

Our ref: PT/jm

Ask for: James Merrifield

Your ref:



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Date: 9 July 2013



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 2012-2013

Following the recent publication of my Annual Report, I am pleased to provide you with the Annual Letter (2012-2013) for Carmarthenshire County Council.

As outlined in my Annual Report, the number of new complaints to my office increased by 12% compared with 2011/12. Health complaints continue to be the most numerous type of complaint and now account for more than a third of all complaints received. Housing and planning are the next largest areas of complaint, however, planning complaints are noticeably fewer in number compared to housing for the first time since the office came into existence (accounting for 16% and 12% of the caseload respectively).

In reference to the overall performance of County/County Borough Councils in Wales, whilst there has been a 35% increase in the number of investigation reports issued by my office during 2012/13 compared with 2011/12, I am pleased to note that, despite this increase, there has been no increase in the average number of 'upheld' reports issued against County/County Borough councils. Whilst I have had cause to issue a number of Public Interest Reports identifying serious concerns and failings, these reports have all concerned health bodies. Nevertheless, I would urge all bodies in Wales to read the reports to learn any general lessons appropriate to the services they deliver.

I note that the average number of 'Quick Fixes' and 'Voluntary Settlements' achieved with local authorities has decreased compared with 2011/12, from 5 to 4 cases. Such settlements are an effective way to resolve complaints at an earlier stage and without the need for a full investigation. As such, in order to maximise the opportunities to learn lessons from these types of cases, you can now find the

summaries of quick fixes and voluntary settlements included in my quarterly publication, The Ombudsman's Casebook.

However, I am disappointed to note that the amount of time taken by public bodies in Wales in responding to requests for information from my office has not improved. I am concerned that 45% of all responses took longer than five weeks, with 28% of responses taking in excess of 6 weeks. Whilst I appreciate that resources are stretched at this time, such delays obstruct me from providing complainants with the level of service which they should rightly expect to receive and I urge all Welsh public bodies to review their performance.

In reference to your Council, whilst the number of complaints received by my office has decreased compared with 2011/12, they are still above the local authority average. The number of complaints taken into investigation has also more than doubled compared with 2011/12, whilst the number of 'upheld' reports is double the local authority average. Nevertheless, I also note the comparatively high number of quick fixes/voluntary settlements and it should also be noted that your Council's response times favourably compare with other bodies in Wales.

As with previous exercises, a copy of this letter will also be published on my website. I would also be glad to meet with you to discuss the contents of this letter and the work of my office if you consider it beneficial.

Yours sincerely

Peter Tyndall
Ombudsman

Appendix

Explanatory Notes

Section A compares the number of complaints against the Council which were received by my office during 2012-2013, with the local authority average (adjusted for population distribution¹) during the same period.

Section B provides a breakdown of the number of complaints about the Council which were received by my office during 2012-2013. Section C compares the number of complaints against the Council which were received by my office during 2012-2013, 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 2012-2013. 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 2012-2013, 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 2012-2013 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 2011-2012. Finally, Section 'I' contains the summaries of all reports issued in relation to the Council during 2012-2013.

Housing Stock

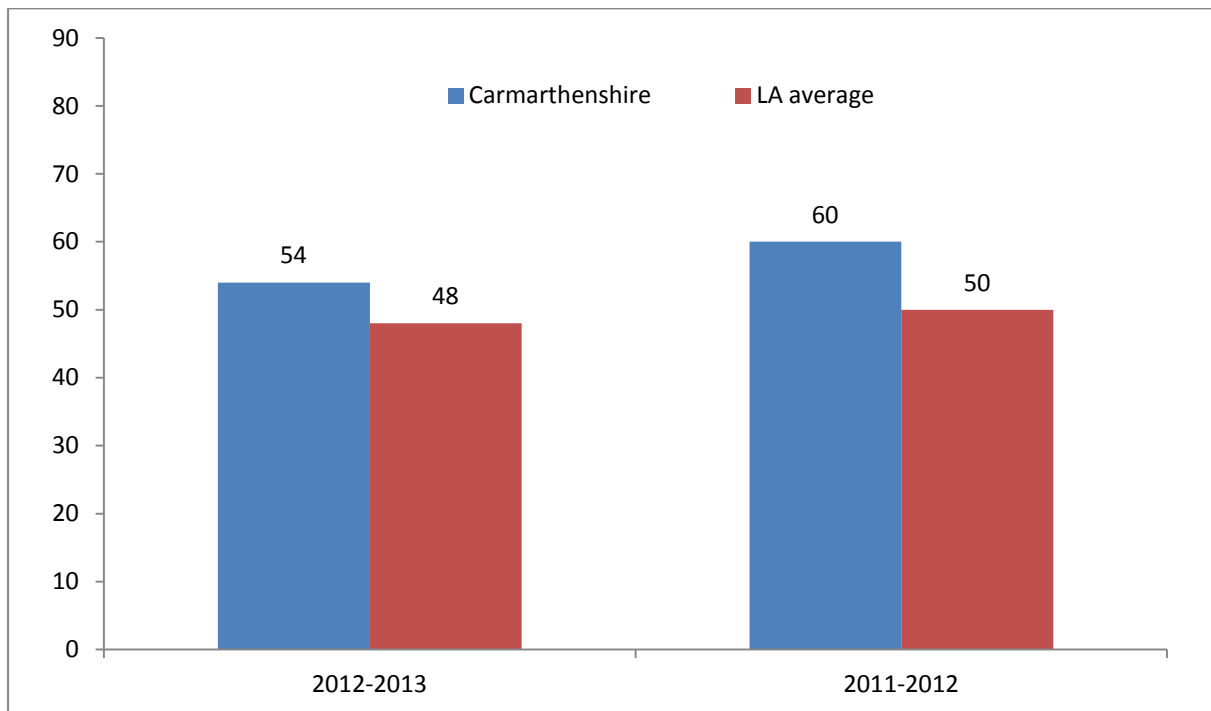
As with previous exercises, the figures for 2012-2013 have not been adjusted to take account of the transfer of housing stock. However, it is noted that there is likely to be a higher proportion of Housing complaints where local authorities have retained their housing stock.

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.

¹ <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-262039>.

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

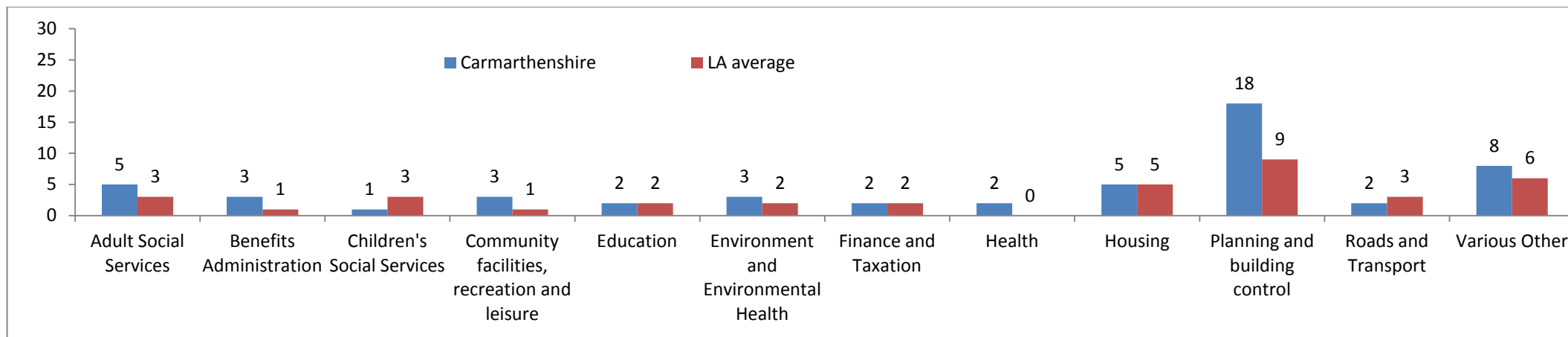


B: Complaints received by my office

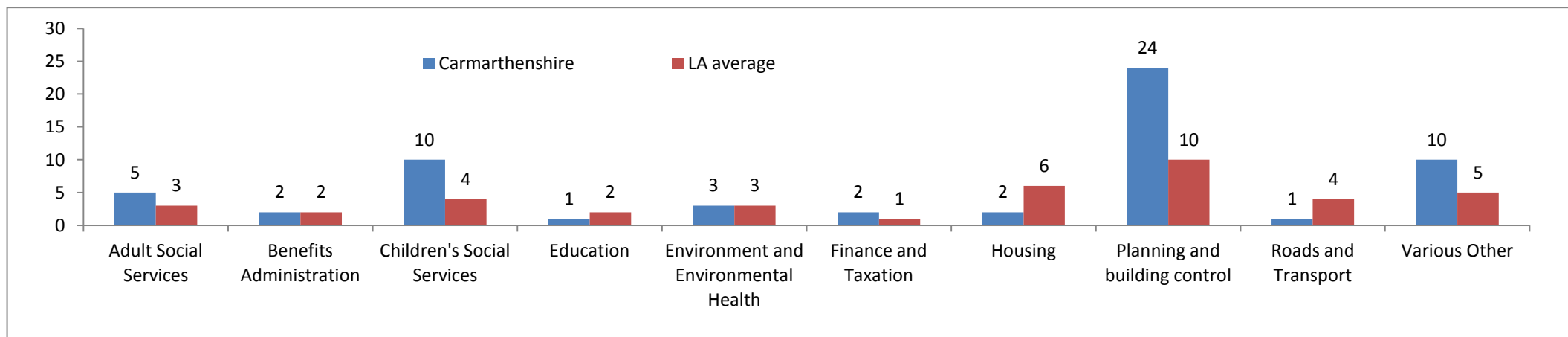
Subject	2012-2013	2011-2012
Adult Social Services	5	5
Benefits Administration	3	2
Children's Social Services	1	10
Community facilities, recreation and leisure	3	0
Education	2	1
Environment and Environmental Health	3	3
Finance and Taxation	2	2
Health	2	0
Housing	5	2
Planning and building control	18	24
Roads and Transport	2	1
Various Other	8	10
Total	54	60

C: Comparison of complaints by subject category with LA average

2012-2013



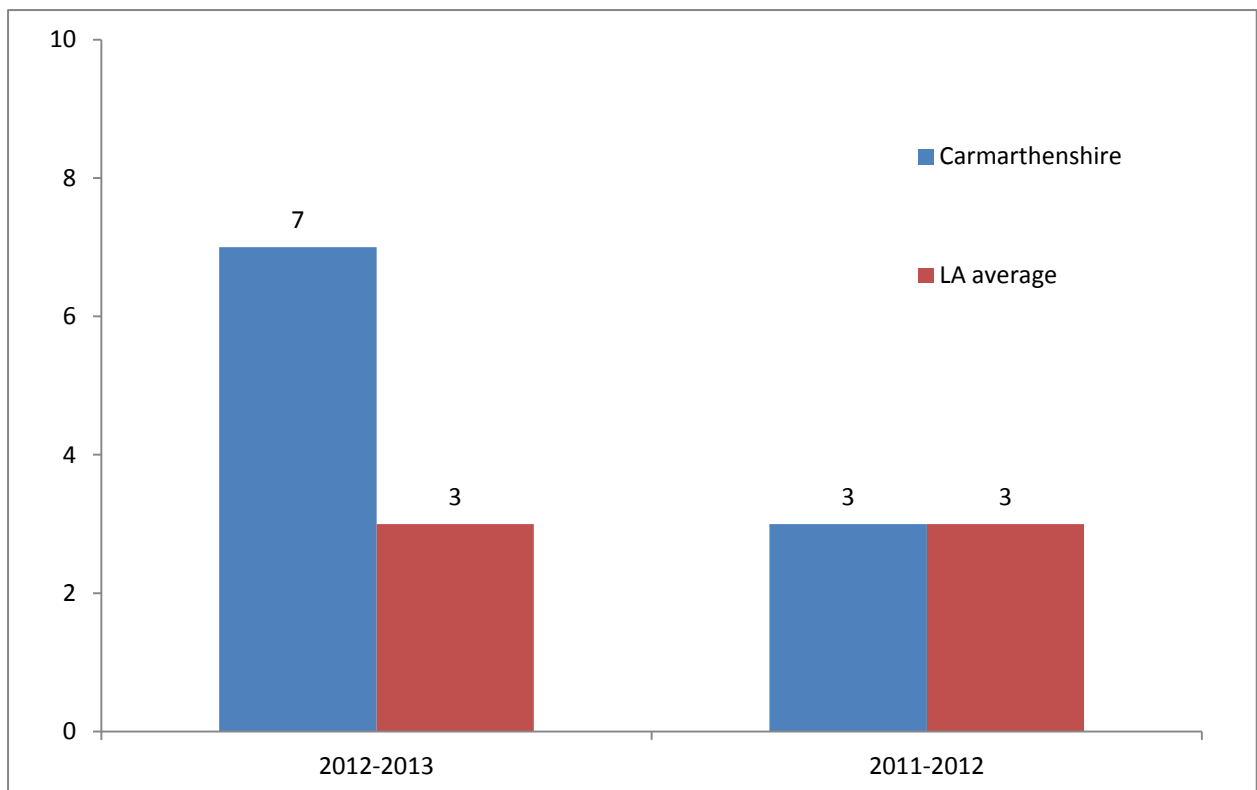
2011-2012



D: Complaints taken into investigation by my office

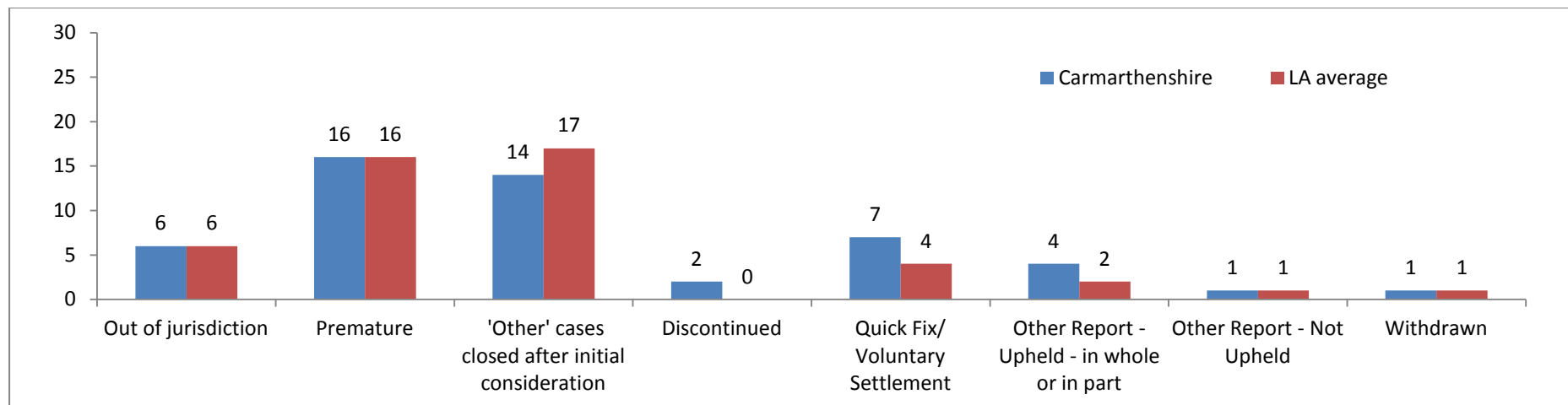
	2012-2013	2011-2012
Number of complaints taken into investigation	7	3

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

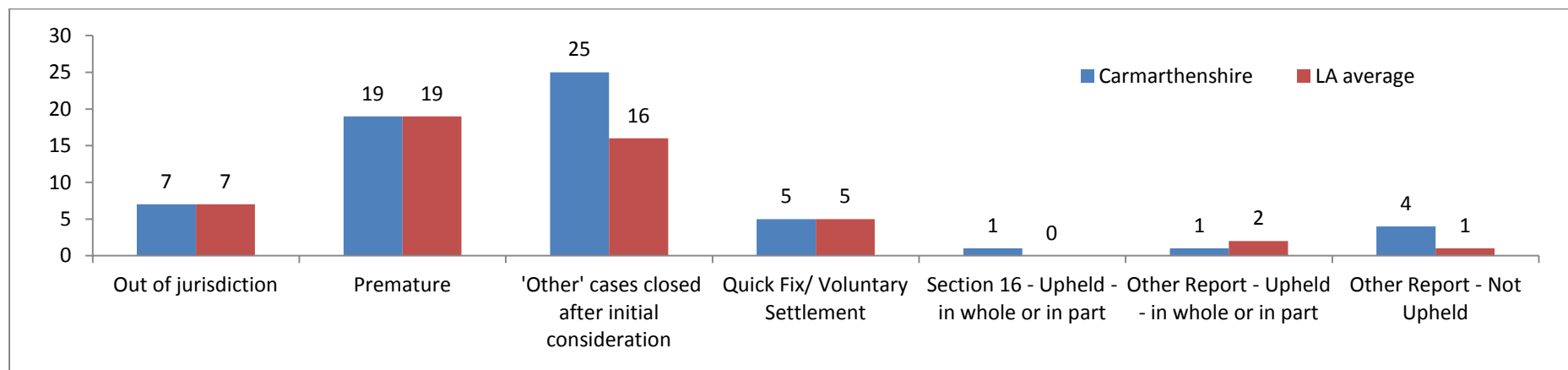


F: Comparison of complaint outcomes with average outcomes, adjusted for population distribution

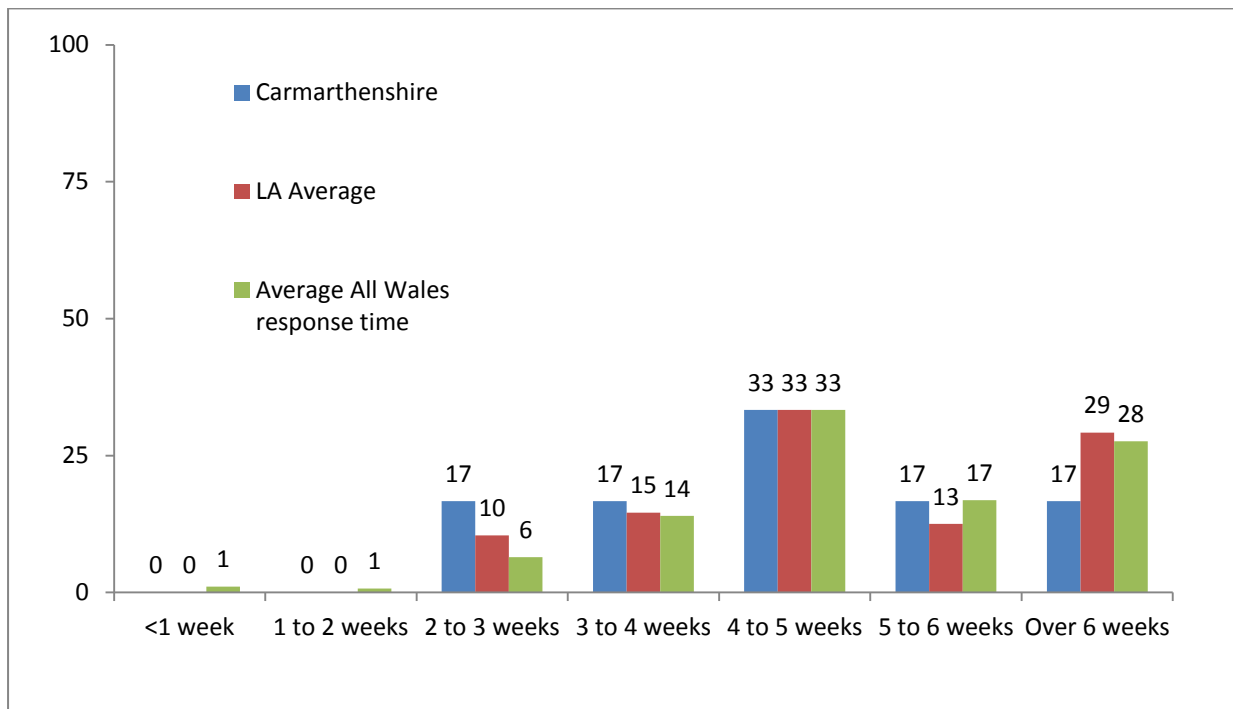
2012-2013



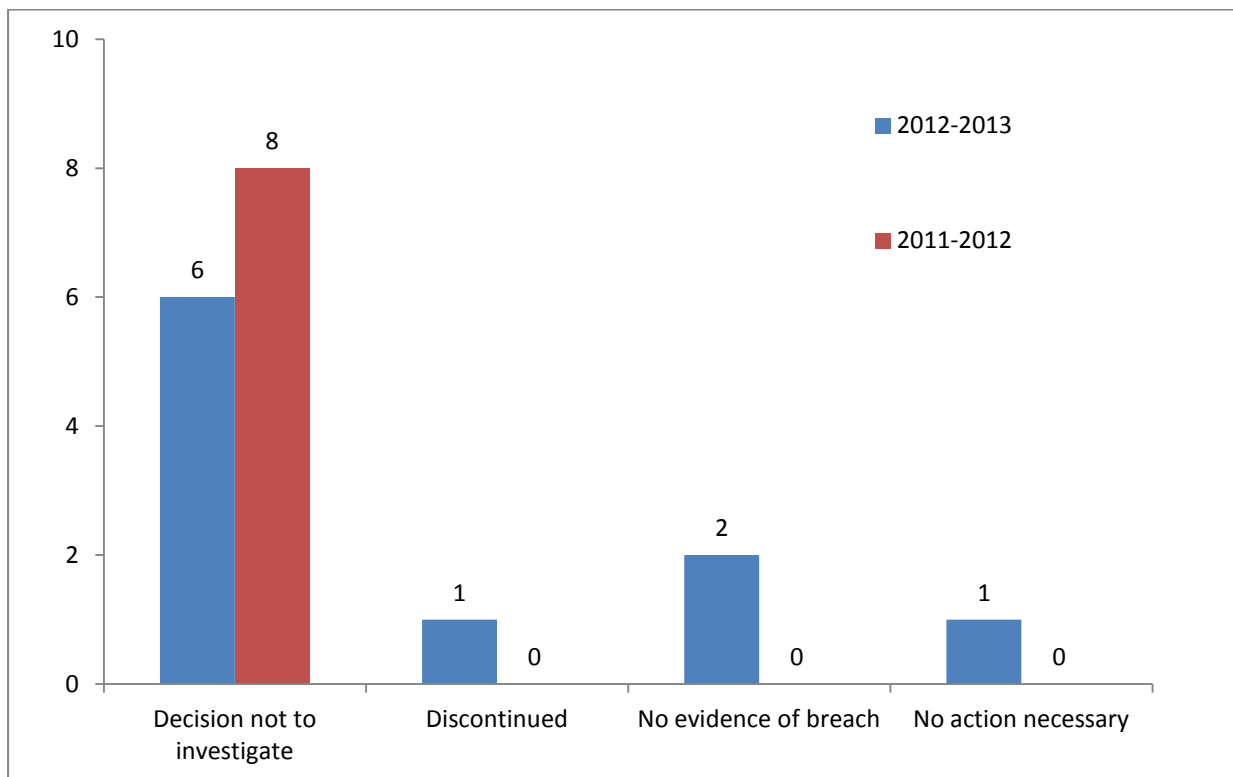
2011-2012



G: Comparison of Council times for responding to requests for information with average LA and average All Wales response times, 2012 – 2013 (%)



H: Code of Conduct complaints



I: Report summaries

Community facilities, recreation and Leisure

Quick fixes & Voluntary Settlements

June 2012 – Other – Carmarthenshire County Council

The Ombudsman received a complaint from Mr Z of the above address. Mr Z complained that the Council had failed to provide the same concessionary facility for a person with disabilities as they offer for students and older people. Mr Z also complained that his GP had applied for a referral scheme within the last four months, but had received no response from the Council.

On receiving this information, the Ombudsman contacted the Council. A meeting was arranged with Mr Z and the Leisure Facilities Manager at the Council to discuss Mr Z's complaint. The Council also agreed to follow up on the previous recommendations following Mr Z's Stage 2 complaint to the Council. Mr Z's complaint was closed based on this action.

Case reference 201200132

Finance and Taxation

Quick fixes & Voluntary settlements

October 2012 – Finance and Taxation – Carmarthenshire County Council

The complainant complained that, due to her inadvertently completing a council tax benefit form incorrectly, she had now been billed by the Council. She could not understand why her benefit entitlement had changed when her and her daughter's household income had not changed. The Council advised my office that a full explanatory response would be provided to the complainant at Stage 1 of the complaint procedure. The Council would also offer advice and info about how to repay the monies outstanding.

Case reference 201202103

Planning and Building Control

Upheld

July 2012 – Unauthorised development – Carmarthenshire County Council

Mrs B complained that the Council failed to take enforcement action in respect of the use of the neighbouring farm for haulage and equine related activities and the erection of a large board and the placing of a removal lorry adjacent to their boundary. Mrs B also claimed that its decision to allow the development of an agricultural shed was perverse. Finally, Mrs B complained further that the Council was unreasonable when it applied its Persistent Complainants Policy to her and her partner and was aggrieved about the way in which her partner was referred to in an internal email.

Mrs B's complaint was partially upheld. The Ombudsman concluded that there had been a failure to take account of photographic and video evidence provided by Mrs B, information provided by their surveyor, and information available from the Traffic Commissioners about the licensing of the neighbouring farm as a heavy goods vehicle operating centre. He also concluded that the Council's decision in respect of the large board was inappropriately influenced more by the conduct of Mrs B and the neighbouring occupiers (with whom she was in dispute) than material planning considerations, and that the Council had shown a lack of objectivity in relation to her concerns. However, the Council's decision in respect of the removal lorry was one it was entitled to take. But the process by which it allowed the agricultural storage shed was flawed in that the Council had held reservations about the agricultural need for large sheds on the holding and had relied on advice which related to an earlier cattle shed proposal and which was stated to be opposed to a general storage type of shed. The Ombudsman also concluded that the Council failed to comply with its own procedures when it applied its Persistent Complainants Policy to Mrs B and her partner, and failed to respond adequately to her further complaints in which she raised new issues. However, the Ombudsman did not conclude that the reference to Mr R in the internal email pointed to maladministration.

The Ombudsman recommended that the Council should address the enforcement issues arising from the haulage-related uses at the neighbouring farm, and should also ensure that the concerns identified in the report are brought to the attention of its Members. The Ombudsman also recommended that the Council should give consideration to adopting a mechanism whereby enforcement matters could be considered or called in by its Planning Committee in appropriate cases. The Ombudsman further recommended the Council use its best endeavours to persuade the neighbouring occupier to remove the large board which is now immune from enforcement action, pay £2,500 to Mrs B, and a further £1000 if the Council is unable to secure the removal of the board within 6 months. Finally, the Ombudsman recommended the Council review its planning and enforcement procedures, including its procedures for liaising with the Traffic Commissioners in appropriate cases, and to ensure that its revised Persistent Complainants Policy was actually complied with by providing appropriate awareness training.

Case reference 201102343

Quick Fixes & Voluntary Settlements

November 2012 – Tree management/TPOs/High hedges – Carmarthenshire County Council

Mrs F complained that the Council had failed to respond to complaint correspondence. The complaint related to enforcement action that it had taken.

The Council accepted that it had failed to deal with Mrs F's complaint over a considerable period of time. The Council apologised and agreed to cancel the enforcement action in this instance and offered to pay her £200 for her time and trouble in having to pursue her complaint. It also agreed to pay solicitors' costs that Mrs F had incurred in chasing up responses from the Council.

The Ombudsman considered that the Council's offer to settle the complaint was reasonable and decided to discontinue the investigation on that basis.

Case reference 201201970

July 2012 – Other planning matters – Carmarthenshire County Council

Mr and Mrs V complained about the time the Council took to provide them with a final reply to their complaint. The complainants had initially complained that external work carried out on the adjoining property to theirs, which was owned by the Council, had damaged the front render of their house.

Following an inspection of the property by a surveyor, the Council had not accepted that the render damage was as a result of work it carried out on the adjoining property. It is therefore open to Mr and Mrs V to submit a claim against the Council's insurers. However, following contact from my office, the Council did agree to write to Mr and Mrs V to apologise for the delay in responding their original complaint, and to make a time and trouble payment of £50 in recognition of the delay.

Case reference 201200440

Social Services - Adult

Upheld

August 2012 – Other – Carmarthenshire County Council

Mr B complained about the Council's response to allegations of abuse against him, apparently made to care workers by his autistic daughter, H, who was removed from Mr and Mrs G's care and remained away for six months. During this time, a Protection of Vulnerable Adults investigation and police enquiries took place. Neither investigation substantiated the allegations. Mr G said that the Council should have allowed H to rejoin the family after a few weeks; had failed to communicate properly with him; and did not liaise effectively with the police. He said that H's allegations were made via Facilitated Communication ("FC"). FC was a technique that the family used for day-to-day matters but was not reliable as a method of making allegations. After six months, the Council established that H did not have capacity to decide where she lived. Given that it had been obvious for some months that there was no evidence to support the allegations, H returned home.

The Ombudsman found that the Council was faced with a very difficult set of circumstances and worked hard in what it believed to be H's best interests. The Council initially determined that H had capacity to decide where she resided and appeared to consistently state her preference not to return home. However, the Ombudsman agreed with Mr G that FC was not reliable and that Mr G had provided information to that end to the Council in support of his contentions. The Ombudsman concluded that, if the Council had been more flexible in its considerations and more pro-active, H should have returned home about two months earlier than she did. The Ombudsman also criticised aspects of the Council's communications and liaison with the police. Therefore, the Ombudsman upheld Mr G's complaints and recommended the Council issue an apology, £1200 as an acknowledgement of Mr and Mrs G's distress, and that relevant staff should reflect on their role. The Council accepted the recommendations.

Case reference 201101540

Social Services – Children

Not Upheld

February 2013 – Other – Carmarthenshire County Council

Mr S had a number of concerns about his involvement with the Council's Social Services Department ("the Department") in relation to his two disabled children. In particular, he complained about the Council's decision to commence care proceedings, saying the family was targeted, and about service provision for his daughter. Mr S also complained that the Council had not investigated bruising suffered by his daughter at a day centre, had delayed in the completion of her care plan and had not informed him of rights to appeal against his son's exclusion from school.

The Ombudsman's professional adviser was of the view that Council social workers had exercised good professional judgement in dealing with Mr S and his family and that, on the evidence, the commencement of care proceedings by the Department was inevitable. There was also evidence that proper investigations of the circumstances of his daughter's bruising had taken place; including examination by medical professionals and consideration by the police. Whilst there had been a delay in completion of his daughter's care plan, there was clear evidence that Mr S had contributed to this (during the Department's consultation with him) by changing his mind about placements for his daughter. These elements of Mr S's complaints were not upheld.

The investigation found that there had been a failure to inform Mr S about a right of appeal, although he was legally represented at the time. He had since appealed regarding his son's education provision. Whilst criticising the Council for its failure, the Ombudsman was not satisfied it had resulted in injustice to Mr S. However, he recommended the Council produce standard information for parents about appeals to ensure this failing was not repeated. The Ombudsman also upheld in part Mr S's complaint about one aspect of service provision; there was an unacceptable delay in the provision of slings to assist in transferring his daughter. Having not submitted an order for the assessed need for months, there was a need to re-measure Mr S's daughter for them again before they could be provided. This meant practical difficulties for the family in the meantime. The Ombudsman recommended that the Council apologise for the failings identified and also offer redress to Mr S in the sum of £750 for the delay in sling provision. The Council agreed to his recommendations.

Case reference 201103893

Various Other

Upheld

June 2011 – Complaint handling – Carmarthenshire County Council

Mr J complained about Carmarthenshire County Council's (the Council) handling of his complaints and concerns following his receipt of a letter from the Council informing him that he was no longer permitted to enter the premises of a school, within the local area of the Council, unless specifically invited. He said that there had been delays in receiving the Council's response to his correspondence and that it had failed to provide him with an adequate explanation as to why it had taken the decision to send the letter and to provide him with specific details of the incidents that led to the sending of the letter.

The Ombudsman upheld the complaint as he found that there were shortcomings in the way the Council dealt with this matter and responded to Mr J's requests for information. In particular, the Ombudsman found that the Council failed to follow its complaints handling policy and there was an excessive delay in providing Mr J with specific details of the incidents that had resulted in the letter being sent to him. The Ombudsman recommended that the Council apologise to Mr J and reflect on the failings that had been highlighted in its complaints handling procedure.

Case reference 201101015

May 2012 – Economic development – Carmarthenshire County Council

Mr A had intended to set up a company offering flights between South Wales and South West England. He applied for a grant with the South West Wales Local Investment Fund (SWWLIF) administered by the Council on behalf of the Welsh European Funding Office (WEFO). The website referred to capital costs, whilst the wording on the application form and guidance notes referred to a grant being available for 40% of the projected costs. Mr A applied for 40% of projected costs. His application being successful, he was awarded 40% of the amount that he had applied for. This was the first that Mr A knew that LIF only considered 40% of the amount applied for and not 40% of the projected costs. There had been meetings about his application and his submitted figures had not been queried.

Mr A's complaint was upheld. The Ombudsman found that the Council should maintain notes of their dealings with future applicants.

The Ombudsman also found that the Council should review their application forms to clarify that only 40% of the tendered amount is eligible for the grant and that they alert WEFO of any changes considered necessary with the grant application documentation. The Council agreed to the Ombudsman's recommendation to make payment of £750 to Mr A.

Case reference 201100152