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Northern Ireland Public Service Ombudsman Bill – Cost Implications

1 Introduction

The Committee for the Office of First Minister and deputy First Minister (the Committee) proposes to introduce a Northern Ireland Public Service Ombudsman Bill (the Bill).

This paper supports the Committee's work in assessing the costs associated with the policy proposals to be given effect by the Bill. The estimates suggested in the paper reflect the information available to RaISe at the time of writing.

The paper first provides some background information. This explains where the Bill has originated, and identifies key areas within the Bill which are likely to have financial implications. Following this, the paper outlines the methodology used to estimate future costs and savings, and discuss some key assumptions underpinning the calculations. Then the actual costing is presented, accompanied by supporting notes.

Finally, the paper applies sensitivity analysis to the costing, assessing the impacts should various assumptions underpinning the estimate not hold true. Therein it notes issues which the Committee may wish to consider further.

2 Background

The Committee has developed legislative proposals to combine the offices of the Assembly Ombudsman and the Commissioner for Complaints (hereafter referred to as the 'NI Ombudsman') into the office of the Northern Ireland Public Services Ombudsman (NIPSO). These proposals have been developed over the course of the 2007-11 and present mandates. The proposals seek to bring additional public bodies within the remit of the NIPSO, and to change the categories of complaint which can be made. The anticipated result is a greater resource requirement for the NIPSO than that required currently by the NI Ombudsman.

Key cost implications of these proposals are related to the following areas:

- Currently almost all staff are secondees, and it is envisaged that this would change to a mixture of directly employed staff and secondees;
- The NIPSO's remit would be expanded to include consideration of complaints of maladministration by schools, further and higher education institutions, the Assembly Commission, and, the Northern Ireland Audit Office (NIAO);
- The NIPSO's remit would be extended to include decisions on public procurement by Northern Ireland departments and their agencies;
- Complaints about the exercise of professional judgement in social care would come within the NIPSO's remit without the need to first make a finding of maladministration;
- The NIPSO's remit would no longer include public sector employment issues; and,
- The NIPSO would be empowered to conduct 'Own Initiative Investigations', in relation to systemic maladministration, subject to evidencing the need for investigation and providing appropriate notice to the relevant department/public body.¹

¹ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

3 Methodology

The approach taken in this paper is to calculate the separate cost implications arising from each relevant policy proposal. The total estimated cost for each proposal is then assigned to a financial year in which the expenditure would occur; followed by consideration as to whether the cost would be recurrent (i.e. a continuous annual charge), or one-off.

The outcome of this approach will be a cost figure, which **represents the additional resource cost above the present resource consumption of the NI Ombudsman**. This figure is the approximate amount that would be required to fund the range of new activities for which the NIPSO is responsible.

In a number of instances calculations have been used which result in fairly specific prediction – either in terms of the likely predicted number of future complaints, or in the average cost of investigation a complaint. These figures are the outcome of the particular method used to predict a number or cost, and of the specific figures used in those calculations. **Whilst the results of these calculations were specific figures, which were taken forward into the costing model, this should not be taken as actual predictions. To do so would be to claim a spurious level of forecasting accuracy. Rather, they provide a robust indication of likely levels of complaint numbers and costs.**

The first version of the costing was prepared by staff at the NI Ombudsman Office. This provided a basis upon which RaISe could prepare its own costing estimate.

This final paper has been prepared by RaISe. Details of the costs reported in this report, and the supporting notes to the underlying calculations have been shared with the NI Ombudsman.

4 Key Assumptions

In order to prepare this costing, a number of key estimates and assumptions have been made in order to predict likely future costs and savings. These are outlined in the following sub-sections.

4.1 Estimating the average cost per complaint

In order to estimate the average cost per complaint, two separate approaches have been used: one for the calculation of the saving arising from public service employment issues moving outside the NIPSO's remit; and, one for calculating the costs associated with complaints in areas which are within the remit of the NIPSO. In both instances an average cost per complaint has been calculated, and then multiplied by the estimated annual number of complaints, in order to calculate a total cost/saving. A lower average cost per complaint has been used in calculating the reduction in costs arising from the public sector employment complaints, which would no longer be within the NIPSO's remit.

4.1.1 Public Sector Employment

Public Sector Employment issues are moving outside the NIPSO's remit. In this instance, RaISe has tried to ascertain the specific costs of these investigations in order to quantify the resulting saving.

The most appropriate figure for this calculation is the average Northern Ireland Ombudsman cost per complaint, after Health and Social Care investigations are excluded. Health and Social Care investigations have been excluded on the basis that they are consistently more expensive than other types of investigation given their nature.

The cost per complaint calculated on this basis for the 2010-11 financial year as £1,753.² Health and Social Care Investigations averaged at £5,433 for the 2010-11 year.³ In the absence of a time recording system capable of identifying the time spent on different complaint types, it is not possible to use similar cost analysis for subsequent years. The NI Ombudsman agrees that the balance of these costs is still reflective of the cost of such investigations.

4.1.2 Areas coming within the NIPSO's jurisdiction

For areas coming within the jurisdiction of the NIPSO, the approach adopted has been to calculate the current average cost per complaint investigated by the NI Ombudsman. This cost is then used to calculate the cost of each new complaint the NIPSO is expected to receive.

² Capita Consulting, Costing Report for the Office of the Ombudsman 2010-2011, September 2011, p5

³ Capita Consulting, Costing Report for the Office of the Ombudsman 2010-2011, September 2011, p5

In order to calculate the average cost per complaint, the NI Ombudsman's Net Operating Cost (as reported in the Resource Accounts for the relevant year) was divided by the number of complaints received in that year (as disclosed in the Annual Report for the relevant year):⁴

Year	Net Operating Cost	Number of Written Complaints	Average Number of Persons Employed	Average Cost per Complaint
2009-10	£1,635,000	681	30	£2,400
2010-11	£1,799,000	695	33	£2,588
2011-12	£1,866,000	640	32	£2,915
2012-13	£1,685,000	742	27	£2,270
AVERAGE	£1,746,000	690	31	£2,530

This table shows a steady increase in the average cost per complaint between 2009 and 2012, before a significant drop in 2012-13. The cause of this is the relationship between staff numbers, and Net Operating Cost within those particular years. The significant part of the NI Ombudsman's expenditure is on staff costs. In 2012-13 staff costs accounted for 65% of total expenditure, whilst in 2011-12 the proportion was 68%.⁵ Therefore, when staff numbers are higher, so will the Net Operating Cost be higher (reflecting higher staff costs). As the number of complaints received acts as a denominator in the calculation of the average cost per complaint, the higher the number of complaints, the lower the average cost. Likewise, the lower the number of complaints investigated, which acts as the numerator, the higher the average cost per complaint.

In 2011-12 we can see that the high average cost per complaint is driven by high staff numbers and costs, against the lowest number of complaints investigated within a year. In 2012-13, the opposite occurs. There are lower staff numbers, and so lower costs, accompanied by a high level of complaints investigated. This results in a lower cost per complaint.

It is reasonable to assume that taking the average Net Operating Cost over the four years, and dividing it by the average number of complaints received over the entire period will deliver the fairest average cost per complaint. This is considered reasonable as the NIPSO will not be able to control the number of complaints it receives: consequently there is the potential for volatility in the number of complaints received.⁶

When the calculation described above is performed, we get an average cost per complaint of £2,530 ($1,746,000/690 = 2,530$).

⁴ Information contained in this table obtained from each year's Resource Accounts. These are all available on the Northern Ireland Ombudsman internet site: <http://www.ni-ombudsman.org.uk/Publications.aspx>

⁵ Northern Ireland Ombudsman Resource Accounts 2012/13, p41

⁶ It should be noted that the Ombudsman does have a degree of discretion in relation to which complaints proceed to initial assessment/investigation and subsequently detailed investigation. In 2012 the Ombudsman published "Complaints Validation, Investigation and Report Criteria – A Policy Change" which sets out the considerations which are taken into account when deciding how to deal with an individual complaint.

This figure is higher than the average cost per complaint for the NI Ombudsman once health care complaints are removed (£1,753). This paper assumes that for areas coming within the remit of the NIPSO, there is a period where we can expect the cost of investigating complaints to be higher than it would be in subsequent years. This is due to the need for officers to familiarise themselves with particular systems and forms within a sector. Over time this cost may decrease, and be more reflective of the average cost per complaint when health care complaints are excluded. However, to be prudent, the higher cost figure has been used. Section 6.5 contains consideration of the cost should the lower cost per complaint be used in the calculation. Section 7.3 discusses the need for continuing scrutiny of the NIPSO's operation in early years to update cost expectations.

Despite the comments above, the key risk in this assumption is that the average cost per complaint would be higher than predicted in this estimate. If so, there is a risk that the NIPSO would not have sufficient resources to perform all its duties. This possibility will be considered in the sensitivity analysis in Section 6 of this paper.

4.2 Estimating the number of complaints the NIPSO is likely to receive

In each area where there is a cost or saving to be calculated, this has been done by multiplying the average cost by complaint by the expected number of complaints to be received in each year for that particular area.

In relation to public sector employment complaints the estimated number of complaints has been calculated with reference to the number of complaints received in that area historically. It is assumed that these figures give a reasonably accurate indicator of the number of complaints which would have been likely to be received in future years. In relation to new areas or extended remits, the estimates are extrapolated from complaints to Ombudsmen in other parts of the UK, who operate within similar remits.

The key risk here is that if the actual number of complaints received differs significantly from the predicted amount, the calculations in this costing will not accurately forecast the resources that the NIPSO will require to investigate these complaints. There already exists a trend of increasing numbers of complaints to the NI Ombudsman in recent years (see section 7.2). It is expected that the continuing squeeze on public expenditure would further exacerbate this trend. This is based upon the assumption that as public expenditure decreases, levels of service provision and quality may diminish, resulting in a higher rate of dissatisfaction amongst service recipients.

Furthermore, there is the possibility that the introduction of a new oversight body further encourages citizens who feel they have been wronged to complain. The introduction of an independent oversight body could be perceived as a fair and independent appeal body by those who would have previously had a low expectation of a fair investigation. Whereas such individuals may have been disinclined to complain

in the past, they may now be encouraged through having recourse to an independent oversight body.

The risk of higher numbers of complaints than estimated in this model is considered in, the sensitivity analysis in Section 6. This explores the cost implications arising from higher levels of complaints than expected in the areas coming within the remit of the NIPSO.

5 Main Cost Calculation

The table below presents the estimated cost implications of the creation of the NIPSO, and the granting of powers in new areas. The notes which follow the table provide an explanation as to how each figure has been calculated.

Cost Line	2014-15		2015-16		Reference
	One-Off	Recurrent	One-off	Recurrent	
Admin					
Rebranding/Website	£40,960			£4,460	5.1
Transfer of Staff		£51,026		£51,026	5.2
Financial Accountability	£6,000			£35,567	5.3
New Remits					
Schools, FE & HE				£209,990	5.4
NIAO				£2,530	5.5
Assembly Commission				£2,530	5.5
Public Procurement				£43,010	5.6
Own Initiative			£4,000	£91,506	5.7
Social Care Professional Judgement				£2,046	5.8
SUB-TOTAL	£46,960	£51,026	£4,000	£442,665	
Savings					
Public Sector Employment				(£131,475)	5.9
SUB-TOTAL				(£131,475)	
TOTAL	£46,960	£51,026	£4,000	£311,190	

The total cost of the proposals over the 2014-15 and 2015-16 years is £413,176. This is split between £97,986 in 2014-15, and £315,190 in 2015-16.

The expected annual cost from 201-16 onwards is £311,190 – which represents an increase of 18% from the Net Operating Cost in 2012-13.

All individual cost items are explained in the notes below. The figures are subject to sensitivity analysis in section 6. Finally, section 7 details some key issues which it is recommended the Committee consider and remain cognisant of throughout this legislative process.

5.1 Rebranding/Website

There are a number of individual costs associated with the establishment and rebranding of the new NIPSO office. These are detailed in the table below:

Cost Item	Description	One-off Cost	Recurrent Cost
Externally Produced Leaflets – Design	Acquiring newly branded information leaflets for complainants	£450	
New Office Leaflet Circulation	Printing and disseminating newly produced leaflets to relevant organisations	£15,000	
New Office Signage	Office branding and signs	£1,300	
New Website – Procurement	CPD Charge	£4,000	
New Website – Additional Annual Maintenance	Increase in annual maintenance charges for new site, which will deliver a more modern internet site than the current site, which is “very restrictive in function”. ⁷		£4,460
New Website – Development	Professional fees for the development of new website.	£9,640	
Website – Content Management	Software used for on-going management of internet site.	£10,570	
TOTAL		£40,960	£4,460

The costs included within this table have been supported by evidence provided by the NI Ombudsman.⁸ All costs appear to be reasonable, and to be incurred in justifiable activities.

5.2 Transfer of Staff

As stated in the Committee Chair’s Report to the Assembly:

DFP recommended that the Bill provide for the direct employment of staff by the NIPSO if this was not already contemplated.

The Assembly Ombudsman/Commissioner for complaints is currently considering the best approach to staffing the combined office of NIPSO and this is likely to involve employing more staff directly but also retaining the flexibility of seconding staff who might otherwise be reluctant to leave

⁷ NI Ombudsman email to RaISe, dated 14 November 2013.

⁸ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

*permanent positions with larger employers where there would be more opportunities for promotion and career development.*⁹

In order to undertake the preparatory work necessary for the NIPSO to become a direct employer of staff, the current office will require HR expertise. Therefore, the office would be employing an HR Officer at the grade of Deputy Principal, for the 2014/15 financial year. Beyond this, the NI Ombudsman is currently:

*...not in a position to make judgement on the HR function required after 2014-15. It is envisaged that there will be a need for HR support but at what grade is yet to be established.*¹⁰

For the purposes of this costing, it has been forecast that HR Support would continue at the grade of Deputy Principal as a recurring future cost.

5.3 Financial Accountability

The increased scope of the NIPSO's activities, and the new arrangements concerning the NIPSO's accountability to the Assembly, would necessitate the employment of an additional independent Board Member, and the employment of a Finance Officer at Executive Officer 1 level.

At present, the Finance Officer is a Staff Officer acting at Deputy Principal. The Executive Officer 1 is expected to assume some of the more routine financial duties, which require regular completion (e.g. oversight of daily financial processes, bank reconciliations, outturn and forecast outturns, handling audit requests etc.). This would free up the existing Finance Officer to complete higher level functions (e.g. draft resource accounts, prepare Estimates returns, and support the Director of Finance and Corporate Services in responding to the Committee to which the NIPSO would be accountable).

In both instances, there would be one-off recruitment exercise costs, along with recurrent costs for future years:

Officer	Cost	Recurrent / One-Off	£
Finance Officer	Salary	Recurrent	£33,892
	Recruitment	One-Off	£2,000
Board Member	Attendance Payments	Recurrent	£1,675
	Recruitment	One-Off	£4,000
TOTAL		Recurrent	£35,567
TOTAL		One-Off	£6,000

⁹ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

¹⁰ NI Ombudsman email to RalSe, dated 14 November 2013.

5.4 Schools, Further Education and Higher Education

The Committee proposes that it should be within the power of the NIPSO to investigate complaints of maladministration within schools, further education institutions and higher education institutions.¹¹ The Committee has consulted publicly in relation to its proposals in 2010, and again, with key stakeholders, in 2010.

With regard to schools, the Minister for Education confirmed he was:

*...content that schools come within the NIPSO's remit on the basis of the Ombudsman's analysis which addresses fully the issues raised by me in previous correspondence. I am satisfied that the extension of the Ombudsman's role to include schools will be a very positive step...*¹²

In relation to Further Education, the Committee's proposal in this area was opposed by the Further Education Colleges Directors Human Resource Working Group. However, the proposal was approved by the Department of Employment and Learning (DEL) in 2012, provided that the NIPSO's remit encompassed maladministration only, and not the exercise of professional judgement.¹³

In respect of Higher Education, DEL sought to delay the extension of the NIPSO's powers, pending the completion of an exercise to standardise grievance procedures across Higher Education Institutions. Instead, it could be determined whether there was a justification or need to grant powers to the NIPSO in this area. Despite DEL's argument, the Committee for Employment and Learning (CEL) stated that it believed that the NIPSO should be granted powers, and it remains the view of CEL that that Higher Education bodies should come within the remit of the NIPSO.¹⁴

The cost of this additional work was calculated by multiplying the estimated number of complaints the NIPSO would receive each year, by the average cost per complaint calculated at 4.3.1 (£2,530).

In order to project the likely number of complaints that the NIPSO would receive, RaISe has looked for bodies providing a similar function elsewhere in the UK. The Scottish Public Services Ombudsman (SPSO) performs a role very similar to the NIPSO, dealing with maladministration complaints relating to schools, and further and higher education institutions. Therefore it was decided to base the Northern Ireland calculation on the average number of complaints received by the SPSO in these areas. The number of complaints received by the SPSO is adjusted according to the relevant student populations in Northern Ireland, as a proportion of the populations in Scotland.

¹¹ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

¹² Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

¹³ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

¹⁴ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

The result of this calculation was that the additional cost to the NIPSO would be £209,990, as highlighted in the table below:

	Average Number of Complaints	Note
Schools	36	1
Further Education and Higher Education	47	2
TOTAL	83	
Average Cost per Complaint	£2,530	
TOTAL COST	£209,990	

Note 1 – Schools

The average number of complaints received each year by the SPSO relating to schools is 77. This has been calculated by taking the average from the previous two years – 77 in 2011/12; and, 76 in 2012/13.¹⁵

To apportion this figure to Northern Ireland, the school population of Northern Ireland was calculated as a percentage of the school population in Scotland. This approach reflects the fact that the likeliest driver of complaints is the number of students (who could possibly complain), rather than the number of educational institutions.

The most up-to-date available figures which could be found related to 2011/12, and in this year the school population in Scotland was 670,400. In Northern Ireland the school population was 316,800.¹⁶ This works out at 47%.

Therefore, based upon calculating 47% of 77, we arrive at the estimated number of complaints to the NIPSO as 36.

Note 2 – Further and Higher Education

The average number of complaints received by the SPSO in relation to both Further and Higher Education is 129. This has been calculated by taking the average from the previous two years – 130 in 2011/12 and 127 in 2012/13.¹⁷

To arrive at a total population for both territories, RaISe has combined the most up to date population statistics for both types of institution in both territories. Unfortunately, the most up-to-date figures for Further Education relate to the 2010/11 year, whilst the figures for Higher Education relate to 2011/12. Despite the difference in years, it has been deemed reasonable to combine the populations from the two different years to

¹⁵ 2011/12 – http://www.spsso.org.uk/sites/spsso/files/communications_material/statistics/2011-12/Enquiries%20and%20complaints%20received%20by%20subject%20%282011-12%20website%20version1.1%29.pdf
2012/13 – http://www.spsso.org.uk/sites/spsso/files/communications_material/statistics/2012-13/Enquiries%20and%20complaints%20received%20by%20subject%202012-2013%20v1.0%20web.pdf

¹⁶ Education and Training Statistics for the UK: 2012 – http://www.gov.uk/government/attachment_data/file/219166/vol-2012.pdf

¹⁷ Figures sourced from SPSO Annual Report 2011/12 and 2012/13 - <http://www.spsso.org.uk/annual-reports>

arrive at a total population. This means both figures included will be the most up-to-date figures available at the time of writing.

Within Further Education Institutions, the total population in Scotland is 311,000, compared to 144,400 in Northern Ireland.¹⁸

Within Higher Education Institutions, the total population in Scotland is 216,320, compared to 51,905 in Northern Ireland.¹⁹

These give total populations of 527,320 in Scotland, and 196,305 in Northern Ireland. Northern Ireland's total population represents 37% of the Scottish population. When this percentage is applied to the total average number of complaints in Scotland, we arrive at an estimate of 47 complaints per year to the NIPSO.

5.5 NIAO and Assembly Commission

In both of these instances, the occurrence of complaints about maladministration is relatively rare. In the case of NIAO, there has been one complaint in the last three years.²⁰

This costing has been prepared estimating one complaint each year in relation to both bodies. This may appear to be overly cautious, however, the resources being committed are relatively insignificant, representing less than 2% of the annual recurrent cost of the legislative proposals.

5.6 Public Procurement

At present the Northern Ireland Ombudsman is barred by the current legislation from investigation of the contractual or commercial transactions of the bodies which fall within its remit, including Northern Ireland Departments and their Agencies. Consequently, the Northern Ireland Ombudsman can look at processes within a government department up to, but not including, the award of a tender contract.

There is no such limit at present for the Commissioner for Complaints, who can investigate maladministration up to and including the award of a contract for all bodies within its remit.

In formulating the current legislative proposals:

The Committee agreed that the NIPSO Bill should provide for the investigation of public procurement maladministration complaints against all bodies within remit, including Northern Ireland Departments, on the basis

¹⁸ Further Education Statistics – <http://www.gov.uk/government/publications/education-and-training-statistics-for-the-uk-2012>

¹⁹ HESA 2013 – <http://www.hesa.ac.uk/content/view/2993/393/>

²⁰ E-mail from NIAO to Northern Ireland Ombudsman, dated 17 June 2013. Contained within: Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation – June 2013.

currently provided in the Commissioner for Complaints (NI) Order 1996 – that is up to and including the decision to award the contract or tender.²¹

At present, complaints about procurement in Northern Ireland Departments are made to the Department of Finance and Personnel (DFP). DFP confirms that over the previous three years there had been a total of 64 complaints received:²²

	2010/11	2011/12	2012/13	Average
Stage 1 Complaints	24	20	15	20
Stage 2 Complaints	4	0	1	2
TOTAL	28	20	16	21

Stage 1 Complaints are where a complaint is received, and it is then investigated by a Divisional Director. Stage 2 Complaints are where a complainant is unsatisfied with the outcome of this process, and writes to the Central Procurement Directorate Director, who will carry out a further investigation.

This costing is based only on Stage 1 Complaints; as to include Stage 2 Complaints would double-count those complaints.

Further to this analysis, details of the outcome of the above Stage 1 Complaints are as follows:²³

	2010/11	2011/12	2012/13	Average
Upheld	6	1	1	3
Not Upheld	18	19	14	17
TOTAL	24	20	15	20

In order to calculate the likely number of complaints to the NIPSO, the calculation is based upon the average number of 'Not Upheld' complaints received by DFP. This is based on the presumption that where a complaint is 'Upheld', it is not going to be forwarded to the NIPSO. Upon this basis, it is estimated that the NIPSO would receive 17 complaints per year concerning procurement.

There is a risk that this overstates the likely number of complaints to be received for two reasons. Firstly, there appears to be a trend of decreasing numbers of complaints. When asked whether this was indicative of any long-term process, DFP responded:

An analysis is carried out each year to identify if there is any common cause for complaints. To help address these issues CPD works closely with the Centre for Applied Learning (CAL) in developing any subsequent training which is shared across CoPEs and Departments.

²¹ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

²² Email from DFP to Northern Ireland Ombudsman, dated 19 June 2013. Contained within: Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation – June 2013.

²³ DFP e-mail to RaiSe, dated 16 September 2013.

In addition any lessons learned are taken on board for any future procurement and are also shared.²⁴

Secondly, this calculation does not factor in complainants who are satisfied with the explanation given for their 'Not Upheld' complaint. For example, despite there being an average of 17 Stage 1 complaints per year, there is only an average of 2 Stage 2 complaints each year.

However, consideration must also be given to the argument that the presence of an independent oversight body will encourage an increased number of complaints. There is also a risk that complaints in this area may be complex, and require a greater resource allocation, particularly in early years whilst the NIPSO builds up its knowledge and experience in this area.

Therefore, it has been deemed prudent to base the calculation upon a three year average, as detailed above. The cost is thus calculated as:

Estimated Number of Complaints	Average Cost per Complaint	TOTAL COST
17	£2,530	£43,010

5.7 Own Initiative

The Committee's 2012 key stakeholder consultation proposed the Bill:

Should provide NIPSO with power to initiate a systemic inquiry (where he or she believes systemic maladministration is taking place) subject to the NIPSO giving detailed reasons and evidence in a notice to the relevant Member of the NI Executive²⁵

This proposal was welcomed by both the CEL, and the Public Accounts Committee.

Following its consultation exercise:

The Committee concluded that the Bill should provide NIPSO with power of own initiative inquiry (where he or she believes systemic maladministration is taking place). During the drafting of the Bill the Committee will take advice on options for mechanisms to require NIPSO to evidence the need for the own initiative inquiry.²⁶

The Northern Ireland Ombudsman proposes that the NIPSO should develop an annually flexible work program for own initiative investigations. He reasoned that this

²⁴ Email from DFP to RaISe, 16 September 2013.

²⁵ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

²⁶ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

should ensure where administration of public services has significantly failed, redress is available to citizens who have suffered an injustice.²⁷

The costs associated with maintaining such a resource would be:

- the time taken to collate evidence of the need for an own initiative investigation;
- consulting with other relevant oversight bodies;
- deciding upon a terms of reference, methodology and investigation plan;
- undertaking the actual investigation; and,
- post-investigation reporting procedures and follow-up work.

It is the current Ombudsman's view that the NIPSO should initially seek to complete one to two major own initiative investigations annually. He maintains that as competence in this area increases, the NIPSO should then aim to complete up to four investigations each year.²⁸

Whilst noting that in other territories where Ombudsman offices possess own initiative powers, "staff undertaking these wider systematic investigations are often of Deputy Principal level and above"²⁹, the Northern Ireland Ombudsman has proposed two potential staffing models:

	Staffing	Cost
Model A	2 x Deputy Principal Grade Investigators	£95,506
Model B	1 x Deputy Principal Grade Investigator	£117,278
	1 x Staff Officer Grade Investigator	
	1 x Admin Officer Grade	

The Ombudsman point out that whilst both models recognise the need for at least one senior investigator at Deputy Principal Grade, they would both require additional resources to be redeployed from across the NIPSO office.

Model A's cost is made up of £91,506 recurrent salary costs, and £4,000 in one-off recruitment costs.

Model B consists of £111,278 recurrent salary costs, and £6,000 one-off recruitment costs.

²⁷ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

²⁸ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

²⁹ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

The Ombudsman proposes that Model B would be the preferred model.³⁰ However, for this costing Model A has been selected. This is because it is the cheaper option, and no strong evidence has been presented as to why Model B would deliver better value for money. In the absence of such evidence or argument, it would not be appropriate to select the more expensive option.

5.8 Social Care Professional Judgement

At present, the remit of the Commissioner for Complaints includes consideration of complaints relating to the exercise of clinical judgement in health care bodies, without having to first make a finding of maladministration. The Committee agreed that the Bill should provide the NIPSO with a similar power to investigate complaints of professional judgement in social care, without any need to first make a finding of maladministration.³¹

This proposal for Northern Ireland mirrors the remit of the Welsh Ombudsman since 2005. Analysis by the Northern Ireland Ombudsman shows that this change in Wales resulted in no significant increase in complaint numbers.³²

However, considering that the policy proposals can only result in an increase in complaints that the NIPSO may have to investigate, it seems sensible to estimate some cost associated with this work. The NI Ombudsman suggests an additional 20% to the current social care budget.³³ The current budget for social care complaints within the existing office is set at £10,000 per annum. The actual expenditure on these complaints over the last four years has been:³⁴

Year	Cost
2009-10	£7,365
2010-11	£18,870
2011-12	£6,425
2012-13	£8,270
AVERAGE	10,232

The NI Ombudsman's suggestion of a 20% increase appears proportionate. This would amount to an additional cost of £2,046 per annum.

³⁰ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

³¹ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

³² Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

³³ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

³⁴ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

5.9 Public Sector Employment

The Committee's proposals would remove from the NIPSO's remit complaints relating to public sector employment. This remit was included in the original 1969 legislation as a means of addressing complaints of religious discrimination in public sector employment. However, since 1969 a range of redress structures have been implemented to address such issues, such as the Industrial and Fair Employment Tribunal and the Equality Commission. The Committee was mindful of the original rationale for including the public sector employment remit, and the growth in employee protection and enforcement mechanisms in the intervening period. After consideration, the Committee agreed that public sector employment issues should not be included in the NIPSO's remit.³⁵

The annual saving to be delivered from this has been calculated by working out an average annual number of complaints received by the NIPSO, and multiplying this by the average cost per complaint.

A review of the number of complaints received by the Northern Ireland Ombudsman over the last four years shows that complaints in this area are variable.³⁶

Year	Number of Complaints
2009/10	60
2010/11	79
2011/12	102
2012/13	59
AVERAGE	75

Given the evident volatility in complaint numbers, RaiSe has deemed it appropriate to accept an average of the complaints over these four years, which works out at 75 complaints per year.

The cost per complaint in this area, as explained at Section 4.3.2, has been calculated as £1,753.

This makes the total annual expected saving to be £131,475.

³⁵ Committee for the Office of First Minister and Deputy First Minister, Report to the Northern Ireland Assembly, 16 September 2013.

³⁶ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

6 Sensitivity Analysis

This sensitivity analysis explores the cost implications should the key assumptions underpinning this paper not hold true. Section 6.1 considers the effects administration costs at higher levels than expected. Sections 6.2, 6.3 and 6.4 investigate the consequences of the number of complaints and the cost of investigating complaints in the NIPSO's new remits at higher levels than expected. Finally, section 6.5 discusses the cost implications, if the average cost per complaint in new remits for the NIPSO is lower than assumed.

6.1 Variable Administration Costs

The table below shows the impact of increases in cost for rebranding and creating and managing the new website. The original costs are discussed in section 5.1.

Cost	Original Cost	+20%	+50%	+100%
Leaflet Design	£450	£540	£680	£900
Leaflet Circulation	£15,000	£18,000	£22,500	£30,000
New Office Signage	£1,300	£1,560	£1,950	£2,600
Website – Procurement	£4,000	£4,800	£6,000	£8,000
Website – Annual Maintenance	£4,460	£5,350	£6,690	£8,920
Website – Development	£9,640	£11,570	£14,460	£19,280
Website – Content Management	£10,750	£12,900	£16,130	£21,500
TOTAL	£45,600	£54,720	£68,400	£91,200

It should be noted that it is considered very unlikely for costs to increase by 100%. Should there be increases from the estimated costs, it is likely these would be on the lower end of the scale – closer to the 20% figures, which show only a £9,120 increase. This opinion is based upon the fact that the figures used in the costing model are based upon recent real life invoices and costs, which are unlikely to have dramatically increased in the intervening period.

6.2 Variable Number of Complaints

This part of the analysis looks at how the costs would vary should the number of complaints estimated in each of the areas coming within the remit be different from the figure estimated. As costs in all of these areas were based upon a single cost per complaint, the cost of each additional complaint is £2,530 – which is also the saving for every complaint not received.

The table below shows the number of complaints estimated in each area, as well as the effects should complaints be 5% lower than expected, 5% higher than expected, 10% higher than expected, and 20% higher than expected. Complaints in relation to the NIAO, the Assembly Commission and Social Care Professional Judgement have not been considered, as the costs levels are so insignificant that even a 20% increase in any of area would amount to £500 at most.

Area	Estimated Number of Complaints	Cost with 5% Fewer Complaints	Cost with 5% More Complaints	Cost with 10% More Complaints	Cost with 20% More Complaints
Schools, FE & HE	83	£199,490	£220,490	£230,990	£251,990
Public Procurement	17	£40,860	£45,160	£47,310	£51,610

6.3 Variable Cost per Complaint

The cost per complaint for areas coming within the remit of the NIPSO has been calculated at £2,530. The analysis below considers the implications if the cost per complaint should change, but the number of complaints is in line with the predictions made in this paper. Similarly to section 6.1, this table only considers areas where significant costs exist (i.e. Schools, FE & HE, and, Public Procurement).

Area	Cost per Complaint	Number of Complaints	Total Cost with Cost per Complaint 10% Lower	Total Cost with Cost per Complaint 10% Higher	Total Cost with Cost per Complaint 50% Higher	Total Cost with Cost per Complaint 100% Higher
Schools, FE & HE	£2,530	83	£188,990	£230,990	£314,990	£419,980
Public Procurement	£2,530	17	£38,710	£47,310	£64,520	£86,020

6.4 Variable Cost per Complaint and Variable Number of Complaints

This final section considers the range of costs for these two areas, if both the cost per complaint and the number of complaints received differs from the values predicted. Focus is placed upon the potential for additional costs, as this has more significant impacts than if costs turn out less than estimated. The figure in red within brackets in each line of the table shows the total value of the increase from the costs estimated in section 5.

Cost per Complaint	110%	110%	110%	150%	150%	150%	200%	200%	200%
Number of Complaints	105%	110%	120%	105%	110%	120%	105%	110%	120%
Schools, FE & HE	£242,538	£254,088	£277,187	£330,734	£346,484	£377,982	£440,979	£461,978	£503,976
Difference from Main Costing (Section 5)	£32,548	£44,098	£67,197	£120,744	£136,494	£167,992	£230,989	£251,988	£293,986
Public Procurement	£49,677	£52,042	£56,773	£67,741	£70,967	£77,418	£90,321	£94,622	£103,224
Difference from Main Costing (Section 5)	£6,667	£9,032	£13,763	£24,731	£27,957	£34,408	£47,311	£51,612	£60,214
TOTAL	£292,215	£306,130	£333,960	£398,475	£417,450	£455,400	£531,300	£556,600	£607,200
Difference from Main Costing (Section 5)	£39,215	£53,130	£80,960	£145,475	£164,451	£202,400	£278,300	£303,600	£354,200

This table shows that the cost of the worst case scenario (i.e. the cost per complaint to be double the amount used, and the number of complaints to be greater by a fifth); and would be a total cost of £607,200 for investigating complaints within Schools, Further Education and Higher Education, and, Public Sector Procurement. Whilst this would seem an unlikely scenario (given the fact it is arguable that the cost per complaint is higher than it would be expected to be – see Section 6.5), it is important the Committee remain aware of the potential for costs to increase, particularly in early years of the NIPSO.

6.5 Using Average Cost per Complaint with Health Care Complaints Excluded

Section 4.1 of this paper discusses how different costs have been used to calculate the cost per complaint of public service employment complaints, and for complaints in areas which are coming into the remit of the NIPSO. For public service employment complaints, the average cost per complaint has been calculated at £1,753. For areas coming within the remit of the NIPSO, the average cost per complaint has been calculated at £2,530. This is a difference of £777 per complaint. The table below shows how the cost table at section 5 would differ had we used the lower cost per complaint figure for areas coming within the remit of the NIPSO (with the number of complaints remaining the same as in that calculation).

Cost Line	2014-15		2015-16	
	One-Off	Recurrent	One-off	Recurrent
Admin				
Rebranding/Website	£40,960			£4,460
Transfer of Staff		£51,026		£51,026
Financial Accountability	£6,000			£35,567
New Remits				
Schools, FE & HE				£145,499
NIAO				£1,753
Assembly Commission				£1,753
Public Procurement				£29,801
Own Initiative			£4,000	£91,506
Social Care Professional Judgement				£2,046
SUB-TOTAL	£46,960	£51,026	£4,000	£363,411
Savings				
Public Sector Employment				(£131,475)
SUB-TOTAL				(£131,475)
TOTAL	£46,960	£51,026	£4,000	£231,936

The table shows that should the average cost per complain in these new areas, reflect the current average cost per complaint (excluding health care) then the cost of the proposals could be significantly different, both over the two year implementation period, and in future years.

The cost over the two years when the proposals are implemented would be £333,169 (as opposed to £413,176 – a difference of £79,254). The recurrent cost of managing investigations in future years would be £231,936 (as opposed to £311,190 - a difference of £79,254 per year).

As previously noted, it has been deemed prudent to use the higher cost per complaint figure to reflect the fact that investigations are likely to be more difficult for NIPSO staff following the introduction of new remits. However, it may be argued that as experience and expertise increases, the cost of these investigations will come closer to the current average cost per complaint (excluding health care). As such, it may be that the recurrent figure calculated here may be more accurate than the figure reported in section 5. The need for monitoring this is discussed in section 7.3.

7 Issues for Consideration

7.1 Own Initiative Investigations - Savings

The costing model at Section 5 contains provision for the resourcing of Own Initiative investigations. However, no provision has been made for the costing model for any efficiencies/savings, which may be a consequence of the granting of the power to launch Own Initiative investigations.

It seems reasonable to assume that Own Initiative investigations are likely to deal with areas where the NIPSO would otherwise receive a number of complaints from disgruntled citizens. The Northern Ireland Ombudsman states that a consequence of Own Initiative Investigations would be:

Public bodies will therefore have to respond to one NIPSO investigation rather than dealing with a number of individual complaints and subsequent investigations about the same matter.

*...it is proposed that individual complaints related to an own initiative investigation will **not** normally be investigated separately.³⁷*

Furthermore, it could be argued that a large-scale Own Initiative Investigation would be likely to result in a reduced number of complaints in future years, assuming that malpractice in a particular area was effectively tackled by the investigation.

However, in the absence of any robust evidence or data, RaISe is at present unable to identify an appropriate basis to quantify the saving which may result. Therefore, this has not been included in the costing model at Section 5.

The table below shows that, on the basis of an average cost per complaint of £2,530, should an Own Initiative Investigation eliminate the need for 38 complaints (6% of current average number of complaints received) within a year, this aspect of the legislation could effectively 'break even':

Number of Complaints not Individually Investigated	Potential Saving
10	£25,300
20	£50,600
30	£75,900
38	£96,140
40	£101,200
50	£126,500
60	£151,800
70	£177,200

³⁷ Northern Ireland Ombudsman, Assembly Ombudsman for Northern Ireland and Northern Ireland Commissioner for Complaints Legislative Reform Costing Model Supporting Documentation, June 2013.

This is obviously a simplistic model, but it does illustrate the potential that whilst this aspect of the legislation will have associated costs, these may be mitigated by savings elsewhere. It is desirable that any such savings should be quantified and included in this costing model.

This Committee may therefore be interested in investigating with the NI Ombudsman the potential for such savings. Potential issues which may be worthy of consideration are:

- Have there been any examples in recent years of areas where the NI Ombudsman would have launched an Own Initiative investigation if such powers had been available to him?
- If so, how many complaints were received in relation to this issue?
- What would have been the potential likelihood for an Own Initiative investigation to achieve greater efficiency and savings?
- Does the Ombudsman see Own Initiative investigations as a means to achieve efficiencies and savings to the baseline budget?

7.2 Power to take action to Resolve Complaints

The proposed legislation intends to grant the NIPSO similar powers to the Welsh Ombudsman in terms of the ability to resolve complaints without an investigation. If enacted as envisioned, the powers would mirror section 3 of the *Public Services Ombudsman (Wales) Act 2005*:

- (1) *The Ombudsman may take any action he thinks appropriate with a view to resolving a complaint which he has power to investigate under section 2.*
- (2) *The Ombudsman may take any action under this section in addition to or instead of conducting an investigation into the complaint.*
- (3) *Any action under this section must be taken in private.*³⁸

It would therefore appear that the granting of this power should result in a reduction in the number of full investigations carried out in response to complaints, and result in a resource saving. Full investigations will be replaced by alternative processes designed to remedy an issue.

However, the NI Ombudsman argues that this measure would not result in overall savings. Rather, it is argued that this power would provide the ability to manage complaints more flexibly and efficiently. This is deemed to be necessary in order to manage the costs of the office in the context of increasing numbers of complaints.

³⁸ Public Services Ombudsman (Wales) Act 2005, Section 3 - <http://www.legislation.gov.uk/ukpga/2005/10/section/3>

The following table shows the rate of increase/decrease in complaints received by the NI Ombudsman over the period 2008-2013.³⁹

Period	Increase/(Decrease) in Number of Complaints
2008-09 to 2009-10	15.4%
2009-10 to 2010-11	2%
2010-11 to 2011-12	(8%)
2011-12 to 2012-13	4%

Whilst there is a decrease in the period 2010-11 to 2011-12, there is a clear trend for increasing numbers of complaints to be made. The NI Ombudsman reports that so far this year, complaints from April to October 2013 have increased by 31% against the same period in 2012-13.⁴⁰ This would be in keeping with a general expectation that as levels of public expenditure fall in response to the macroeconomic position, there is a greater risk of citizens' dissatisfaction with delivery of services, and complaining to watchdogs about this.

Given the trend of increasing complaint numbers, and a reasonable expectation this will continue in the future to a lesser or greater extent given tighter budgets, RaISe has accepted this proposal as cost neutral. Whilst it effectively works to reduce the average cost per complaint, it does not reduce total costs given the greater number of complaints the NIPSO is expected to receive.

However, it is important that the accuracy of this assumption is monitored if the Bill is enacted and implemented. The level of complaint numbers that the NIPSO receives, the average cost per complaint investigation, and the level of use of this power should be monitored, to ensure that any potential future savings or trends are detected and scrutinised.

7.3 Need to Monitor Developments and Revisit Costing Model

This costing model has been prepared to reflect all information available to RaISe at 22 November 2013. It provides a base that is intended to inform the Explanatory and Financial Memorandum to accompany the Bill introduced to the Assembly in 2014. However, it is important that if any of the plans for the legislation change, or any other significant event occur, this costing should be revisited and revised as necessary, to ensure that it remains an accurate reflection of the estimated costs arising from the Bill, as introduced. In particular:

- There may be need to revisit the savings which may be expected from introducing Own Initiative investigations (section 5.7); and,
- There may be a need to adjust the recurrent costs beyond 2015-16, once it is clear what level of HR expertise the NIPSO office requires (section 5.2).

³⁹ NI Ombudsman e-mail to RaISe, dated 15 November 2013.

⁴⁰ NI Ombudsman e-mail to RaISe, dated 15 November 2013.

Furthermore, it is necessary that there is a system in place to ensure both Assembly scrutiny of the operation of the new office, and the accuracy of this costing in the early years of the NIPSO's existence. For example, it will be important to monitor the actual costs incurred in relation to complaints coming within the remit of the NIPSO, particular in Schools, Further Education and Higher Education, and, Public Sector Procurement. Should the cost of these investigations, or the number of complaints received, be significantly higher than expected, the resources required by the NIPSO will be greater than predicted in this costing.

It should also be noted that it is possible the costs for areas coming into the NIPSOs remit could be high in the first year, and then begin to decrease as experience and competence within the NIPSOs office increases in these areas. It may be expected that the average cost of these complaints would come into line with the general average once health care complaints are excluded (as was reported in section 4.1.1). This is a process that should be monitored beyond 2015/16, as it could impact upon the recurrent costs as calculated in this paper.

8 Conclusion

This paper has presented a basis for the Committee's further consideration of the Bill. The paper estimates the cost of the key intentions of the Bill, and subjects these estimates to sensitivity analysis. The total cost of the proposals over the 2014-15 and 2015-16 years is predicted to be £411,173, and the on-going cost for each year beyond that is predicted to be £311,187. This costing reflects the information available to RaISe at 22 November 2013.

However, the paper has also identified issues which may merit further consideration by the Committee.

This document should be revisited, and revised as necessary, during the forthcoming months to ensure it remains up to date and reflects the most recent data available. This should improve the ability of this costing to accurately predict the costs associated with the Committee's legislative proposals.