

Our ref: MG/jm

Ask for: James Merrifield

Your ref:



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Date: 15 July 2014



James.Merrifield@ombudsman-wales.org.uk

Mr Mark James
Chief Executive
Carmarthenshire County Council
County Hall
Carmarthen
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Dear Mr James

Annual Letter 2013/14

Following the recent publication of my Annual Report, I am pleased to provide you with the Annual Letter (2013/14) for Carmarthenshire County Council.

Whilst health complaints have continued to rise, and remain the most numerous type of complaint, there has also been a noticeable increase in social services complaints. This suggests that service user discontent with social service provision is now beginning to manifest itself in a similar way to service users of health provision. My office will continue to monitor this area of growth, particularly in view of the changes to the Ombudsman's jurisdiction as a result of the Social Services and Well-being (Wales) Bill and the changes to the statutory social services complaints procedure. This growth is clearly a matter of concern, and I would urge local authorities to monitor trends in the complaints made to them in this area of service delivery.

In reference to the overall performance of county and county borough councils in Wales, my office has issued fewer reports, compared with 2012/13. There has also been a slight drop in the number of cases closed by way of 'quick fix' or 'voluntary settlement'- In view of the benefits to all parties in resolving certain types of complaints quickly and without the need for full investigation, I would encourage all Councils to be receptive to redress proposals from my office which would enable cases to be resolved in this way. Finally, the figures show that the largest number of complaints relate to 'Planning and Building Control' and 'Housing', followed by complaints about 'Children's Social Services' and 'Roads and Transport'.

I have issued nine Public Interest Reports during 2013/14, the majority of which related to health complaints. Some of these reports have identified serious failings in respect of clinical care provided to patients, and the lessons to be learnt from such reports are most relevant to health bodies. However, other public interest reports have identified failings in respect of making reasonable adjustments to accommodate a patient's deafness; acting in accordance with, or implementing guidelines; and, incomplete record-keeping. These are serious failings which could potentially occur within any public body or service provider, and I would therefore encourage you to review all public interest reports to identify any lessons which may apply to your Council.

In reference to the amount of time taken by public bodies in Wales in responding to requests for information from my office during 2013/14, whilst there has been an increase in the percentage of responses received within four weeks, 36% of responses from public bodies have taken more than 6 weeks. I have outlined my concerns in the Annual Report over the way in which complaints are handled, and have also previously referred to 'delay', and the consequences of it, in The Ombudsman's Casebook. Clearly, there remains work to do to ensure that public bodies are providing information promptly and I would encourage all bodies to consider whether their performance in this area warrants further examination.

In reference to your Council, the figures indicate that my office has received and investigated an above-average number of complaints. The largest single area of complaint remains 'Planning and Building Control', which has also increased noticeably compared with 2012/13. There has also been a noticeable increase in the number of complaints relating to 'Children's Social Services'. My office has issued three 'upheld' reports and two 'not upheld' reports against your Council during 2013/14. Finally, it is disappointing the response times indicate that two-thirds of responses from your Council took more than 6 weeks.

The new Ombudsman will be taking up his post in August and I am sure he will be in touch at an appropriate time to introduce himself and possibly to discuss some of the above matters. Finally, following the practice of previous years, a copy of the annual letters issued to county and county borough councils will be published on the PSOW's website.

Yours sincerely

Professor Margaret Griffiths
Ombudsman

Appendix

Explanatory Notes

Section A compares the number of complaints against the Council which were received by my office during 2013/14, with the local authority average (adjusted for population distribution) during the same period.

Section B provides a breakdown of the number of complaints about the Council which were received by my office during 2013/14. Section C compares the number of complaints against the Council which were received by my office during 2013/14, with the local authority average for the same period. The figures are broken down into subject categories.

Section D provides the number of complaints against the Council which were taken into investigation by my office during 2013/14. Section E compares the number of complaints taken into investigation with the local authority average (adjusted for population distribution) during the same period.

Section F compares the complaint outcomes for the Council during 2013/14, with the average outcome (adjusted for population distribution) during the same period. Public Interest reports issued under section 16 of the Public Services Ombudsman (Wales) Act 2005 are recorded as 'Section 16'.

Section G compares the Council's response times during 2013/14 with the average response times for all local authorities, and all public bodies in Wales during the same period. This graph measures the time between the date my office issued an 'investigation commencement' letter, and the date my office receives a full response to that letter from the public body.

Section H provides a breakdown of all Code of Conduct complaints received against Councillors during 2013/14. Finally, Section 'I' contains the summaries of all reports issued in relation to the Council during 2013/14.

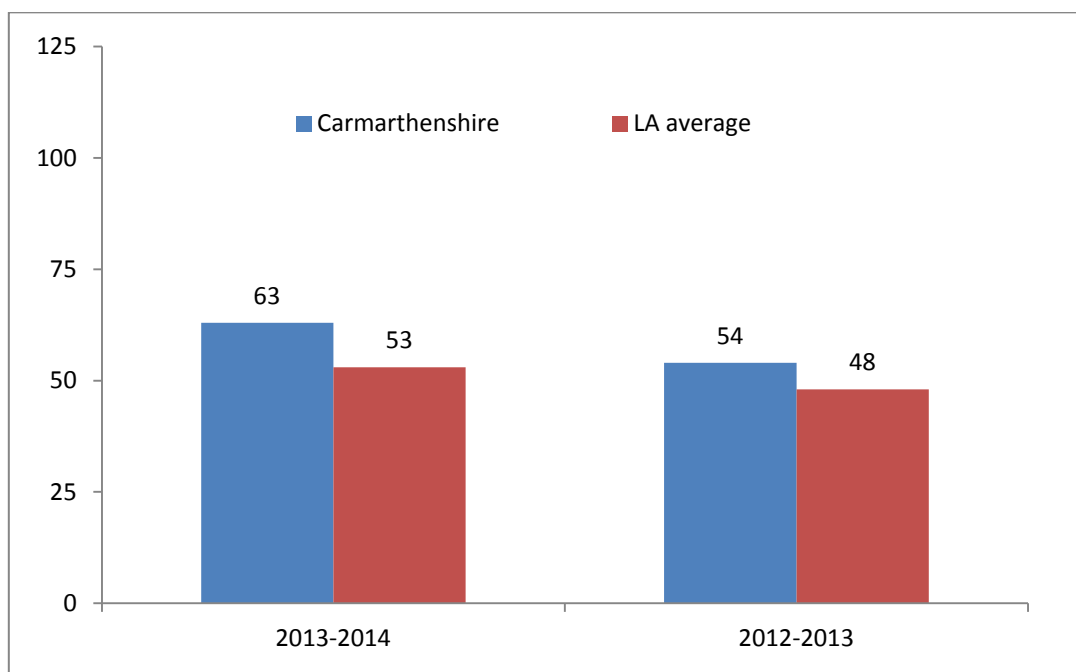
Housing Stock

As with previous exercises, the figures for 2013/14 have not been adjusted to take account of the transfer of housing stock. However, it is noted that there is likely to be a higher proportion of Housing complaints where local authorities have retained their housing stock.

Feedback

We welcome your feedback on the enclosed information, including suggestions for any information to be enclosed in future annual summaries. Any feedback or queries should be sent to james.merrifield@ombudsman-wales.org.uk.

A: Comparison of complaints received by my office with average, adjusted for population distribution

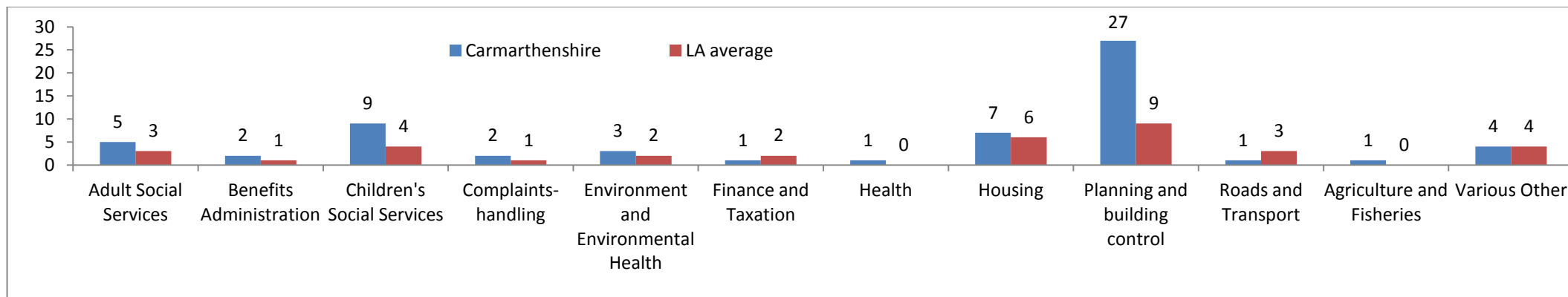


B: Complaints received by my office

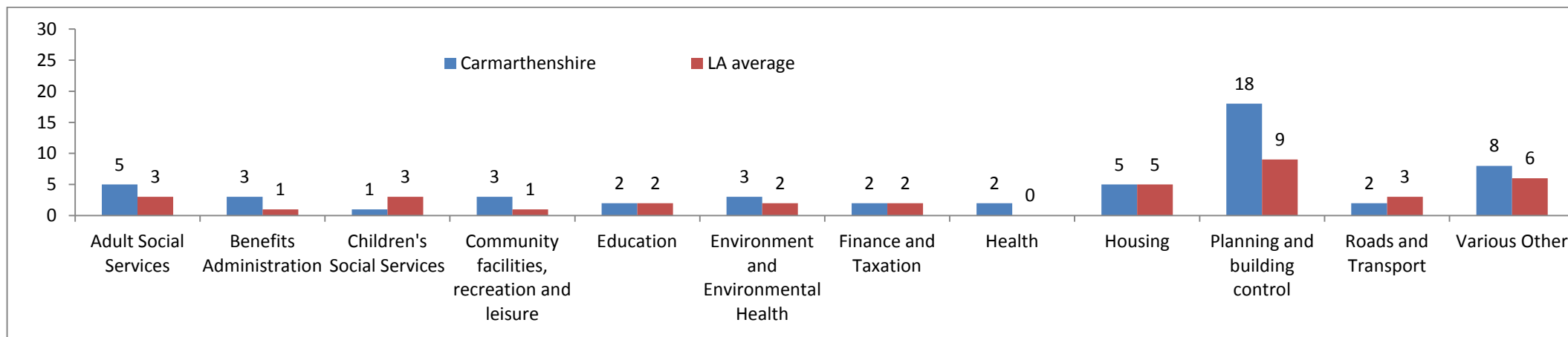
Subject	2013/14	2012/13
Adult Social Services	5	5
Benefits Administration	2	3
Children's Social Services	9	1
Community facilities, recreation and leisure	0	3
Complaints-handling	2	0
Education	0	2
Environment and Environmental Health	3	3
Finance and Taxation	1	2
Health	1	2
Housing	7	5
Planning and building control	27	18
Roads and Transport	1	2
Agriculture and Fisheries	1	0
Various Other	4	8
Total	63	54

C: Comparison of complaints by subject category with LA average

2013/14



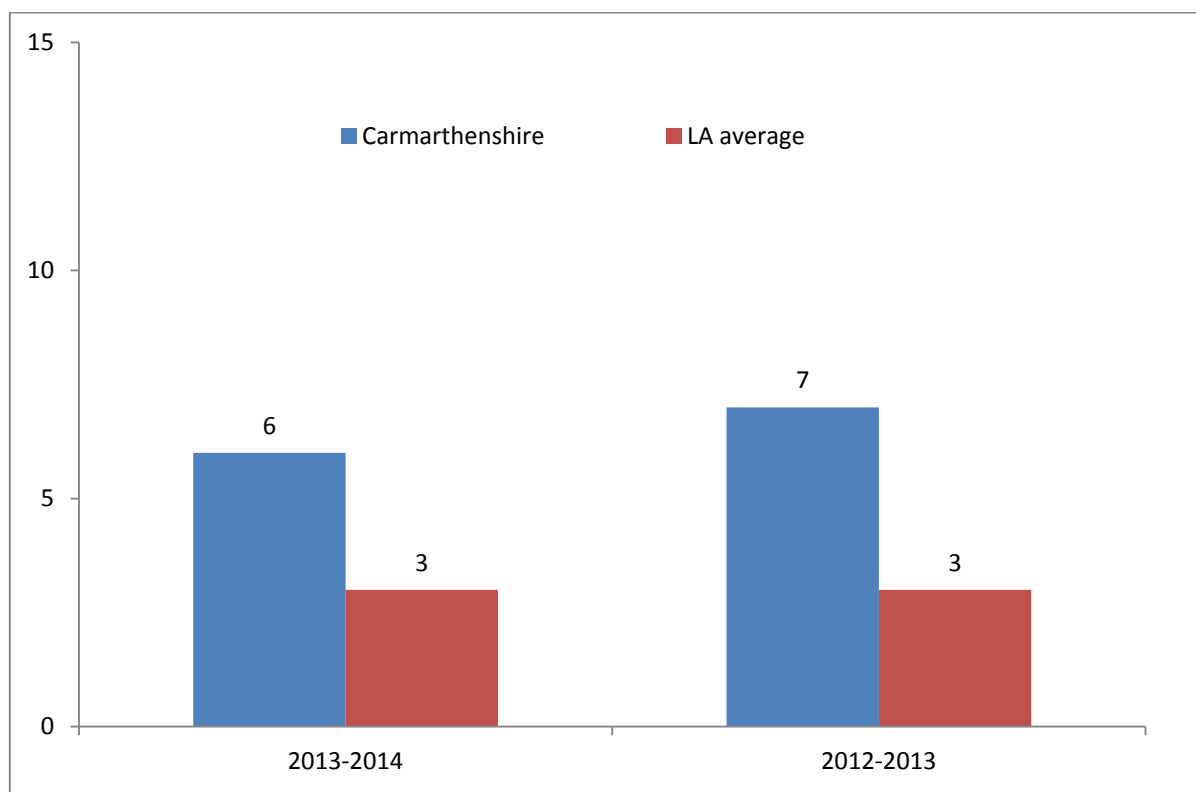
2012/13



D: Complaints taken into investigation by my office

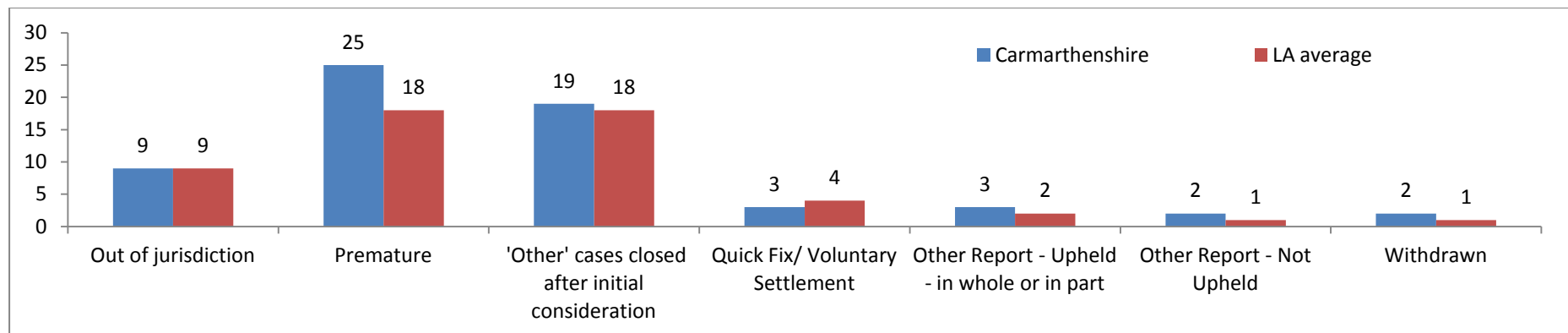
	2013/14	2012/13
Number of complaints taken into investigation	6	7

E: Comparison of complaints taken into investigation by my office with average, adjusted for population distribution

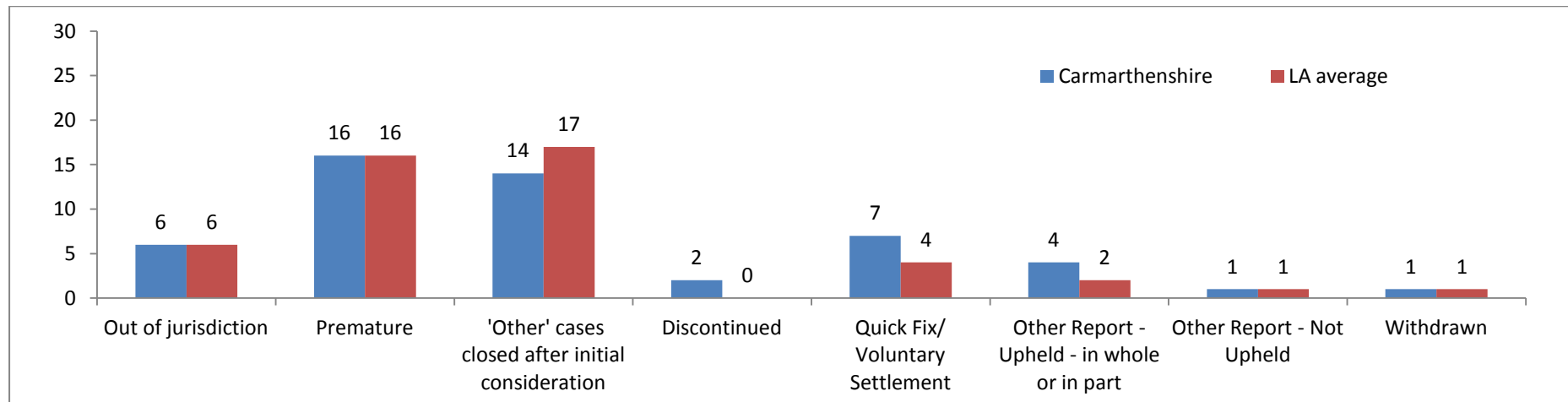


F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution

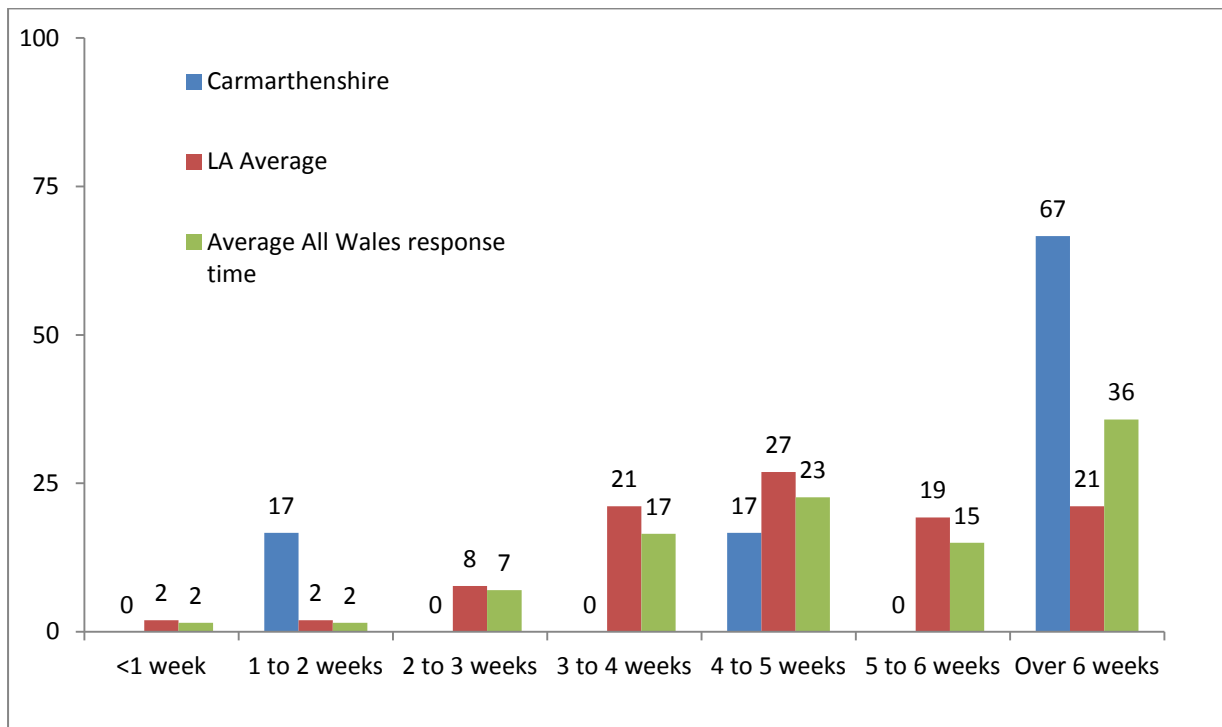
2013/14



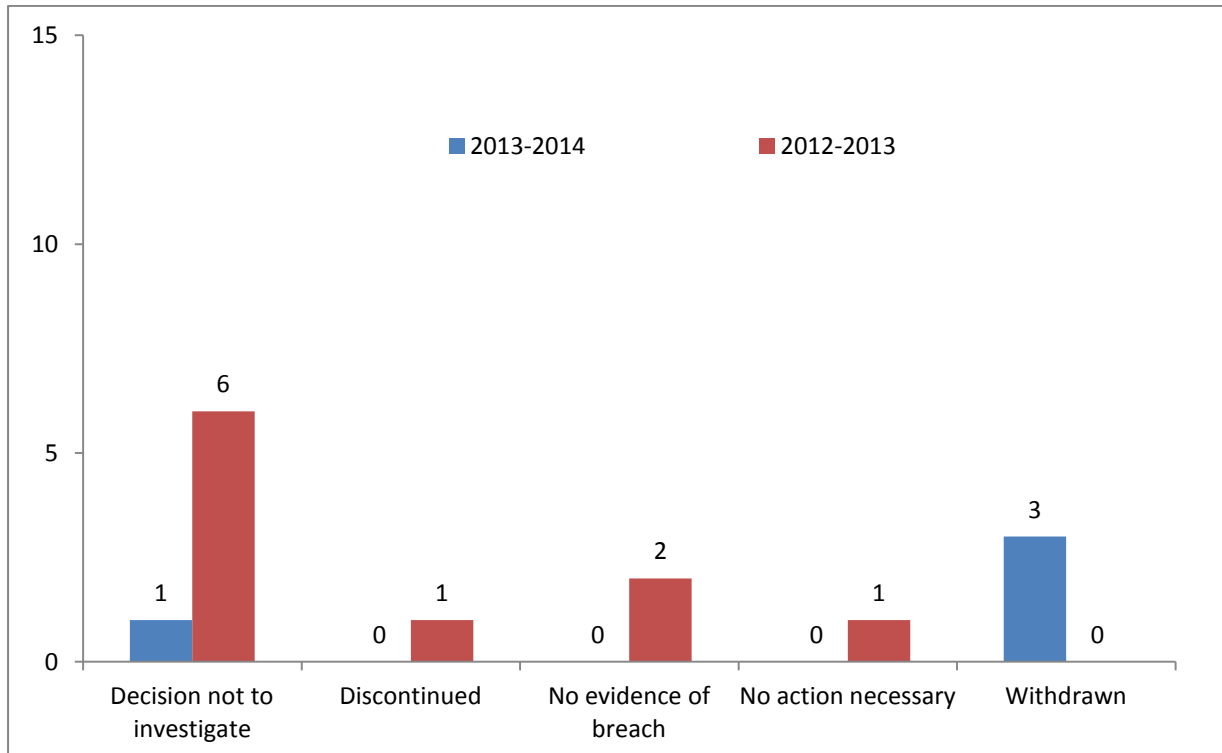
2012/13



G: Comparison of Council times for responding to requests for information with average LA and average All Wales response times, 2013/14 (%)



H: Code of Conduct complaints



I: Summaries

Planning and Building Control

Not Upheld

Carmarthenshire County Council – Building Control Case reference 201203746 – Report issued January 2014

Mr X complained, on behalf of Company Y, that the Council was incorrectly implementing building control legislation to frustrate the company's legitimate practices. He complained that those failings were having a serious impact on the company's professional reputation and income. He specifically complained about improper marketing on the part of the Council; the improper use of building control legislation in relation to concerns raised about the adequacy of structural alterations at a church; and the inappropriate attendance of Council officers at a site where Company Y was undertaking the building control function.

The investigation found that there was no evidence of unfair practice in the way that the Council undertook its marketing exercises when writing to Company Y's clients. With respect to the church, the investigation found that the Council, when a concern was reported to it by a member of the public, had not acted unreasonably by inspecting the defective and potentially dangerous structure, and by asking for that inadequacy to be remedied. Regarding the third issue, the investigation found that it was not unreasonable for the Council, in these particular circumstances, to have visited the site and to have undertaken an inspection given that Company Y had applied for an extension of time so that outstanding works could be completed, when those works were not specified and when the building in question had, to the Council's knowledge, already been occupied. There had also been some doubt as to whether the notice which gave the company authority to supervise the works remained valid because of when the application for the extension was made. The complaint was therefore not upheld.

June 2013 – Unauthorised development – Carmarthenshire County Council

Ms R complained to the Ombudsman about the manner in which Carmarthenshire Council had failed to take appropriate enforcement action in relation to a housing development which had been wrongly positioned to the rear of her property. Ms R was aggrieved that as a result of the Council's failure to take enforcement action the overbearing and overshadowing impact on her amenity was greater than that which was contained in the planning consent previously granted. Ms R felt that in granting the consent the Council had also failed to meet appropriate planning standards

The Ombudsman's investigation found that the developer had constructed the development in a slightly different position in relation to Ms R's to that represented on the approved plans. However a subsequent investigation by the Council found that the OS maps used by the Developer and the Council had misrepresented the position of Ms R's property. The Council was able to establish, through various surveying techniques that the development had in fact moved some 1 metre further away from Ms R's property (and it also appears that the orientation of the properties had also changed. However the following its investigation the Council considered that the development was in accordance with the approved plans because they were within a reasonable range of tolerance. Accordingly the Ombudsman found that the decision

not to take enforcement action was reasonable. He also found that whilst the planning reports that led to the Council's decision to grant planning consent for the development did not necessarily demonstrate best practice, he was satisfied, based on the evidence he saw and the advice he received, that the decision was reasonable. Accordingly he did not uphold the complaint.

Case reference 201202868

Quick fixes and Voluntary settlements

Carmarthenshire County Council – Other planning matters

Case reference 201303352 – November 2013

Mr X complained that the Council had changed the name of his house back to a former name without his awareness or consent. This had caused him considerable inconvenience and worry. He subsequently complained to the Council and was dissatisfied with the responses he received.

Although the problem with the naming had been rectified, Mr X was of the view that he had not received an adequate apology. Mr X said that this was what he sought. The Ombudsman's office contacted the Council, which agreed to write to Mr X.

Social Services – Adult

Upheld

July 2013 – Services for people with a disability – Carmarthenshire County Council

Mr and Mrs A's central complaint concerned delays around their Disabled Facility Grant ("DFG") application which they attributed to the Council. They said that the delays had adversely affected building work at their property and had affected them financially, mentally and physically. Mr and Mrs A were also unhappy with the Council's response to their stage 2 complaint.

Whilst the Ombudsman's investigation found some evidence of unacceptable delay on the part of the Council, not all of the delay could be attributed to the Council. The Ombudsman did have some concern that, when allegations of fraud were made against Mr and Mrs A in respect of their eligibility for the DFG, the Council had not continued to involve its Audit Manager/Audit Section. The Ombudsman felt that the exclusion of the latter had been a significant contributory factor in the subsequent failings.

In terms of the stage 2 complaint, some of the Ombudsman's findings were consistent with the Council's stage 2 investigation. However, he identified instances, such as Mr and Mrs A's case being referred to the police, when he was unable to accept the Council's stage 2 investigation findings that the delay was reasonable. To that extent, he concluded that the stage 2 investigation had not been sufficiently robust. Finally, the Ombudsman's investigation found examples where there had been shortcomings in the Council's record keeping.

Where failings on the part of the Council had caused Mr and Mrs A injustice, the Ombudsman upheld their complaint. The Ombudsman's recommendations were that, within one month of the report being finalised, the Council should:

- apologise for the failings identified and make a payment to Mr and Mrs A of £650 in recognition of the inconvenience and distress caused to them;
- remind staff of the importance of ensuring that appropriate records are maintained and should review its case management policy and procedures to ensure that they reflect this; and,
- remind staff of the importance of complying with its Anti Fraud Strategy.

Case reference 201200609

Social Services – Children

Upheld

Carmarthenshire County Council – Other Case reference 201300713 – March 2014

Mr Y complained to the Ombudsman that the Council (in its social services function) had carried out inappropriate disclosure visits with the Police (in respect of a child sex offence) to his friends. Mr Y was concerned about the tone and content of the meetings which took place. He also complained that subsequently the Council did not investigate his complaint in a satisfactory manner.

In investigating the complaint the Ombudsman took advice from one of her Professional Advisers on social services matters.

Taking account of this the Ombudsman was of the view that it was appropriate for the Council to carry out the visits as this was the first time that this body had become aware of Mr Y's background circumstances and the nature of his involvement with the families concerned. The Ombudsman said that the Council adhered to its child protection procedures and did not uphold this element of the complaint. She did however raise some shortcomings.

Mr Y complained about the nature and duration of the visits to his friends. The Ombudsman found nothing in the written records that suggested that the interviews were threatening or that judgemental language had been used. She was however unable to make any further determination on this element of Mr Y's complaint.

The Ombudsman upheld the complaint made by Mr Y about the Council's complaint handling. The Ombudsman did note that the circumstances surrounding Mr Y's complaint were unusual. She accepted that in this context it was reasonable for the first response to be by way of an explanatory letter. The Ombudsman noted that the subsequent investigation carried out under Stage 1 of the Council's Complaints Procedure was not wholly unsatisfactory although she highlighted some shortcomings.

The Ombudsman was however most concerned about the Stage 2 process. The Council refused for Mr Y's complaint to be considered at Stage 2 which was not in line with the Council's Procedure or the expectation created for Mr Y. As a consequence of this the Ombudsman was of the view that there had been maladministration.

The Ombudsman recommended that the Council should:

- a) apologise to Mr Y for the shortcomings in the management of his complaint;
- b) provide financial redress of £200 to take account of the time and trouble that Mr Y incurred in making his complaint;
- c) respond to complaints raised in line with the Council's Complaints Procedure;
- d) ensure that clear records are made about the nature of social services concerns in safeguarding matters in line with the All Wales Child Protection Procedures and its own case recording policies.

Various Other

Upheld

September 2013 – Other – Carmarthenshire County Council

Mr C complained about the way in which the Council administered a rental account in respect of his market stall. In particular, he was concerned about the Council actions before it took recovery action against him for rental arrears. Mr C said that he was not given sufficient advance warning that the Council wished to take recovery action. Mr C also complained that the Council took further recovery action when he allegedly failed to comply with an agreement to pay the arrears.

The Ombudsman concluded that the Council were entitled to take recovery action under the terms of the commercial tenancy agreement. However, the Ombudsman identified that the Council failed to comply with a number of the requirements of its own Market Procedures document prior to taking the initial recovery action and, again, when it entered into the agreement for the payment of the arrears with Mr. C.

The Ombudsman made the following recommendations:

- the Council should apologise to Mr C for the failings identified; and
- pay £100 to Mr C in recognition of the time and trouble taken to bring the complaint.

Case reference 201202370