gobeithio bod pethau'n newid.

an indictment of the culture, I think. I do hope that things are changing.

[30] Beth sydd yn anodd ydy dal y bwrdd iechyd i gyfrif. Rydych yn sôn bod cabinet cyngor yn gallu dal cyngor i gyfrif, neu swyddogion y cyngor i gyfrif. Mae'n anodd iawn, iawn dal y bwrdd iechyd i gyfrif, yn anffodus. Fel Aelodau etholedig, rwy'n meddwl ei bod hi'n anodd iawn i ni gymryd rôl yn hynny hefyd. Fe fyddwn i'n gobeithio, efallai, bod diwygio llywodraeth leol yn medru creu mwy o atebolrwydd yn y system iechyd hefyd. Rwy'n meddwl y byddai hynny yn ein symud ni ymlaen, ond mae o'n fater o bryder mawr bod y ffasiwn sefyllfa yn bodoli. O'ch rhan chi, a ydych chi yn mynd i fedru ymdopi â'r cynnydd yma os nad oes yna rywbeth sylfaenol yn digwydd i'r diwylliant yn y ddau fwrdd iechyd yma?

What's difficult is to hold the health board to account. You've said that the council cabinet can hold the council or the officers to account. It's very difficult to do that with the health board, unfortunately. As elected Members, I think it's very difficult for us to take a role in that process as well. I would hope that the reform of local government could perhaps lead to greater accountability in the health system as well. I think that that would move us forward, but it is a cause of concern that this kind of situation exists. From your point of view, are you going to be able to cope with this increase if something fundamental doesn't change in the cultures of these two health boards?

[31] **Mr Bennett:** Dyna beth sy'n ein pryderu ni. Rydym wedi gofyn i'r Llywodraeth yn ddiweddar i ysgrifennu at bob bwrdd iechyd i sicrhau bod nad ydyn nhw'n defnyddio'r CHCs mewn rhyw ffordd i greu mwy o oedi. Nid ydym eisiau hynny'n digwydd. Beth sy'n codi fy nghalon, i ryw raddau, ydy'r ffaith bod nifer y cwynion wedi cynyddu, ond mae'r nifer lle rydym yn ffeindio rhywbeth sydd ar fai wedi dod i lawr. Ond pan rwy'n dweud hynny, mae hynny oherwydd bod y nifer o beth

Mr Bennett: That's what concerns us. We've requested to the Government recently to write to all health boards to ensure that they don't use the CHCs in some way to create further delay. We don't want to see that happening. What does lift my spirits, to some extent, is the fact that the number of complaints has increased, but the number where we do find serious problems has reduced. But having said that, that is because the number of what we call early resolutions has increased

rydym yn eu galw yn ddatrysiadau cynnar wedi cynyddu yn sylweddol. Felly, rydym yn trio cael y cyrff yma i ymateb yn gyflymach, ond weithiau mae pethau yn mynd o'i le efo hynny hefyd, er enghraifft gyda beth ddigwyddodd efo Hywel Dda mis Mai diwethaf, lle gwnaethom ni ddatrys yn gynnar. Roedd llawdriniaeth dyn ifanc wedi mynd o'i le. Fe wnaethon nhw gytuno i ysgrifennu at yr achwynydd a gwneud taliad bychan iawn—ychydig o gannoedd o bunnau. Roedd yn rhaid imi ysgrifennu, nid wyf yn siŵr faint o weithiau—tua tair gwaith, pedair gwaith—ac fe wnaethom ni eu rhybuddio nhw, ond dal wnaethon nhw ddim ymateb i'r achwynydd. Yn y diwedd, mi wnes i gyhoeddi adroddiad adran 22 o dan y Ddeddf, ac roedd yn rhaid i'r prif weithredwr dreulio mwyafrif y diwrnod ar y cyfryngau yn egluro beth oedd wedi digwydd. Felly, mae e'n well iddyn nhw sicrhau eu bod nhw'n datrys yn gyflym, ac rwy'n gobeithio y cawn ni weld mwy o hynny'n digwydd. Ond, yn ystod y flwyddyn diwethaf, mae nifer y datrysiadau cynnar wedi cynyddu 38 y cant. So, mae hynny'n nifer sylweddol.

substantially. So, we are seeking to get these bodies to respond more quickly, but sometimes things do go wrong with trying to do that, for example with what happened with Hywel Dda last May, when we did have an early resolution. A young man's surgery had gone wrong, and they did agree to write to the complainant and quite a small payment was made—a few hundred pounds. I had to write, I don't recall how many times—it must have been three or four times—and we did warn them, but they still didn't respond to the complainant. Ultimately, I published a section 22 report under the Act, and the chief executive had to spend most of the day in the media trying to explain what had happened. So, it's better for them to ensure that they do find an early solution or resolution, and I hope to see more of that happening. But, over the past year, the number of early resolutions has increased by 38 per cent. So, that's quite a significant number.

[32] **John Griffiths:** Okay. And committee will note that Susan Hudson has joined us now. Thanks for that, Susan. We know you were unavoidably delayed.

[33] **Ms Hudson:** Apologies.

[34] **John Griffiths:** No problem. And you're the policy and communications manager.

[35] **Ms Hudson:** Yes.

[36] **John Griffiths:** Okay. Rhianon, you had a further question.

[37] **Rhianon Passmore:** Talking specifically about the health board example, but with regard to the continuing shrinkage of the public purse, and with regard to the continuing shrinking of the block grant to Wales, buffered up against a more litigious culture, you talked about an improvement agenda as to how we go about that culturally, and an example has just been given in terms of a rise in the number of complaints, but, actually, those being taken forward don't really evidence that huge rise. How do you square that circle in terms of those two twin arms?

[38] **Mr Bennett:** Well, I think, certainly, in terms of medical negligence, there will be some cultural pressures that would be encouraging people perhaps not to admit early that something has gone awry. But, I seem to remember that the Government did publish a Green Paper before the election that talked about the duty of candour. The General Medical Council would certainly expect, in Wales as in England, that all medical professionals exercise the duty of candour, and I think the duty of candour is something that's absolutely fundamental when it comes to the correct treatment of anybody in Wales. So, I think that should be one counterpoint to perhaps what goes on in terms of medical negligence, and the fact that we might be some years behind what goes on in other places, including the States, in terms of people's readiness to complain. There is evidence that an awful lot of people, despite the fact that things go wrong—and we're still talking about a minority of cases as well, I'm very keen to emphasise—

[39] **Rhianon Passmore:** I'm not specifically talking to a medical context. I'm talking generically in terms of those twin arenas.

[40] **Mr Bennett:** I think more generically, I don't really want to go into the detail of where the Welsh block is now compared to perhaps 2010, but certainly, if we've seen a period of austerity, an increase in pressures, not just on health, but on other services, because of an ageing population—a 35 per cent increase in the number of people aged over 65 over the next decade and so forth—then that is going to put a strain on services. However, I don't think it takes away the need for leaders to try and deliver excellence.

[41] **Rhianon Passmore:** Okay. So, on that improvement agenda that you

talked about, and you referenced to the Chair earlier, could you put a little bit of meat on the bones for me, so I can understand what you're talking about?

[42] **Mr Bennett:** As I said earlier, we've analysed our complaints, and at least 25, 30 per cent of them are generated by a small number of bodies. If those bodies could make cultural adjustments, perhaps a cultural transformation even, in terms of the way in which they're dealing with complaints, we would see the overall number of complaints coming to our office decrease, the people who are using those bodies' services would hopefully be in a happier position, and I think the bodies themselves would benefit. They would be delivering better services.

[43] The question has to be—and it's back to this issue that Sian raised earlier in terms of accountability: who's asking the question at board level about these trends? What are they doing to make sure that the complaints unit isn't just a small group next to the broom cupboard down some dark corridor somewhere, slowly churning these acknowledgment letters? It's got to be something more dynamic than that, particularly if you're not in a market-based situation. If this was Sony—. I think it was somebody who used to work for Sony or Panasonic—was it Keith Evans who did the gift of the complaint looking at the health service? They treat that as free consulting: what's wrong with our practice, how can we make it better, how do we keep ahead of our competitors? Who's giving that kind of dynamism to the way in which we treat complaints in public services in Wales? I think it's much more, 'Uh, it's not a gift, is it?' Everybody sees it as a problem rather than a gift, but I think there should be some insight emerging from complaints in Wales, and that it shouldn't just be dealt with as a negative. There will be lessons there, and it's back to this issue around public service improvement. If you innovate, occasionally, you will get something wrong. That, in itself isn't a problem. It's usually the cover-up that's the problem, or certainly the failure to learn from what went wrong. So, I think everybody's prepared to forgive somebody a mistake, but repeated, systemic issues that aren't being reformed, that aren't responding to the needs of service users—taxpayers, ultimately—I think we need to look at improvement.

[44] It's a very modest contribution that we've been able to make to this, because, overall, the majority of our work is about dealing with individual complaints. We've got a cadre of senior investigators who act as improvement as well as investigative officers. So, we've teamed six of them up with individual bodies, but also a further number with certain themes that

come up in terms of issues that people complain about. So, health, obviously, because that's 36 per cent of the complaints that we receive; housing makes up another 13 per cent, so we've got somebody who looks specifically at housing issues and what could be done to improve issues there; and, planning would be another critical issue. So, either through certain key themes that emerge in terms of areas where we could see some improvements in terms of service delivery, or around specific public bodies, then we're trying to do more to make sure that there's cultural improvement.

[45] What kind of cultural improvement could that take up? Well, first of, where's the responsiveness? Are people genuinely empowered? Do they know when and what they can do to deal with somebody's complaint as soon as possible? Do they know when to escalate that complaint? What are they doing not just with formal, but with informal complaints, as well? Are there patterns there? Are there some issues, some clues around what's going wrong in terms of the systems that are currently in operation? And, I think, critically, what's going on in terms of governance? Who's asking the questions and who's holding people to account, so that people are making some commitments within those public bodies about things that are difficult to control in terms of the number of complaints that come to you—at least that's something that I find difficult to control—and other things that would be more in their control in terms of how long it takes to deal with that complaint; how long it takes to resolve those issue; and what they're doing, perhaps, in a more dynamic way to make sure that there's more satisfaction—

[46] **Rhianon Passmore:** And, to interrupt you, do you think that you're best placed, because there could be deemed to be a dichotomy there in terms of being a complaining body as well as an improving arm? Would it be better to have a separate entity as an improvement body for public services? I'm slightly interested in that.

[47] **Mr Bennett:** I take on the point. I've been very careful with—. We've been very careful, haven't we, in pointing out that there is the potential for a conflict of interest if you were to have an investigator who is also dealing with the complaints from the body that they were responsible for as an improvement officer? We've taken steps to make sure that people are not going native in that way. Also, in terms of the level of resource that we can devote to this, we are still fundamentally a complaints organisation.

[48] **Rhianon Passmore:** So, is it preferable—I'm sorry, Chair—to have a

different entity, perhaps? Is that what you're—

[49] **Mr Bennett:** No. For me, it's preferable that we see a reduction in the number of upheld complaints.

[50] **Rhianon Passmore:** But in terms of the improvement agenda there's a need. Everybody has, so far, agreed that there's a need for that improvement. So, I'm just thinking in terms of what would be optimum for Wales. Would you feel that there should be—? I don't know if you can answer this or if I'm putting you in a difficult position—

[51] **Mr Bennett:** Not at all.

[52] **Rhianon Passmore:** —but would there be a need for an improvement public service agency for Wales?

[53] **Mr Bennett:** Well, the issue for me is that I wouldn't claim that we have exclusive rights on improvement. But we do certainly have exclusive rights when it comes to ensuring that there's administrative justice for complainants. So, the only improvement that we're trying to make here is in terms of the complaints culture and complaints handling. I'm sure you'll come across a range of bodies across the public service that are involved in other forms of improvement. I have no ambitions to take on the role of the Auditor General for Wales in terms of value for money, Healthcare Inspectorate Wales, or, you know—. We're not a regulator or an inspector; we're not Estyn.

[54] **Rhianon Passmore:** No. So, specifically around complaints handling—.

[55] **Mr Bennett:** We're not trying to regulate, but what we are trying to do—. Obviously, we're independent of Government as well, but I do think, in terms of the improvement agenda, for us, I hope it would chime with the messages that led to the passing of the legislation for future generations. I think the bigger message there is that you're not simply trying to deal with today's problems; you are trying to ensure that there's some prevention going on.

09:45

[56] So, perhaps a lot of the role that we have is around prevention— directly for us, because we cannot cope with another doubling of complaints

over the next few years. You know, I think that would be quite a big ask to go from 1,000 complaints 10 years ago to 2,000 complaints now, to maybe 4,000 complaints in a few years' time. There is an interest to us as a body corporate in ensuring that that trend doesn't go on and on. But I hope there's an interest for the public and for the bodies in jurisdiction, because, you know, there's reputational damage to them as well if these numbers just carry on going on and on.

[57] **John Griffiths:** We will return to improving public services later on, but I think Bethan will take us back to complaints against public bodies for the time being.

[58] **Bethan Jenkins:** Sori, rwyf iest—. Mae gen i ddau gwestiwn: un ar iechyd, gan ei fod yn fy ardal i ac ar rwyf ti wedi sôn ynglŷn ag ABMU. Roeddwn i jest eisiau deall pam mae e wedi gwaethygu yng nghyd-destun y ffaith bod yna nifer o adroddiadau, gan gynnwys adroddiad Andrews, wedi bod yn weddol gritigol o'r hyn a oedd yn digwydd yn ABMU, ac rwyf wedi delio yn bersonol â rhai o'r achosion difrifol iawn sydd wedi mynd at yr heddlu yn sgil yr hyn a ddigwyddodd yng nghyd-destun Andrews, achos mae'n fy mhoenyddio i'n fawr eu bod nhw'n dweud wrthyf fi fel Aelod Cynulliad lleol fod yna welliannau wedi cael eu gwneud, ond os ydym ni'n cymryd eich tystiolaeth chi, mae yna'n dal cryn *onus* arnyn nhw i newid diwylliant, achos, yn fy mhrofiad i, ceisio amddiffyn eu hunain rhag beirniadaeth yw'r peth cyntaf maen nhw'n ei wneud, yn hytrach na dweud, 'Wel, gad inni asesu sut ym ni'n gallu newid prosesau', fel yr oeddech chi'n ei ddweud yn gynharach. Felly, roeddwn i eisiau clywed am hynny.

Bethan Jenkins: Sorry, I just—. It's two questions: one is on health, because it's in my region and you talked about ABMU. I just wanted to understand why it has worsened given the fact that there have been a number of reports, including the Andrews report, that have been quite critical of what has happened at ABMU, and I have dealt personally with some of the very serious cases that have gone to the police as a result of what happened in the context of Andrews, because it does gravely concern me that they're telling me as a local Assembly Member that improvements have been made, but if we take your evidence, we still find that there is quite an onus on them to change their culture, because, in my experience, trying to protect themselves from criticism is the first thing they do, rather than saying, 'Well, let's assess how we can change our processes', as you mentioned earlier. So, I wanted to hear little more about that.

[59] Roedd yr ail gwestiwn ynglŷn ag awdurdodau lleol. Efallai bod yna *flatline*, neu nad yw mor uchel ag iechyd, oherwydd bod yna fwy o allanoli pwerau i gwmnïau masnachol, er enghraifft, ym maes hamdden ac weithiau o ran tai i gymdeithasau tai. A ydy hynny wedi arwain at leihad wedyn yn y cwynion sy'n dod yn benodol atoch chi?

The second question was about local authorities. Perhaps there's a flatline, or it isn't as high as health, possibly because there has been an outsourcing of powers to commercial companies, for example, in the area of leisure and sometimes in terms of housing associations. Has that led to a reduction in the complaints that reach you specifically?

[60] **Mr Bennett:** Na. Ar yr ail gwestiwn, nid wyf yn meddwl bod hynny wedi digwydd o gwbl. Yn sicr, nid wyf yn meddwl bod gyda ni dystiolaeth o hynny'n digwydd o gwbl yn ystod y blynyddoedd diwethaf. A phan mae'n dod at gwynion yn y sector llywodraeth leol, maen nhw wedi mynd i lawr yn fwy cyn rŵan ac wedi cynyddu eto.

Mr Bennett: No. On the second question, I don't think that has happened at all. Certainly, I don't think we have evidence of that having happened at all over the past few years. And when it comes to complaints in the local authority sector, they have gone down more before now and have increased again.

[61] Pan mae'n dod at ABMU, yn amlwg rwy'n meddwl bod proffil a nifer y pethau sydd wedi mynd o le yna yn golygu, rwy'n meddwl, y rheswm bod nifer y cwynion yn cynyddu. Rwy'n meddwl fy mod yn iawn dweud bod y nifer—

When it comes to ABMU, clearly, I think that the profile and the number of things that have gone wrong there, I think, mean that that's the reason for the increase in the number of complaints. I think I'm right in saying that the number—

[62] **Bethan Jenkins:** A Betsi Cadwaladr hefyd wedyn, achos maen nhw wedi cael—

Bethan Jenkins: And Betsi Cadwaladr as well, then, because they've had—

[63] **Mr Bennett:** Yn union, ac rwy'n meddwl am y ddau yna, lle mae'r proffil wedi bod mor uchel, efallai bod pobl yn teimlo'n fwy parod i gwyno nag y maen nhw fel arfer pan mae'n dod i gwyno am y gwasanaeth

Mr Bennett: Exactly, and I think that those are two boards where the profile has been so high that maybe people do feel more prepared to complain than they usually would when it comes to complaining about

iechyd.

[64] Rydym ni wedi gwneud gwaith efo ABMU, ac maen nhw wedi bod yn onest iawn am y ffordd maen nhw'n trio diwygio'u systemau nhw. Rydym ni wedi gwneud gwaith da efo nhw ac wedi eu defnyddio nhw fel arfer da yn y ffordd maen nhw wedi trio troi pethau rownd yn ystod y ddwy flynedd diwethaf. Yn amlwg, mae'n cymryd blynyddoedd i newid diwylliant unrhyw gorff cyhoeddus, yn enwedig un mawr fel yna, ond rydym ni yn croesawu nifer o bethau maen nhw wedi eu gwneud i drio gwella'r ffordd maen nhw'n delio â'r cyhoedd a gyda chwynion hefyd. Rwy'n meddwl bod yna waith da wedi'i wneud, ac rwy'n gobeithio hefyd beth y gwnawn ni ei weld efo Betsi a gydag ABMU ydy efallai bod nifer o'r cwynion yn cynyddu, ond bod y nifer yr ydym ni'n ffeindio lle mae rhywbeth wedi mynd o'i le yn dod i lawr, neu, a mynd yn ôl at bwynt Sian hefyd, eu bod yn fwy parod i ddatrys yn gyflym. Roedd rhai o'r achosion yr oedd ABMU yn eu defnyddio yn rhai eu hunain am y rheswm bod rhaid iddyn nhw wella. Roedden nhw'n oedi gyda theuluoedd. Un esiampl roedden nhw'n ei defnyddio gyda ni pan wnaethom ni eu defnyddio nhw ar un o'r *roadshows* gawsom ni yn ne ac yng ngogledd Cymru, oedd lle yr oedd teulu wedi colli merch, a gwnaethon nhw oedi—oedi—am amser hir i roi'r atebion i'r teulu yna. A nhw eu hunain a oedd yn

the health service.

We have done some work with ABMU, and they have been very honest in terms of the way they're trying to reform their systems. And we have done very good work with them and we've used them as good practice in the way that they've tried to turn things around over the past two years. Clearly, it does take years to change the culture of any public body, especially a large one such as that, but we do welcome a number of the things they they're trying to do to improve the way that they deal with the public and also with complaints. I think that that has been very good work, and I also very much hope that what we see with Betsi and ABMU is perhaps that the number of complaints will increase, but that the number where we find that something has gone awry goes down, or, coming back to Sian's point, too, that they're better prepared for early resolution. Some of the cases that ABMU used were their own examples of why they have to improve. They were delaying with families. One example that they used with us, when we used them as an example in one of our roadshows in south and north Wales, was one in which there was a family who'd lost their daughter, and they delayed—they delayed—for a long time before giving the answers to that family. They themselves used that as their own example of what was going awry with their culture, because,

defnyddio hynny fel enghraifft o beth oedd yn mynd o'i le gyda'u diwylliant nhw, oherwydd yn y diwedd—a gwnaeth hi gymryd cryn dipyn o amser—pan wnaethon nhw roi'r atebion i'r teulu hynny, fe wnaeth y teulu ddiolch iddyn nhw. Y cwbl roedden nhw eisiau ei wneud oedd cael closure i gau lawr beth oedd yn digwydd.

[65] **Bethan Jenkins:** Jest o ran—

[66] **Mr Bennett:** Felly, roedd hynny wedi cael effaith arnyn nhw, ac rydym ni wedi trio eu cefnogi nhw. Ond mae'n mynd yn ôl i'r pwynt yma o sicrhau nad oes dim gwrthdaro rhwng delio â'r cwynion—ac mae gennym ni rywun sy'n gweithio, er enghraifft, ar wella diwylliant Betsi, ond nid yw hynny wedi ein stopio ni rhag cyhoeddi tri adroddiad beirniadol iawn ar Betsi Cadwaladr ac Ysbyty Glan Clwyd yn ddiweddar iawn, yn ystod y ddeufis diwethaf. Ond, yn sicr, mae yna fwy o waith i'w wneud er mwyn sicrhau bod y diwylliant yna'n newid. Mae'n mynd i gymryd amser.

[67] **Bethan Jenkins:** Jest o ran stwff awdurdodau lleol yn glou, a ydych chi'n credu bod yna—wel, nid jest awdurdodau lleol, ond dros gwmpawd gwasanaethau cyrff cyhoeddus, a ydych chi'n credu bod yna rhyw fath o *democratic deficit*, lle nad yw pobl sy'n cael eu hethol neu sydd mewn rôl rheoli o fewn y sefydliadau yma yn addysgu pobl sut

ultimately—and it took a long time—when they did give the answers to the family, the family thanked them. All they wanted was to have closure with regard to what happened.

Bethan Jenkins: Just in terms of—

Mr Bennett: So, that did have an effect on them, and we have tried to support them. But it goes back to this point of ensuring that there's no conflict between dealing with complaints—and we have someone who is working on improvement of the culture in Betsi, but that hasn't stopped us from publishing three very critical reports with regard to Ysbyty Glan Clwyd and Betsi Cadwaladr over the past two months. But, certainly, there is more work to do to ensure that that culture does change. It's going to take time.

Bethan Jenkins: Just in terms of local authorities, very quickly, do you believe that—well, actually, it's not just local authorities, but across public service organisations as a whole, do you believe that there is some sort of democratic deficit, where people who have been elected or people who are in a management role within these organisations are

i ymwneud â gwleidyddiaeth gydag 'g' fach, o ran eu hawliau, o ran yr hyn maen nhw'n gallu ei wneud? Achos yr hyn rwy'n ei weld gydag awdurdodau lleol yn benodol yw bod pobl yn teimlo eu bod nhw'n methu ag ymgysylltu fel maen nhw eisiau ei wneud gyda'r awdurdodau hynny ynglŷn â, nid cwyn, ond yr hyn y dylai fod yn digwydd beth bynnag o ran ymgynghoriadau ac o ran ymgysylltu yn gyffredinol. Ac wedyn, os byddai hynny'n effeithiol, ni fyddai angen, wedyn, fynd trwy'r broses cwynion achos byddai'r broses ddemocrataidd yn gweithio yn effeithiol. A ydy hwnnw'n rhywbeth yr ydych chi'n ei weld, neu na?

[68] **Mr Bennett:** Efallai. I fi, mae sôn am *democratic deficit* y bore yma yn gwestiwn rhy wleidyddol yr adeg yma—neu unrhyw amser o'r diwrnod, a dweud y gwir. Beth sy'n fy mhoeni i ydy'r *scrutiny deficit*. Yn sicr, os yw cwynion yn dal i fod yn uchel, mae'n rhaid i ni ofyn y cwestiwn—ac nid yw hwn jest yn gwestiwn i lywodraeth leol, ond—

[69] **Bethan Jenkins:** Ond pam mae yna gwynion yn mynd—achos nad ydyn nhw'n deall beth yw eu hawliau nhw? Dyna rwy'n trio ei ddweud yn y cwestiwn hwnnw.

[70] **Mr Bennett:** Wel, efallai mae yna gwestiwn ehangach, ond os ydym yn mynd yn ôl i beth oedd Sian yn ei ddweud, yn sicr, os ydych chi'n gweld mwy a mwy o gwynion—rydw

not teaching others how to deal with politics with a small 'p', in terms of their rights, in terms of what they can do? Because what I see with local authorities specifically is that people feel that it's quite difficult for them to engage as they would like with local authorities, not necessarily in terms of making a complaint, but in terms of what should be happening anyhow in terms of engagement and in terms of consultations. And, if that was efficient, then there would be no need to go through the complaints procedure because the democratic process would be working efficiently. Is that something that you see, or not?

Mr Bennett: Perhaps. For me, to talk about a democratic deficit, it's too political a question for me at this time—or at any time of day, to tell the truth. What concerns me is the scrutiny deficit. Certainly, if complaints remain at a high level, we do have to ask the question—and this isn't just a question for local authorities—

Bethan Jenkins: But why is that? Are the complaints because people don't understand their rights? That's what lies beneath my question.

Mr Bennett: Well, yes, perhaps there is a wider question in that regard, but if we go back to what Sian was saying, certainly, if you see that there's an increase in the level of

i'n siŵr bod nifer ohonoch chi'n cael mwy a mwy o gwynion iechyd, er enghraifft—. Rydw i'n siŵr eich bod chi'n delio efo nifer fawr o'r un cwynion ag yr ydw i'n eu cael, ond rydw i'n poeni bod diffyg sgrwtini: hyd yn oed bod y sŵn yna yn cael ei glywed, nid oes digon o newid yn digwydd yn ddigon cyflym er mwyn gwella gwasanaethau neu o ran y ffordd y mae cwynion yn cael eu trin. Mae hwnnw'n bwynt hollbwysig. Wedyn, beth sy'n fy mhoeni i o ran y dyfodol yw *deficit* o safbwynt eglurdeb: mae rhywun yn meddwl eu bod nhw wedi ethol y cyngor, maen nhw'n meddwl bod y cyngor, un o'r 22 sydd yn dal i fod yn bodoli, yn gyfrifol am y gwasanaeth maen nhw wedi ei dderbyn, ond efallai bod trefniadau ar gael sy'n golygu bod yr arweinyddiaeth, y rheolaeth, yn digwydd rhywle arall. Rydym ni wedi cael un neu ddau o achosion, rwy'n meddwl, cyn rŵan, efo gwasanaeth cymdeithasol, rydw i'n meddwl, lle'r oedd rhywbeth wedi mynd o'i le. Roedd yna bartneriaeth—nifer o gynghorau wedi dod at ei gilydd, ac wedyn nid oedden nhw'n cytuno pwy oedd yn gyfrifol. Chris, wyt ti eisiau sôn mwy am yr enghraifft yna? Rydw i'n meddwl yr oedd yn ne-ddwyrain Cymru.

complaints—and I'm sure that all of you are seeing complaints with regard to health, for example—. I'm sure that you deal with many of the same complaints as I do, but I'm concerned about a lack of scrutiny: even though these complaints are heard, there isn't sufficient change happening quickly enough to improve these services or the way we see complaints being dealt with. That's very important. What concerns me about the future is the deficit with regard to clarity: somebody thinks that they've elected the council, they think that the council, one of the 22 that are still going to exist, is responsible for the service that they've received, but perhaps there are arrangements in place that mean that the leadership, the management, happens elsewhere. We've had one or two cases before now, I believe, with social services, I believe, where something went awry. There was a partnership, a number of councils had come together, and then they didn't agree who was responsible for that issue. I don't know whether that's something, Chris, that you can talk about, that specific example. I think it was in south-east Wales.

[71] **Mr Vinestock:** Yes. It was in south-east Wales. It was a case involving out-of-hours social services cover where, for partnership reasons, and I guess for value-for-money and economic reasons, local authorities were working together. And it did mean that there was a lack of clarity about exactly who was responsible. There were issues of handover, but there were also issues of accountability in dealing with the complaint, and who actually

had the authority to deal with it, whether it was the authority hosting the service or the authority whose area the complainant actually lived in. And it did become difficult. We thought we were dealing with one set of people, and they said, 'Well, they're not responsible, you need to address the complaint elsewhere'. And it didn't make our lives any easier, which is a small problem, but it actually left the complainant with a real lack of clarity about where the service lived, who was responsible and how, therefore, to access it or complain about it. I guess the concern is that, if there are more of those sorts of services and collaborations and partnerships, those sorts of issues could grow.

[72] **John Griffiths:** Okay. Well, if we, I think, go back to service improvement now, I know Jenny Rathbone has some further questions on that issue.

[73] **Jenny Rathbone:** Just going back to improvement officers, obviously, you said earlier that it was important that improvement officers didn't go native. I fully understand that. But can you just describe exactly at—. Once you've decided you want to offer an improvement officer to, mainly, a health board, do they then track the response of the health board to a particular complaint that triggered that offer of an improvement officer, and look at the wider context of what we can learn from this? Could you just tell us a little bit more about how they start out?

[74] **Mr Bennett:** Happily, but I think, Chris, perhaps you'd like to—

[75] **Mr Vinestock:** Certainly. Thank you. I think the first focus of the improvement officer is actually on understanding complaints-handling issues within the authority. So, the improvement officers don't get involved in individual complaints, but what they do look at—

[76] **Jenny Rathbone:** But, normally, they'll have been triggered because of a particular complaint that the ombudsman has—. No?

[77] **Mr Vinestock:** The improvement officers are allocated to a body based not on an individual complaint, but on the volume of complaints; in particular, where that volume is disproportionate or there's a particular theme where the complaints-handling element has not gone as it should have done. So, that's really the driver. What the improvement officer's trying to do is to work with the bodies in question to improve the culture in terms of complaints handling within the body, but also to improve the processes and

the learning. So, they're working to identify and make sure there is some analysis of the complaints and where they've gone wrong, and to work with the body to identify actions that perhaps can put that right.

[78] I think the first focus is very much about the complaints-handling process, and getting that right. The second level, if you like, is looking at what actually went wrong that meant that the complaint got that far, and that very often relates to communication at the time that things went wrong. So, the first level is complaints handling. The second level is, really, what actually went wrong that meant that instead of it just being a service that failed or didn't happen or whatever and was resolved, it actually escalated and became a formal complaint. The third level, really, which is perhaps a bit further down the line, is to look at how the organisation learns from the service failure itself. So, if it's a failure in a health service.

[79] So, it's trying to work with a health body or a local authority on those three levels. But the emphasis is on complaints handling, and it's more about processes and culture than it is about individual complaints. But that could include the process for making sure that there is adequate follow-up of recommendations and learning points, and that there is adequate follow-up in terms of looking at compliance.

[80] **Jenny Rathbone:** Okay. So, I just want to go back to the relationship that the public services ombudsman has with a health board. There are various, really, substantive inquiries you've quoted in your annual report. What is the process? You issue your judgement. Do you then have—? What's then your relationship with the board? Does the board invite you in to discuss this, or—?

[81] **Mr Bennett:** No. The best example I can give you would be the three recent section 16 reports that we had. I went up to north Wales, and I went to see the chief executive of Betsi Cadwaladr specifically, because I was concerned we'd had three section 16 reports—not just for one health board, but for one hospital, which is unusual, shall we say. Typically, we might have one public interest report for one individual health board in a year, so to have three for one health board is one thing, but for one hospital—. I thought it was important that I went up to see Gary Doherty following that. I wouldn't always have an immediate meeting with a health board chief executive. I meet with all of them on a regular basis. We publish annual letters, which look at their overall complaints handling, where they're going—you know, to hold them to account in terms of what they're doing on

those issues. But, once we've published a report and our recommendations, then we would expect compliance. So far, I think, in terms of compliance, you know, that's something that has—. We expect them to deal with the recommendations and to fully comply with them. When we produce these reports, they normally will have agreed to the recommendations that we're making.

10:00

[82] **Jenny Rathbone:** What I'm trying to explore is the distance we need to travel between your vision of public bodies welcoming complaints and seeing them as a way of improving their service and the way in which your reports, which are already a recognition of failure, because it means they failed to resolve these complaints themselves, which is why you're even looking at it, and what they then do once you issue your report. Because if they simply file them, then—

[83] **Mr Bennett:** No, no. That doesn't happen. Compliance is a critical issue of what we do. It's something that Chris has been very keen on in the last two or three years. We've looked again at compliance, and we have a lead in the office again to ensure that compliance occurs. So, we certainly are not in the habit of producing any reports that make a series of recommendations that then, you know, go on somebody's shelf to gather dust. We expect to see full compliance, not just with the reports that we publish. I alluded earlier to the Hywel Dda example, where we issued a section 22 report. If any public body refuses to comply, then there are things I can do in terms of the statute of the Act.

[84] **Rhianon Passmore:** Could you elaborate?

[85] **Mr Bennett:** My point is that it's better for the public body and for the complainant if we can resolve this early, which is why we're glad to see a 38 per cent increase in early resolutions. However, I would not want any public body to think, 'Oh, we got off with it. We didn't get the report. We haven't had an upheld complaint. We've resolved this early'. If you've resolved it early with our office and you've still made a commitment to pay somebody some redress or to issue an apology, then you should be doing that in exactly the same way as if we'd conducted a much longer, more costly investigation and recommended it at the end. That's the deal. So, in either way we expect compliance.

[86] **Jenny Rathbone:** And—

[87] **John Griffiths:** Okay. I'm afraid we haven't got much further time, and we've got other areas to explore, I'm afraid. But if it's a short, sharp follow-up question.

[88] **Jenny Rathbone:** I just think the crucial thing I really wanted to pick up on is the other point you made about people not referring a deteriorating patient upwards to the appropriate clinician in a timely fashion. We're trying to introduce prudent healthcare where only people who are qualified to do that, and no more, are dealing with people, but, if we're not following clinical guidelines and we don't know or can't spot when somebody needs a more specialist intervention—. Is this something that you have raised with health boards? Because this is about ensuring that everybody in the business—

[89] **Mr Bennett:** I think it's a different issue to prudent healthcare, and I hope it's a different issue to the quite high-profile issues that have been going on in England in terms of out-of-hours care. The report that I published was not about junior doctors' contracts or making people work longer hours or anything else. It's about some critical issues when it comes to consistency of care. What happened in terms of the recent Betsi Cadwaladr case, which I admit was before we published our report, which was in March of this year, but nonetheless a serious issue in that—. It had nothing to do with prudent care. This patient had had stomach cancer. The operation had occurred early in the week. There was a consultant available until the Friday. Blood tests were taken throughout that week. By the Friday, those blood tests were high. Throughout the weekend, those blood tests continued to be taken and they were rising at an alarming rate. Come the Monday they realised that something was very, very wrong. There was a leakage, effectively, following the surgery. They then operated. A consultant was back on the ward. It was too late and, unfortunately, the patient passed away from sepsis. That is not about prudent healthcare. That is about clinical leadership. I cannot but help think that, if that clinical leadership had been available on the Saturday, as it was on the Monday, that intervention would have been earlier and that there is certainly a significant probability that there would have been an avoidable death. So, this brings us back to out-of-hours care. I got a lot of pushback because I published that report. All kinds of issues are, you know, 'These are historic. You've only used 10 examples'. My counterpart in England publishes thematic reports for a population of 48 million people using 10 examples. I think I'm justified in doing that, if I can find 10 examples for a population of 3 million people. We continue to see this as a theme. I've raised it with the

Minister. I've since been told that there will be a review. I'll be meeting with the deputy chief medical officer shortly and I hope to see at least a piloting of some further action that could mean that we could do more to make sure that we avoid these cases and that we have better levels of clinical leadership, or cultures of escalation, certainly, for out-of-hours services, because when it does impact—and I know it's a minority of cases—it can have very, very serious consequences.

[90] Also, in 2016, there's so much more that we can do in terms of consistency of patient care, such as electronic handover and other things that have an upfront cost, but that longer term could be cheaper and would be better for patients. So, I really hope that some action will emerge from that first thematic report that we've done.

[91] **John Griffiths:** Okay. I think we must move on now. I know Janet has some questions on code of conduct complaints.

[92] **Janet Finch-Saunders:** Yes, I just want to come back to some of those because I have to tell you, Chairman, two of the three reports—

[93] **John Griffiths:** I'm afraid we've got nine minutes left, Janet.

[94] **Janet Finch-Saunders:** I haven't spoken yet, Chairman.

[95] **John Griffiths:** We have two areas still to cover, but one of them is your area.

[96] **Janet Finch-Saunders:** Yes, but I'd like to offer up my thanks for the work you did. Two of those reports were to do with my constituents. I attended several multidisciplinary team meetings and I was getting nowhere. We wanted justice for the family. We have lots of casework to do with health. I have to say that I'm very impressed with the new chief exec, but it was absolute frustration at the lack of communication.

[97] You mentioned the consultant and things. For me, a lot of the issues with the health board—I've raised it at meetings here—are a lack of communication: people not speaking to one another, junior doctors not speaking to consultants, nursing records not actually being there. In MDT meetings, I was finding that notes hadn't been taken when families had raised very, very important concerns. No-one knows a patient more than members of the family. But, without your help, those families wouldn't have

had closure.

[98] But my question—. I'm sorry to get upset, but they were two very sensitive cases. Where you see a thematic theme, and we see them as AMs—we see this lack of communication and we see this silo mentality and silo working—do you think complaints are being handled in the health boards with the right level of governance? Because it does concern me that only when things go wrong do you get that high level of governance coming in. But we still, now—I get very frustrated when a concern or a complaint is brought to me and it goes off and—

[99] **John Griffiths:** Janet, I know you feel very strongly about these matters.

[100] **Janet Finch-Saunders:** Thirty-one days is the timescale for dealing with complaints.

[101] **John Griffiths:** I understand that, but we do have to move on to other areas, and we have given these issues, I think—

[102] **Janet Finch-Saunders:** Well, my question is: do you think that the level of governance is high enough for dealing with complaints? Because we still have this pattern of complaints coming in and it needs dealing with. The grief of the family was because of the lack of response. They felt that no-one cared.

[103] **Mr Bennett:** I think the short answer to that is that if I was satisfied with the governance cultures, then we wouldn't have established improvement officers. That's No 1. Number two—and I can appreciate that you are upset raising this issue, and, you know, our staff find this difficult as well, on occasion—don't let it be wasted. There are recommendations that we made. There are also the issues that we raised in terms of out-of-hours, which are general and are still important. I would encourage you, as a committee—. And I think perhaps the Health, Social Care and Sport Committee is sitting this morning as well—it might be a good question for them, Chair, as well, in terms of what's happening in terms of the Government's response to the out-of-hours report that we published.

[104] **John Griffiths:** Okay. Thanks for that. Janet, you have some further questions, then, on code of conduct complaints.

[105] **Janet Finch-Saunders:** Yes. Sorry about that. On community councils,

as we know, some of the complaints coming in are pretty high on those. You mentioned here that 213 were closed after initial consideration. How do you think the test could be applied to complaints as regards community councils? We're getting a lot coming in again through my office. In terms of—. Sorry. In terms of—. I'm sorry, but I'm going to have to go out.

[106] **John Griffiths:** Okay, Janet.

[107] **Jenny Rathbone:** Shall I take over?

[108] **John Griffiths:** Yes, would you, please, Jenny?

[109] **Jenny Rathbone:** You've noted your disappointment with the increase in the number of code of conduct complaints. Do you think you could just give us some insight into the reason for that and, in particular, the rise in complaints against community councils?

[110] **Mr Bennett:** Yes. I was disappointed that there was an increase this year. We tend to get an increase during election year, funnily enough. So, I think next year should be interesting. But I'm pleased to say that the complaints against the 22 unitary authority members did come down this past year, but, unfortunately, the number for community and town councils went up significantly to about 50 or 58—something like that. When we bear in mind that there are—I think I'm right in saying—735 community councils in Wales, 50 of those 150 complaints originated from three community councils [*Laughter.*] So, one doesn't have to be Sherlock Holmes to work out that there might be something going on in one or two areas. These were Glynneath Town Council, Abertillery and Llanhilleth, and then Holyhead.

[111] **Jenny Rathbone:** Okay. So, is it because people are waking up to the fact that community councils exist and they have a role and they may or may not be carrying it out, or is it that there are particular community councils that simply aren't carrying out the role that they've been designated to do?

[112] **Mr Bennett:** I'm concerned that actually there's still a lot of vexatiousness out there, and I think—. Given some of the issues—as you can see from Janet getting upset, there are issues—. You know, the pressures that my office face, typically—and apologies if you've heard this before—I've had complaints about one council member who was clicking his pen aggressively; others about people who'd refused to shake hands and so forth. If we've got issues here—there are only so many pressures—I think you

would expect me to be dealing with the issues that affect public interest. I am giving an assurance that I will not spend public money investigating 'biro-clicking' or any of those issues. We will very much concentrate on the main issues that would be of concern to you—the type of things that you see in your postbag as well.

[113] When it comes to code of conduct complaints though, and I'm keen to underline this, this is not that we attach any less importance to the behaviour of local authority members, but I will reserve resources to concentrate on the issues that fit what I call 'the public interest test'. So, abuse of power, bullying, discrimination in terms of anybody's sex or ethnicity or sexual persuasion or anything else—we're going to devote our resources to that type of abuse, corruption and misuse of power. And I think there has been an increase, certainly, in the more serious cases that went to the adjudication panel last year. I think it was three compared to one the year before. But I'm pleased to say that it's still a low number and that's good. That's something we should celebrate—that there is such a low level of what we see as potentially serious abuses of power by local authority members. But, as I say, an awful lot of what we do receive is vexatious and it doesn't deserve significant resource.

[114] **Jenny Rathbone:** Just very quickly, are you able to give any assessment of the time it takes to weed out the vexatious complaints from the serious ones?

[115] **Mr Bennett:** Yes. We've certainly improved our performance in terms of dealing with code cases more generally and I think, from the top of my head, the number that we deal with within nine months has increased from 75 per cent to 84 per cent. We'd like to get to a much higher level so that we're turning them all around much, much quicker and that we're able to weed out vexatiousness as quickly as possible.

[116] **Jenny Rathbone:** Thank you.

[117] **John Griffiths:** Okay. Joyce.

[118] **Joyce Watson:** I just want to quickly—. I'm going to do two things together. I suspected a lot of them would be vexatious and that's disappointing in itself. So, I suppose the question is how you deal with that and, if you've got, in any case whatsoever, repeated complainants and they become vexatious, how do you deal with that? Because they're recorded in

your numbers, and we all know that some people do actually continually vexatiously complain about any service whatsoever that they receive.

10:15

[119] The point of my question is that it's removing, from you, time to deal with some very pertinent and serious investigations that you ought to be carrying out. So, that's the reason for my question. I'm going to join it with this: you talk about sounding boards and that you want to establish them with both stakeholders and organisations for, hopefully, some better outcomes. You've rehearsed this morning what those might be, and we haven't got much time, so we don't need that. So, those are the two focuses of my question.

[120] **Mr Bennett:** I'll try to be quick, Joyce, in terms of answering both, but I'm grateful for both questions. On the first one, you are quite right, there is a risk that vexatiousness would cost me time when there are other more serious things to attend to. I can give you an assurance that certainly no vexatiousness has got in the way of us dealing with the more serious issues that come to the office. But your question reminds me that vexatiousness is in itself a breach of the code. Therefore, I could pursue somebody for vexatiousness and hold them up as an example and send out a broader message. So far, I have kept my powder dry, but I'm grateful to you for reminding me that I still have that option. The day might come, sooner rather than later, where I choose to do that.

[121] In terms of the sounding boards, this is something that I took from Scotland, which I thought was an example of best practice. There must be a feeling, in terms of bodies in jurisdiction, that, 'Here he is, issuing critical reports. Who criticises him?' So, we create, with the sounding boards, I hope, some safe spaces where bodies can give us feedback. We've held one already and I've got another one this afternoon. For example, with third sector bodies: 'What could we do better? What has irritated you about what we do? Are we reaching the people who need our services the most? Do we speak "human" enough?'—you know, those types of issues, which are very informative. Certainly, the first session that we had was very informative. The next one that I'll be having is next week; we're going to have a health sounding board, which should be educative again for me as well. But, again, it's their chance: a safe space, where they can tell me what appears fair to them in terms of what we do, how we go about our work and how we go about redress and other issues. So, it's—

[122] **Bethan Jenkins:** When is that one, sorry?

[123] **Mr Bennett:** Next week.

[124] **Bethan Jenkins:** Where is it?

[125] **Mr Bennett:** In my office. It's a private meeting.

[126] **Bethan Jenkins:** Oh, it's a private meeting.

[127] **Mr Bennett:** It's a private meeting with stakeholders from bodies in jurisdiction.

[128] **Bethan Jenkins:** Oh, right. So, there's nothing you're going to do publicly, because obviously we've got constituents who would like to be involved in things like that, so, if you are doing a public one—

[129] **Mr Bennett:** We're happy to conduct public meetings, but the sounding boards are specifically there to create a safe space for bodies in jurisdiction to tell me things that they might not like to tell me anywhere else, if that makes sense.

[130] **Bethan Jenkins:** Okay.

[131] **Mr Bennett:** But I'm happy to do public ones as well.

[132] **Joyce Watson:** I'm going to come back to vexatious complaints, because we're moving into the year of election and, you said, using your words, that the numbers of complaints against elected representatives will go up because of that. You're also asking us for more resources so that you can handle the cases that really need looking at. So, I'm going to come back to it, because there is nothing more disconcerting to me than your time being wasted by people who are continually doing that. If there is a pattern, and you've identified it, in a particular year, and this is the particular year that that happens, my fear is that you will be pushed and squeezed to not only manage something perhaps that's high level, but intermediary, which could be prevented in the very near future from becoming high level in an instant. So, I suppose my question to you is: why haven't you used your powers?

[133] **Mr Bennett:** My answer is that I do use my powers; I use them every day. I've used some powers that have rarely been used in the past. So, I issued a thematic report on out-of-hours. I have powers under the statute to issue thematic reports. I think that was only the second thematic report that had been done in the past 10 years. I issued a section 22 report in May. I think that was the first time it had ever been used against an NHS body.

[134] **Joyce Watson:** Sorry. The vexatious—

[135] **Nick Bennett:** I know you're talking about the powers that I have under the local government Act. The majority of my time is not spent dealing with code of conduct issues. Eighty per cent—. Thirty-five per cent—I think I mentioned this earlier—thirty-five per cent of the complaints I get are health related; 80 per cent of our investigative resource is going into health complaints. So, the most important legislative change I would like to see is around the new Act, own-initiative powers to look at systemic issues, a complaints standards authority, so that we can do something about those huge areas of public service complaints. Those are the ones that take up most time, rather than complaints about the pen-clicking. We can deal with those pretty quickly. It's the bigger, you know, service failures that could cause me sleepless nights and create problems for the future.

[136] **John Griffiths:** Okay. Well, thanks very much for that. We've run over our allotted time, so thanks for continuing with us. You will be sent a transcript of this session to check the factual accuracy. Thank you all very much, all three of you, for attending today.

[137] **Nick Bennett:** Thank you very much, Chair. Thanks to the committee. Thank you. Diolch.

10:21

Papurau i'w Nodi Papers to Note

[138] **John Griffiths:** Okay. Our next item, then, is papers to note, item 3 on the agenda, the first of which is correspondence from the Chair of the Finance Committee in relation to the public services ombudsman, which we've just touched upon. The second is correspondence from the Dyfed-Powys police and crime commissioner in relation to our inquiry into violence against women, domestic abuse and sexual violence. The third, paper 3, is

correspondence from the office of the police and crime commissioner in north Wales on the same subject. Paper 4 is correspondence from me to the Cabinet Secretary for Communities and Children in relation to that inquiry. Paper 5 is his response. Paper 6 is correspondence from Both Parents Matter in relation to our inquiry, and paper 7 is correspondence from Welsh Women's Aid on the same subject.

[139] We will have the opportunity to discuss some of these papers in our private session. Are you happy to note the papers at this stage?

[140] **Joyce Watson:** Yes.

[141] **John Griffiths:** Okay, thanks very much for that.

10:22

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o
Weddill y Cyfarfod**

**Motion under Standing Order 17.42 to Resolve to Exclude the Public
for the Remainder of the Meeting**

Cynnig:

Motion:

bod y pwyllgor yn penderfynu that the committee resolves to gwahardd y cyhoedd o weddill y exclude the public from the cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in 17.42(vi).

accordance with Standing Order 17.42(vi).

Cynigiwyd y cynnig.

Motion moved.

[142] **John Griffiths:** The next item, item 4, is a motion to resolve to exclude the public from the remainder of the meeting, under Standing Order 17.42(vi), and that is to consider the evidence from the public services ombudsman, which we've just heard, and also to consider our draft report on our post-legislative scrutiny work on the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015. Are you content to move into private session? Thank you very much. We will move into private session.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 10:23
The public part of the meeting ended at 10:23.